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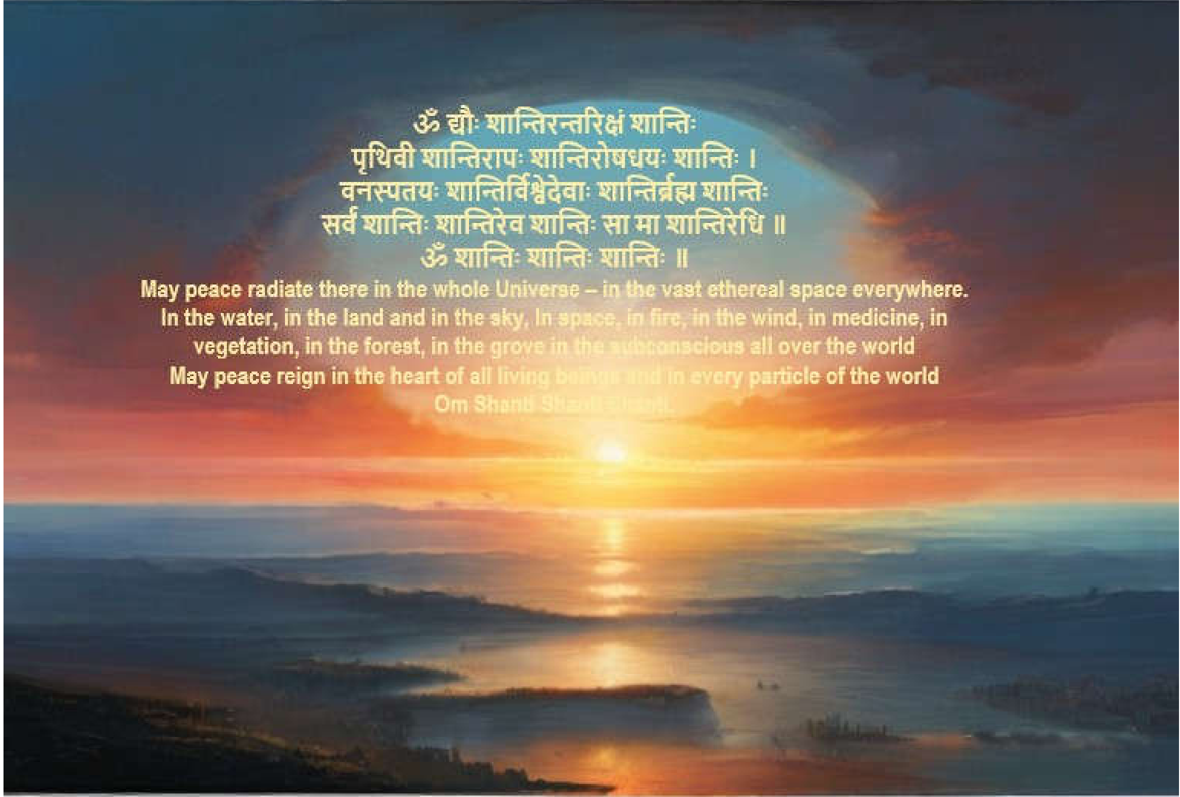
Aano Bhadr Kratvo Yantu Viswatah
(Let Noble Thoughts Come To Me from All Directions)



CITATIONS

2023 0 INSC 1059; 2023 0 Supreme(SC) 1212; M/S North Eastern Chemicals Industries (P) Ltd. & Anr. Vs. M/S Ashok Paper Mill(Assam) Ltd. & Anr.; Civil Appeal No. 2669 of 2013; Decided On : 11-12-2023

it is clear that when a Court is seized of a situation where no limitation stands provided either by specific applicability of the Limitation Act or the special statute governing the dispute, the Court must undertake a holistic assessment of the facts and circumstances of the case to examine the possibility of delay causing prejudice to a party. When no limitation stands prescribed it would be inappropriate for a Court to supplant the legislature' s wisdom by its own and provide a limitation, more so in accordance with what it believes to be the appropriate period. A court should, in such a situation consider in the facts and circumstances of the case at hand, the conduct of the parties, the nature of the proceeding, the length of delay, the possibility of prejudice being caused, and the scheme of the statute in question. It may be underscored here that when a party to a dispute raises a plea of delay despite no specific period being prescribed in the statute, such a party also bears the burden of demonstrating how the delay in itself would cause the party additional prejudice or loss as opposed to, the claim subject matter of dispute, being raised at an earlier point in time.

When a statute, either general or specific in application, provides for a limitation within which to file an appeal, the parties interested in doing so are put to notice of the requirement to act with expedition. However, opposite thereto, in cases such as the present one where neither statute provides for an explicit limitation, such urgency may be absent. While it is still true that, as held in Ajaib (supra), this does not entitle parties to litigate issues decades later, however shorter delays, in such circumstances, would not attract delay and laches.

2023 0 INSC 1060; 2023 0 Supreme(SC) 1213; Amanat Ali Vs. State of Karnataka and others; Writ Petition (Criminal) No.432 of 2022; Decided on : 11-12-2023
following the principles laid down in Amish Devgan v. Union of India and others (2021) 1 SCC 1 we deem it appropriate to exercise power conferred under Article 142 of the Constitution of India to accede to the relief claimed to the extent of consolidation of the FIRs registered in the State of Madhya Pradesh for being tried together as one trial as far as possible, as we are of the opinion that multiplicity of the proceedings will not be in the larger public interest and State also. It is clarified that all the cases pending in the State of Madhya Pradesh shall be transferred to the District of Devas, Madhya Pradesh where FIR No.324 of 2017 has been filed and registered against the petitioner or in other words, FIR Nos.266 of 2018, 479 of 2018 and 283 of 2020 shall stand transferred to the District of Devas where FIR No.324 of 2017 is pending. The jurisdictional courts shall take immediate steps to transfer the proceedings for being consolidated and adjudicated by one trial to be decided on its own merits. The prayer for transfer of the cases pending in the States of Karnataka and Jharkhand to the State of Madhya Pradesh stands rejected.

2023 0 INSC 1062; 2023 0 Supreme(SC) 1215; Sekaran Vs The State Of Tamil Nadu; Criminal Appeal No. 2294 of 2010; 12-12-2023 (THREE JUDGE BENCH)
It is trite that merely because there is some delay in lodging an FIR, the same by itself and without anything more ought not to weigh in the mind of the courts in all cases as fatal for the prosecution. A realistic and pragmatic approach has to be adopted, keeping in mind the peculiarities of each particular case, to assess whether the unexplained delay in lodging the FIR is an afterthought to give a coloured version of the incident, which is sufficient to corrode the credibility of the prosecution version. In cases where delay occurs, it has to be tested on the anvil of other attending

circumstances. If on an overall consideration of all relevant circumstances it appears to the court that the delay in lodging the FIR has been explained, mere delay cannot be sufficient to disbelieve the prosecution case; however, if the delay is not satisfactorily explained and it appears to the court that cause for the delay had been necessitated to frame anyone as an accused, there is no reason as to why the delay should not be considered as fatal forming part of several factors to vitiate the conviction.

The prosecution has not explained why Ponnaian and Velikutti were not called upon to depose despite they being present at the place of occurrence and despite their statements having been recorded in course of investigation. If indeed they were unavailable to depose, it was incumbent on the prosecution to adduce relevant evidence in that regard. The prosecution having not examined Ponnaian and Velikutti, illustration (g) of section 114 of the Evidence Act is well and truly attracted in the present case.

Mere absconding by the appellant after alleged commission of crime and remaining untraceable for such a long time itself cannot establish his guilt or his guilty conscience. Abscondence, in certain cases, could constitute a relevant piece of evidence, but its evidentiary value depends upon the surrounding circumstances.

2023 0 INSC 1068; 2023 0 Supreme(SC) 1218; Maheshwari Yadav & Anr. Vs. State of Bihar; Criminal Appeal No.1515 of 2011; Decided on : 13-12-2023

Section 34 essentially introduces vicarious liability. In a given case, where the offence is punishable under Section 302 of IPC, when the common intention is proved, but no overt act of assaulting the deceased is attributed to the accused who have been implicated based on Section 34, vicarious liability under Section 34 will be attracted. In this case, the bullet was fired by the accused no.3, as a result of which, the deceased lost his life. Even without the applicability of Section 34, the accused no.3 could have been convicted for the offence punishable under Section 302 of the IPC. To punish him under Section 302, it was not necessary to apply Section 34 of the IPC. Section 34 was applied to the appellants as they were sought to be roped in by alleging that they shared common intention with accused no.3. To bring a case within Section 34, it is not necessary to prove prior conspiracy or premeditation. It is possible to form a common intention just before or during the occurrence.

It is not axiomatic that in every case where the eyewitnesses are withheld from the court, an adverse inference must be drawn against the prosecution. The totality of the circumstances must be considered for concluding whether an adverse inference could be drawn. We have perused the notes of evidence of the material witnesses.

A contradiction is sought to be pointed out by the learned counsel appearing for the appellants by stating that in the FIR, it is stated by the PW4 that he along with his brother and the deceased, were going towards the railway station to catch a train and he did not state in the FIR that they were going towards the bus stand. This inconsistency is not significant, as his version of the main incident has not been shaken at all.

It is true that the eyewitnesses examined before the court were close relatives of the deceased. That itself is no ground to discard their testimony. However, their evidence may require closer scrutiny. After having made closer scrutiny, we find their versions are of a very sterling quality. Moreover, all the persons named by PW1 who were present were not independent witnesses. In a given case, when independent witnesses are available who are not connected with the rival parties and the prosecution omits to examine them by confining its case to examining related witnesses, an adverse inference can undoubtedly be drawn against the prosecution. When the evidence of the eyewitnesses is of sterling quality, an adverse inference need not be drawn. Quality is more important than quantity.

2023 0 INSC 1036; 2023 0 Supreme(SC) 1188; Shashikant Sharma & Ors. Vs. State Of Uttar Pradesh & Anr.; Criminal Appeal No(s) 3663 OF 2023 (Arising out of SLP(Criminal) No(s). 5323 of 2023); Decided On : 01-12-2023

There cannot be any quarrel with the principles laid down in the judgments cited by the State counsel in the written submissions that at the stage of framing of charges, the Court is not required to undertake a meticulous evaluation of evidence and even grave suspicion is sufficient to frame charge. Nevertheless, there is also a long line of precedents that from the admitted evidence of the prosecution as reflected in the documents filed by the Investigating Officer in the report under Section 173 CrPC, if the necessary ingredients of an offence are not made out then the Court is not obligated to frame charge for such offence against the accused.

Be that as it may, as per the highest case of prosecution, the only offence under IPC punishable with imprisonment of 10 years or more being the offence under Section

307 IPC has been applied on the basis of the gun shot allegedly fired by the accused Vinod Upadhyay upon Rinku Thakur, which admittedly did not result into any corresponding injury. After perusal of the entire material on record, we have no hesitation in concluding that from the admitted case set up by the prosecution, there is no such allegation that the offence under IPC punishable with imprisonment of 10 years or more was committed by an accused of upper caste upon a person belonging to the Scheduled Caste community with the knowledge that such person belonged to the said community.

(It is not clear whether the case is registered after amendment of the POA Act in 2015)

2023 0 INSC 1035; 2023 0 Supreme(SC) 1189; Mohit Singhal and Another Vs State of Uttarakhand & ors; Criminal Appeal No. 3578 of 2023; 01-12-2023

The suicide note records that the third respondent had borrowed a sum of Rs. 60,000/-. According to the deceased, he had paid more than half of the amount to Sandeep. The suicide note records that as he could not pay the rest of the money, the first appellant came to his house and started abusing him. He stated that the first appellant had assaulted him, and therefore, he complained to the police. He further noted that the business of giving money on interest was prospering. He stated that the third respondent is not a prudent woman, and due to her habit of intoxication and due to her conduct, she got trapped in this. In the suicide note, it is further stated that the first appellant has made his life a hell.

In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.

In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more

than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

2023 0 INSC 1037; 2023 0 Supreme(SC) 1190; Ram Naresh Vs. State of U.P.; Criminal Appeal No. 3577 of 2023; Decided On : 01-12-2023

A reading of Section 34 of the IPC reveals that when a criminal act is done by several persons with a common intention each of the person is liable for that act as it has been done by him alone. Therefore, where participation of the accused in a crime is proved and the common intention is also established, Section 34 IPC would come into play. To attract Section 34 IPC, it is not necessary that there must be a prior conspiracy or premeditated mind. The common intention can be formed even in the course of the incident i.e. during the occurrence of the crime.

for applying Section 34 IPC there should be a common intention of all the co-accused persons which means community of purpose and common design. Common intention does not mean that the co-accused persons should have engaged in any discussion or agreement so as to prepare a plan or hatch a conspiracy for committing the offence. Common intention is a psychological fact and it can be formed a minute before the actual happening of the incidence or as stated earlier even during the occurrence of the incidence.

The decision in Jasdeep Singh alias Jassu vs. State of Punjab, (2022) 2 SCC 545 to the effect that a mere common intention per se may not attract Section 34 IPC unless the present accused has done some act in furtherance thereof is of no assistance to the appellant as it is writ large on record as per the evidence that the appellant not only had common intention to kill the deceased Ram Kishore but also actively participated in assaulting and giving blows to the deceased Ram Kishore together with the other accused persons.

2023 0 INSC 1069; 2023 0 Supreme(SC) 1221; Surjit Singh Vs State of Punjab; Criminal Appeal No. 565 of 2012; Decided On : 07-12-2023

there is no reason to discard the testimony of Dr. Manvir Gupta (PW-13), especially about the dying declaration made before him by the deceased that she herself

consumed the tablets containing poison. His version cannot be discarded only on the ground that he did not inform the Police in writing about the disclosure made by the deceased.

even according to Surjit Singh (PW-10), the doctor, who gave certificate at 4:30 p.m. declined to give a certificate that when the statement of the deceased was being recorded, she was fit to give a statement. There is nothing brought on record to show that Dr. Sudhir Sharma examined the deceased before giving certificate of fitness at 4:30 p.m. What is most crucial is that Dr. Sudhir Sharma has not been examined as a prosecution witness. In view of the what is admitted by Surjit Singh (PW-10) in paragraph 2 in his cross-examination, which we have quoted above, an adverse inference will have to be drawn against the prosecution for not examining the said doctor. Therefore, for the aforesaid reasons, the dying declaration allegedly recorded by Surjit Singh (PW-10) will have to be discarded. Then the other dying declaration recorded by an independent doctor, namely Dr. Manvir Gupta (PW-13), holds the field. Now, what remains is the evidence of Kaushalya Devi (PW-7), the mother of the deceased. It is a version of an interested witness. A serious doubt is created in the mind of the Court about the entire prosecution case as Dr. Manvir Gupta (PW-13), who was the prosecution witness, was not declared as hostile and as one of the most crucial witnesses i.e. Dr. Sudhir Sharma was not examined. The dying declaration before Dr. Manvir Gupta (PW-13) is completely contrary to the version of Kaushalya Devi (PW-7). According to Dr. Manvir Gupta (PW-13), when the deceased was shifted to the Civil Hospital, her condition was very serious. The deceased died within one hour of recording the alleged dying declaration by Surjit Singh (PW-10).

2023 0 INSC 1073; 2023 0 Supreme(SC) 1224; Saumya Chaurasia Vs. Directorate of Enforcement; Criminal Appeal No. 3840 of 2023 @Special Leave Petition (Crl.) No. 8847/2023; Decided On : 14-12-2023

it is very much pertinent to note that when the FIR is registered under particular offences which include the offences mentioned in the Schedule to the PMLA, it is the court of competent jurisdiction, which would decide whether the Charge is required to be framed against the accused for the scheduled offence or not. The offences mentioned in the chargesheet by the I.O. could never be said to be the final conclusion as to whether the offences scheduled in PMLA existed or not, more particularly when the same were mentioned in the FIR registered against the accused. As held by the

Three-Judge Bench in Vijay Madanlal (2022 SCC Online SC 929 (SLP(Crl.) No. 4634 of 2014).), it is only in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/ her, there can be no action for money laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence.

2023 0 Supreme(Telangana) 422; Mr.Nirmal Kumar Kotecha Vs. Directorate of Enforcement; Criminal Petition Nos.11332 and 11515 of 2023; 05-12-2023

All the transactions are of the year 2011 and it appears that all the transactions are to the knowledge of the Investigating Agency. The transactions are borne by record and the evidence is circumstantial in nature. Complicity or otherwise of the petitioners can be inferred from the transactions during trial, which is unlikely in the near future. Detention cannot be by way of punishment at the stage of investigation. The apprehension of the learned Assistant Solicitor General that the petitioners are at flight risk can be dealt with by imposing conditions.

2023 0 Supreme(Telangana) 423; xyz Vs. State of Telangana and others; Writ Petition No.32872 of 2023; Decided on : 06-12-2023

Medical Board has not clarified anywhere in the report that the victim is stable/fit to undergo the pregnancy termination procedure. Admittedly the victim is pregnant with 28 to 30 weeks of gestational period. Rule 3A (i) of the Rules prescribes allowing or denying termination of pregnancy beyond Twenty Four Weeks of gestation period and further under Sub-Section 2(b) of the said Rules only after due consideration and ensuring that the procedure would be safe for the woman at that gestation age and whether the foetal malformation has substantial risk of it being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped

as per the report of the Medical Board there is no finding/observation that there is a risk to the life of the victim, if pregnancy is continued. In the report, it is opined that the victim is pregnant 28-30 weeks of gestational period with estimated fetal weight is about 1.37 kg., with salvageable fetus. But the report also suggests that the termination of pregnancy is not advisable at this junction because there will be a

chance of survival of baby with certain abnormalities and in view of such untoward affects on the baby, the termination is not advisable to avoid birth of the disabled baby who will become burden to the single parent and society, which means that if the pregnancy is terminated and if a baby is born with abnormalities, the victim would be compelled to suffer throughout the life.

in the interest of justice and in the interest of the victim and fetus/prospective child, this Court is not inclined to pass any orders against the medical advise/opinion given by the Medical Board and thereby finds no reason to exercise the jurisdiction under Article 226 of the Constitution of India for directing the pregnancy of the victim to be terminated as prayed for by the petitioner which is in an advanced stage at 28-30 weeks of gestational period as per the medical report and the prayer sought for in the writ petition is hereby rejected.

2023 0 Supreme(Telangana) 438; Syed Mohd. Naseeruddin Jilani Vs. State of Telangana Rep. by its Public Prosecutor and another; Criminal Petition No.10883 OF 2017; Decided on : 15-12-2023

If the intention of the Legislature was to include all penal provisions regarding Waqf properties, it would have been specifically mentioned in the Enactment. Nothing in the Waqf Act prohibits application of either the procedure prescribed under Cr.P.C or the penal provisions of IPC except in the specified circumstances in Section 52-A and the procedure prescribed under Section 68, while handing over charge to the successor mutawalli or management committee. Offences against property are Chapter XVII of IPC pertaining to offences against property. Chapter XVIII pertains to offences relating to documents and property marks. As already stated nothing in the Waqf Act prohibits application either Chapters XVII or XVIII of IPC.

2023 0 APHC 47720; 2023 0 Supreme(AP) 1028; Anuboina Krishna S/o Chandra Rao Vs. The State of Andhra Pradesh; Criminal Appeal No. 1316 of 2009; Decided On : 20-12-2023

The learned Special Judge relied upon a decision in Dasari Pullareddy and Another vs. State of Andhra Pradesh, 2008 (1) ALD (Cri.) 213 (AP) for the proposition that when the arrest and seizure were made in a public place, Section 42 of the NDPS Act is not at all attracted and it is covered by Section 43 of the said Act. He also made a finding that the above said decision was referred by the High Court of Andhra Pradesh

by relying the decision in Ravindran vs. Superintendent of Customs, (2007) 6 SCC 410 and extracted the observations of the Hon'ble Supreme Court as follows:

> "When arrest and seizure was made at bus stand and not in any building, conveyance or enclosed place, Section 42 of the Act was not attracted. The case was covered by Section 43, which does not require the information of any person to be taken down in writing or that officer concerned must send a copy thereof to his immediate official superior within 72 hours. It is further held that in case of search of bag carried by the accused, Section 50 is not attracted."

In fact, compliance of Section 50 of the Act would arise only when there is a personal search of the accused.

this Court would like to make it clear that compliance of Section 57 of the Act is directory.

According to Section 35 of the Act, in any prosecution for an offence under this Act which requires a culpable mental state of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. The explanation of the above shows that "culpable mental state" includes intention, motive knowledge of a fact and belief in, or reason to believe a fact.

The Hon'ble Supreme Court in Madan Lal vs. State of H.P. 2004 (1) ALT (Cri.) 30 (SC) held that once possession is established, then the person who claims that it was not a conscious possession has to establish it because how he came to be in possession is within his special knowledge.

According to Section 54 of the N.D.P.S. Act, it contemplates certain presumptions. According to the said section in trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused committed the offence under this Act in respect of any narcotic drug or psychotropic substance or controlled substance for the possession of which he fails to account satisfactorily.

It is no doubt true that the presumption under Section 54 of the N.D.P.S. Act and the presumption under Section 35 would arise after the prosecution discharged its burden to prove the recovery of the contraband from the accused.

2023 0 APHC 47194; 2023 0 Supreme(AP) 963; Kamireddi Sai Kumar Vs. The State of Andhra Pradesh; Criminal Petition No. 9339 of 2023; Decided On : 15-12-2023

The Petitioner contends that deadly weapon was not used for allegedly causing grievous injury to the Victim. In this context, learned counsel for the Defacto Complainant relies on Section 161 of Cr.P.C., statements recorded during the investigation. However, the Petitioner's counsel disputed the correctness of those statements by contending that such a version is not put forth in the First Information Report. It is settled law that an FIR is not an encyclopedia of facts, and a Victim is not expected to give details of the incident in the FIR. FIR is not an encyclopedia expected to contain all the details of the prosecution case; it may be sufficient if the broad facts of the prosecution case alone appear. If any overt act is attributed to a particular accused among the assailants, it must be given greater assurance. The statements of witnesses i.e., LWs.1 to 3 recorded under section 161 of Cr.P.C. during the investigation indicate that the Victim was beaten with a stone on his face.

This Court views that the proposition of law relied on by the Petitioner’s counsel cannot be disputed. The above citations do not show that section 161 of Cr.P.C., statements cannot be relied on while dealing with the bail applications. At this stage, it is pertinent to refer to the decision in Indresh Kumar vs. State of Uttar Pradesh and Another, 2022 Live Law (SC) 610 the Hon’ble Supreme court held that:

> The High Court has ignored the materials on record including incriminating statements of witnesses under section 164/161 of the Code of Criminal Procedure. Statements under Section 161 of Cr.P.C., may not be admissible in evidence, but are relevant in considering the prima facie case against an accused in an application for grant of bail in case of grave offence.

Even otherwise, the contents of the FIR indicate that the stones were employed in the commission of offence. At this stage, it cannot be said that the stones said to be used by the Accused persons are not dangerous weapons.

2023 0 APHC 46829; 2023 0 Supreme(AP) 978; Yogesh Gupta S/o. Late Prem Babu Gupta Vs. The State Of Andhra Pradesh Crime Investigation Department (CID); CRIMINAL PETITION NO: 7601 OF 2023; Decided on : 15-12-2023

Before granting anticipatory bail, the Court has to see the nature and seriousness of the proposed charges and the context of the events likely to lead to the making of

charges. The application seeking anticipatory bail must contain bare essential facts relating to the offence as to why the Petitioner reasonably apprehends arrest, as well as his version. These are essential for the Court, which should consider his application, to evaluate the threat or apprehension and its gravity or seriousness. While considering whether to grant anticipatory bail or refuse it, the Court should be guided by the considerations as to the nature and gravity of the offences, the role attributed to the Petitioner, and the facts of the case.
it is settled law that the apprehension of the applicant, who seeks anticipatory bail should be based on reasonable grounds. The anticipatory bail is not to be granted as a matter of routine, and it has to be granted when the Court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. To consider an anticipatory bail application, the exact role of the Accused must be adequately apprehended. The Petitioner's fears are not rooted in objective facts. No material capable of examination and evaluation by the Court is placed regarding the alleged AP TIDCO scam. The Court cannot grant anticipatory bail without proper material and an understanding of the Petitioner's role. There is no material available before the Court regarding the AP TIDCO scam.

2023 0 APHC 46870; 2023 0 Supreme(AP) 1003; P. Siva Prasad S/o Venkateswarlu Vs Bodipudi Ramanamma W/o Malakondaiah; Criminal Petition No. 3298 of 2019; Decided On : 15-12-2023
Merely a civil dispute in between the petitioners and the defacto complainant, it cannot be said that a complaint was falsely instigated against the petitioners/accused herein, indeed the civil dispute is the causative or conducive for the initiation of criminal proceedings.

2023 0 APHC 46685; 2023 0 Supreme(AP) 925; Rapeti Veera Venkata Satyanarayana, S/o Late Krishna Rao Vs. The State of A.P.; Criminal Appeal No.1601 of 2007; Decided on : 13-12-2023
Turning to the decisions cited by learned counsel for the appellant, undoubtedly, mere recovery of the tainted amount is not sufficient to convict the accused. Those cases were relating to a direct trap when there were allegations under Section 7 of the PC Act and when the tainted amount was recovered from the possession of the accused. Here, as this Court already pointed out, the very act of the accused in obtaining the

consent of PW.1 to deduct a sum of Rs.417/- is nothing but an act of the accused abusing his official position and it is also an act of the accused by corrupt and illegal means by making a demand.

2023 0 APHC 46687; 2023 0 Supreme(AP) 985; The State Of A.P. Vs. Sri Velugula Krishna Samudram; Criminal Appeal No.1068 of 2007; Decided on : 13-12-2023

this Court is of the considered view that when G.O.Ms.No.423 (A), dated 31.07.1998 states categorically that there was no necessity to obtain any permission in respect of the building before construction in an extent of 100 sq. yards or sq. meters, as the case maybe, A.O. had no power whatsoever to make an order for approval of the building plan. When it was not the case of P.W.1 that A.O. demanded bribe amount so as to process, the evidence is lacking to prove the pendency of the official favour. The findings of the learned Special Judge in this regard were thorough appreciation of evidence on record.

He gave Rs.3,500/- to A.O. stating that the amount was towards discharge of debt. A.O. took the same and kept in his left side shirt pocket. Prosecution got declared him as hostile and during cross examination he denied the case of the prosecution. He admitted that his Section 164 of Cr.P.C. statement was recorded and Ex.P.2 was his signature. During cross examination by the learned Special Public Prosecutor, he deposed that he gave Ex.P.1 report with false recitals. He denied the case of the prosecution further.

he learned Special Judge gave appropriate direction to lodge a complaint in Metropolitan Magistrate or Magistrate of First Class against P.W.1 for committing the offences under Sections 193 and 211 of the Indian Penal Code (“I.P.C.” for short) by exercising powers under Section 340 r/w 195(1)(b) of Cr.P.C.

A copy of the judgment be marked to the learned Court where the perjury is pending.

2023 0 APHC 46688; 2023 0 Supreme(AP) 986; State Rep By Spl Pp., Anti-Corruption Bureau, Eluru Range Vs. Sri Ravi Rama Mohan Rao; Criminal Appeal No.1464 of 2007; Decided on : 13-12-2023

The Constitutional Bench of the Hon’ble Supreme Court in Neeraj Dutta v. State (Government of NCT of Delhi, (2022) SCC OnLine SC 1724 categorically held that to have the benefit of presumption under Section 20 of the P.C. Act, the duty of the prosecution is to establish the foundational facts. Here, the prosecution did not prove

the foundational facts. On account of the conduct of P.W.3, he met with consequences of facing perjury. That cannot be a ground to say that A.O. committed the offence. In my considered view, the prosecution had no benefit of the presumption under Section 20 of the P.C. Act, especially, when the evidence of P.W.3 is that he repaid a sum of Rs.1,000/- to A.O. on the date of trap which was due by him.

2023 0 APHC 46116; 2023 0 Supreme(AP) 953; Sankranthi @ Sankuranthri Sankar S/o Late Chinna Bralunaiah Vs. The State of Andhra Pradesh; Writ Petition No. 27747 of 2023; Decided On : 12-12-2023 (DB)
the Detaining Authority having considered that the detenu is involved in drug offending activities in different places and her activities are giving scope of effecting public health adversely as she was found in possession of Ganja, Cannabis (Hemp) and selling to the general public, particularly the youth and students, the most vulnerable section of the society being affected adversely at larger extent and also having considered that though she was arrested and sent to judicial custody, however in every case she was enlarged on bail on taking advantage of legal provisions governing the bail and thus the provisions of NDPS Act, 1985 are deficient to prevent her from indulging in dangerous drug offences which adversely effect the public health at large, has ultimately ordered her detention. In our considered view, the Detaining Authority has punctiliously considered and analyzed the circumstances weighing against her, particularly her unabatedly indulging in drug effecting offences and getting bail and again indulging in the similar activities, ordered her detention. Therefore, the contention of the petitioner that the authority has not scrupulously exercised his discretion to arrive at the subjective satisfaction is incorrect.

2023 0 APHC 46115; 2023 0 Supreme(AP) 954; Palepu Seenaiah S/o Ramanaiah Vs. The State of Andhra Pradesh; Criminal Appeal No. 555 of 2008; 12-12-2023
Firstly, this court would like to make it clear that the fact that the learned Additional Sessions Judge extended an order of acquittal with regard to certain charges against the present appellant as well as charges against other accused does not mean that the case of the prosecution against the present appellant is false.
P.W.1 and P.W.5 were the natural witnesses because they were husband and wife respectively at the time of incident in their house and further as the place of offence was at the house of them.

It is to be noted that P.W.5 is no other than the wife of P.W.1. She was a daughter of A.4 and A.5 and sister of A.1 to A.3. She would not have ventured to support the case of the prosecution falsely had the incident been not true. During cross examination of P.W.5, the defence counsel suggested to her that on account of the pressure meted out to her from P.W.1 and his supporters, she deposed false and she denied the said suggestion.
P.W.6 and P.W.7 who were the immediate neighbours had no reason to depose false against the accused. No circumstances were brought in, in their evidence to disbelieve the case of the prosecution. Though Ex.D.1 to Ex.D.5 were marked, they were not at all material with regard to the incident in question. In spite of probing cross examination nothing could be elicited from the mouth of P.W.1, P.W.4, P.W.5, P.W.6 and P.W.7 to disbelieve the case of the prosecution insofar as the overt acts attributed against A.1 is concerned, as having made attack on the deceased as well as P.W.4.

2023 0 APHC 46114; 2023 0 Supreme(AP) 955; L.V. Gopal Swamy S/o Venkata Reddy Vs. State of Andhra Pradesh; Criminal Appeal No. 1001 of 2007; 11-12-2023

mere recovery of the tainted amount is not sufficient to convict the accused in the absence of demand, as contemplated under Sections 13(1)(d)(i) and (ii) of the PC Act. In view of the legal position, demand is a sine-qua-non even to prove the charge under Section 13(1)(d)(i) and (ii) of the PC Act. In my considered view, having recorded an order of acquittal for the charge under Section 7 of the PC Act on the ground that prosecution failed to prove the demand, the learned Special Judge totally erred in recording a conviction against AO for the offence under Section 13(1)(d) R/w. Section 13(2) of the PC Act.

2023 0 APHC 45324; 2023 0 Supreme(AP) 974; M.Dhana Koteswara Rao s/o Uma Maheshwara Rao and ors. Vs State of AP, through S.H.O. Penamaluru Police Station and ors.; Criminal Petition No: 2291 of 2019; Decided On : 07-12-2023

In Naganagouda Veernagouda Patil vs Maltese H Kulkarni, 1998 CRL.L.J. 1707, a Division Bench of Karnataka High Court held that:

> "The consistent view taken in these cases is that since Section 200, Cr.P.C. prescribes that the Court shall examine the complainant .... that it is not open to

the complainant's learned Advocate to conduct the examination-in-chief and that if such a procedure is followed, that it is in breach of the mandatory provisions of Section 200, Cr.P.C.

When once the Magistrate resorts to take cognizance of the offence which is triable exclusively by a Court of Sessions, by application of Section 200 Cr.P.C., it is imperative on the part of the Magistrate after taking cognizance of the offence to call upon the complainant to examine him on oath. The failure on the part of the Magistrate to comply with this statutory direction given under Section 200 Cr.P.C. would vitiate the further proceedings taken by the Magistrate, as the Section specifically says when Magistrate takes cognizance, shall examine the complainant on oath.

2023 0 APHC 47110; 2023 0 Supreme(AP) 988;(DB) K Kameswari Vs. The State of Andhra Pradesh, Represented by its Chief Secretary, Secretariat Buildings, Amaravathi at Velagapudi, Guntur District.; WRIT PETITION NO: 25532 OF 2023; Decided On : 07-12-2023

2023 0 APHC 46966; 2023 0 Supreme(AP) 993; Pangi Eswari Vs. The State of Andhra Pradesh, Represented by its Chief Sescretary, Secretariat Buildings, Amaravathi at Velagapudi, Guntur District; WRIT PETITION NO 25524 OF 2023; Decided On : 06-12-2023

it is clear that when a detenu is already under judicial custody in connection with some or all cases, the Detaining Authority has to take note of the factum of his judicial custody and record its satisfaction that there is a likelihood of his being released on bail so as to buttress the preventive detention order.

2023 0 APHC 45109; 2023 0 Supreme(AP) 913; Nunasavath Naga Raju and Ors. Vs. State Of A.P. rep.by SI of Police, Iissannapet Police Station, through Public Prosecutor, High Court of A.P. and Anr.; Criminal Petition No. 556 Of 2020; Decided On : 05-12-2023

The first information report alleges that all the accused have been demanding additional dowry of Rs.2,00,000/- and for not bringing it they were abusing and beating her. Thus, the allegations indicate physical abuse of victim woman on more than one occasion. Charge sheet as well as F.I.R. are silent as to the woman receiving any specific physical injuries. The charge sheet is absolutely silent as to whether the

investigating officer tried to find out what injuries were sustained and whether the victim woman took any medical treatment etc., facts. Such material is necessary because the cruelty contemplated under Section 498-A I.P.C. is of such nature and the acts attributed must either drive the woman to commit suicide or must be such that living with the family would cause grave danger to life or limb. A mere allegation that husband and others beat the woman by itself does not satisfy the essential ingredients of cruelty mandated under Section 498-A I.P.C. by the legislature. All those aspects are absolutely silent in the charge sheet. A reading of the first information report as well as charge sheet would show that on three occasions either before the elders or before the police the matter was settled between the husband and his family members on one side and the victim and her family members on the other side. When once the matters were so settled, they could not once again become facts for taking cognizance. Viewed from that angle the latest of the allegations only show that it was from November, 2018 the accused beat the victim woman and her husband attempted to squeeze her neck and she cried and others came and rescued her and she left her matrimonial home and she was there with her parents and on receiving notices in divorce case filed by her husband she conferred with her family members and others and finally lodged the first information. Thus, there is only one omnibus allegation on some unspecified date in November, 2018 that forms part of the record as a ground for taking cognizance. No specific details are there. Nothing perceptible is seen. Further, initiation of criminal case did not take place soon after the alleged incidents and it started long after receipt of divorce notices from the husband. Looking at the facts through the prism of ratios referred earlier, this Court finds that initiation and continuation of C.C.No.786 of 2019 is against the principles laid down in the Code of Criminal Procedure and is abuse of process of Court. Point is answered in favour of the petitioners.

2023 0 APHC 45382; 2023 0 Supreme(AP) 971; B.Nanda Kishore Vs State Of AP and ors.; Criminal Petition No: 1967 of 2019; Decided On : 04-12-2023

After reading the entire judgment of Hon'ble Supreme Court in Rajiv Modi v. Sanjay Jain and others (2009) 13 SCC 241 and judgements quoted therein the following is summarized on the issue of territorial jurisdiction: that the High court wouldn't justify to quash the complaint on the ground that no cause of action has arisen in respect of the offences under the provisions of IPC, that even if a small fraction of the cause of action

arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the case and to constitute territorial jurisdiction, the whole or a part of a cause of action must have arisen within the territorial jurisdiction of the court and the same must be decided on the basis of the averments made in the complaint without embarking upon an enquiry as to the correctness or otherwise of the said facts and the High Court has no jurisdiction to examine correctness or otherwise of the allegations and the High Court would have to proceed entirely on the basis of allegations made in the complaint and would restricted to ascertaining whether on the allegations, a cause of action is shown, the jurisdiction does not extend to trial of issues which must fairly be decided on the hearing. If it is prima facie of the opinion that the whole or a part of cause of action has arisen in its jurisdiction, it can certainly take cognizance of the complaint. There is no need to ascertain that the allegations made are true in fact. Great care should be taken by the High Court before embarking to scrutinize the FIR/charge sheet/ complaint, on reading of the complaint or FIR, if the Court does not found any cognizable offence within the Court may embark upon the consideration thereof and exercise the power and it is not the function of the Court to weigh the pros and cons of the prosecution case or to consider the necessity of strict compliance with the provisions which are considered mandatory and its effect of non-compliance.

2023 0 APHC 46429; 2023 0 Supreme(AP) 1000; Naralasetty Meera Bai The State of Andhra Pradesh; I.A.Nos.3 & 2 of 2023 and Crl.P.No.8928 of 2023 and Crl.P.No.8393 of 2023; Decided on : 04-12-2023

When this Court questioned the complainant with regard to compromise, he reiterated the averments in the affidavit filed in support of I.A.Nos.2 of 2023 and 3 of 2023 and categorically stated that he voluntarily and willingly entered into compromise with the petitioner/accused without any force or pressure from any quarter and he has no objection to quash the proceedings against him. Therefore, in view of the aforesaid decision of the Hon’ble Apex Court and as the parties have entered into a compromise, the chances of conviction are bleak and remote. In the circumstances, I.A.Nos.2 & 3 of 2023 is allowed and the petitioner/accused and the 2nd respondent-complainant are permitted to compound the offence and in view of the joint memo, the compromise is recorded. The Joint Memo filed by the parties shall form part of this order.

2023 0 APHC 45064; 2023 0 Supreme(AP) 915; Gazula Venkata Ramana, S/o. G.S. Prakasa Rao Vs. The State Of Andhra Pradesh, Rep. by its Principal Secretary, Home Department and Ors.; Writ Petition No. 29605 Of 2022; Decided On : 01-12-2023

The Supreme Court in the case of Sindhu Janak Nagargoje (2023 Live Law (SC) 639) has followed the decision of the Constitution Bench and has not specifically dealt with the question decided in Sakiri Vasu ((2008) 2 Supreme Court Cases 409) and later decision in M. Subramaniam ((2020) 16 Supreme Court Cases 728), nor were these decisions dealt with.

https://indiankanoon.org/doc/34095107/; Kerkatta Pradeep Kumar A2 Hyd., vs State Of T.S., Rep. Pp. Hyd., on 18 December, 2023; CRIMINAL APPEAL No.461 of 2014 AND CRIMINAL APPEAL No.318 of 2015

the Supreme Court in Ravi @ Ravichandran vs. State represented by Inspector of Police 1, wherein it was 2008 (1) ALT (Crl.) 108 (SC) 22 KL, J & PSS, J Crl.A.Nos.461 of 2014&318 of 2015 held that Test Identification Parade was required to be held as early as possible so as to exclude the possibility of the accused being identified either at the police station or at some other place by the concerned witnesses or with reference to the photographs published in the newspaper.

Recovery of weapon used in the commission of offence basing on the confession of A-1 is concerned, P.W.10- Inspector of Police stated that he recovered M.O.7-Knife at the instance of A-1 at Jodumetla village near Narapally, which is at a distant place, and it is an open place accessible to the public. He admitted in his cross-examination that M.O.7 is available in the open market. As per the evidence 26 KL, J & PSS, J Crl.A.Nos.461 of 2014&318 of 2015 of P.W.4-Doctor, the deceased died due to stab injury on chest. But, M.O.7 was not sent to F.S.L. to know whether the injury caused to the deceased was with the same knife or not. P.W.10 stated that in Ex.P7, A-1 also confessed that with the stolen amount, he purchased M.Os.11 to M.O.13 i.e., one Sansui colour Television, One VCD player along with music system and one Bajaj Chetak scooter. However, P.W.10 stated in his cross-examination that he did not investigate into the ownership particulars of M.O.13 and also as to where M.Os.11 and 12 were purchased. He further stated that he did not mention the size of knife in Ex.P10.

https://indiankanoon.org/doc/88589306/; Neeli Krishnaiah vs State Of Telangana, Hyd., on 13 December, 2023; CRIMINAL APPEAL NO.395 OF 2015

The parents of the victim engaged services of accused auto driver, believed him and sent their girl child in his auto. The victim girl who is aged about 8 years believed the words of accused, she was taken by the accused under the guise of taking her to home, taken her to secluded place and committed rape on her. Though, defense of the accused that false case is filed against him, no cogent reason is elicited in cross-examination to prove the same. Therefore, there is no illegality in convicting the accused for the offence under Section 376 (2) (f) of IPC and Section 4 of the POCSO Act. Further, the accused threatened her not to reveal the incident to anybody and threatened to kill her. As such, the offence under Section 506 of IPC is also proved by the prosecution. Accordingly, the point is answered.

The victim is a minor girl aged about 8 years. Her statement under Section 161 Cr.P.C., and the evidence on record is consistent and there are no contradictions in her statement given to the police and before the judicial officer and there is no ground to disbelieve her evidence.

https://indiankanoon.org/doc/6650035/; Syed Mohd Naseeruddin Jilani vs The State Of Telangana; 15 December, 2023; Criminal Petition No.10883 OF 2017

Section 52-A and Section 68 of the Act confine to the specific contingencies mentioned in the provisions. If the intention of the Legislature was to prohibit application of any other enactments including IPC, there would have been specific mention in the provision or the enactment itself by adding non obstante clause. Non obstante clause refers to a statutory provision intended to give an overriding effect over other provisions or enactments. Any provision cannot be read to include what is not intended by the Legislature nor what is not specified in any provision or enactment.

If the intention of the Legislature was to include all penal provisions regarding Waqf properties, it would have been specifically mentioned in the Enactment. Nothing in the Waqf Act prohibits application of either the procedure prescribed under Cr.P.C or the penal provisions of IPC except in the specified circumstances in Section 52-A and the procedure prescribed under Section 68, while handing over charge to the successor mutawalli or management committee. Offences against property are Chapter- XVII of IPC pertaining to offences against property. Chapter XVIII pertains to offences

relating to documents and property marks. As already stated nothing in the Waqf Act prohibits application either Chapters XVII or XVIII of IPC.

NOSTALGIA

COMMON INTENTION

paragraph 26 of the decision of this Court in Krishnamurthy alias Gunodu and Ors. vs. State of Karnataka, (2022) 7 SCC 521, which is reproduced herein below.

> "26. Section 34 IPC makes a co-perpetrator, who had participated in the offence, equally liable on the principle of joint liability. For Section 34 to apply there should be common intention between the co-perpetrators, which means that there should be community of purpose and common design or prearranged plan. However, this does not mean that co-perpetrators should have engaged in any discussion, agreement or valuation. For Section 34 to apply, it is not necessary that the plan should be prearranged or hatched for a considerable time before the criminal act is performed. Common intention can be formed just a minute before the actual act happens. Common intention is necessarily a psychological fact as it requires prior meeting of minds. In such cases, direct evidence normally will not be available and in most cases, whether or not there exists a common intention has to be determined by drawing inference from the facts proved. This requires an inquiry into the antecedents, conduct of the co-participants or perpetrators at the time and after the occurrence. The manner in which the accused arrived, mounted the attack, nature and type of injuries inflicted, the weapon used, conduct or acts of the co-assailants/ perpetrators, object and purpose behind the occurrence or the attack, etc. are all relevant facts from which inference has to be drawn to arrive at a conclusion whether or not the ingredients of Section 34 IPC are satisfied. We must remember that Section 34 IPC comes into operation against the co-perpetrators because they have not committed the principal or main act, which is undertaken/performed or is attributed to the main culprit or perpetrator. Where an accused is the main or final perpetrator, resort to Section 34 IPC is not necessary as the said perpetrator is himself

> individually liable for having caused the injury/offence. A person is liable for his own acts. Section 34 or the principle of common intention is invoked to implicate and fasten joint liability on other co-participants."

BAIL

In the case of P.Chidambaram v. Directorate of Enforcement reported in (2020) 13 SCC 791, the rule of bail was discussed at paragraph 23:

> "23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not

be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial."

DANGEROUS WEAPONS X DEADLY WEAPON

In Prabhu vs. State of Madhya Pradesh, Crl. Appeal No. 1956 of 2008 and SLP (Crl.) No. 1418 of 2008 the Hon'ble Supreme Court held that:

13……At this juncture, it would be relevant to note that in some provisions e.g. Sections 324 and 326 expression "dangerous weapons" is used. In some other more serious offences the expression used is "deadly weapon" (e.g. Sections 397 and 398). The facts involved in a particular case, depending upon various factors like size, sharpness, would throw light on the question whether the weapon was a dangerous or deadly weapon or not. That would determine whether in the case Section 325 or 326 would be applicable.

CHARGE SHEET OF CASE TRIABLE BY SESSIONS COURT

the Hon'ble Apex Court in Ajay Kumar Parmar v. State of Rajasthan, 2012 (12) SCC 406 in which by following the judgment of Apex court in Sanjay Gandhi's case is held in paragraph nos. 9 and 10.

"In Sanjay Gandhi v. Union of India, AIR 1978 SC 514, this court while dealing with the competence of the Magistrate to discharge an accused, in a case like the instant one at hand, held :

"….it is not open to the committal Court to launch on a process of satisfying itself that a prima facie case has been made out on the merits. The jurisdiction once vested in him under the earlier Code but has been eliminated now under the present Code. Therefore, to hold that he can go into the merits even for a prima facie satisfaction is to frustrate the Parliament's purpose in re-moulding Section 207-A (old Code) into its

present non-discretionary shape. Expedition was intended by this change and this will be defeated successfully if interpretatively we hold that a dress rehearsal of a trial before the Magistrate is in order. In our view, the narrow inspection hole through which the committing Magistrate has to look at the case limits him merely to ascertain whether the case, as disclosed by the police report, appears to the Magistrate to show an offence triable solely by the Court of Session. Assuming the facts to be correct as stated in the police report, ...the Magistrate has simply to commit for trial before the Court of Session. If, by error, a wrong section of the Penal Code is quoted, he may look into that aspect. If made-up facts unsupported by any material are reported by the police and a sessions offence is made to appear, it is perfectly open to the Sessions Court under Section 227 CrPC to discharge the accused. This provision takes care of the alleged grievance of the accused." (Emphasis added)

SANCTION BEFORE PRIVATE COMPLAINT AGAINST PUBLIC SERVANT

State of U.P. vs. Paras Nath Singh [(2009) 6 SCC 372] and Subramanian Swamy vs. Manmohan Singh [(2012) 3 SC 64], it has been held that, the Magistrate cannot order investigation against a public servant while invoking powers u/s 156(3) Cr.P.C. without previous sanction from the competent authority.

NEWS

- The Advocates (Amendment) Act, 2023 published 8.12.2023.
- The Repealing and Amendment Act, 2023 published 18.12.2023.
- The Bharatiya Nagarik Suraksha Sanhita, 2023 published 25.12.2023
- The Bharatiya Nyaya Sanhita, 2023 published 25.12.2023.
- The Bharatiya Saksya Adhiniyam, 2023 published 25.12.2023.

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ON A LIGHTER VEIN

The local United Way office realized that it had never received a donation from the town's most successful lawyer. The volunteer in charge of contributions called him to persuade him to contribute. "Our research shows that out of a yearly income of more than $600,000 you give not a penny to charity. Wouldn't you like to give back to the community in some way?"

The lawyer mulled this over for a moment and replied, "First, did your research also show that my mother is dying after a long illness, and has medical bills that are several times her annual income?"

Embarrassed, the United Way rep mumbled, "Um... No."

"Second, that my brother, a disabled veteran, is blind and confined to a wheelchair?" The stricken United Way rep began to stammer out an apology but was put off. "Third, that my sister's husband died in a traffic accident," the lawyer's voice rising in indignation, "Leaving her penniless with three children?"

The humiliated United Way rep, completely beaten, said simply, "I had no idea..." On a roll, the lawyer cut him off once again, "...And I don't give any money to them, so why should I give any to you?!"

Anonymous

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

यस्य कृत्यं न जानन्ति मन्त्रं वा मन्त्रितं परे।
कृतमेवास्य जानन्ति स वै पण्डित उच्यते ॥

दूसरे लोग जिसके कार्य, व्यवहार, गोपनीयता, सलाह और विचार को कार्य पूरा हो जाने के बाद ही जान पाते हैं, वही व्यक्ति ज्ञानी कहलाता है।

THE PERSON WHO KNOWS HIS ACTIONS, BEHAVIOR, CONFIDENTIALITY, AND THOUGHTS AFTER COMPLETION OF THE TASK IS THE SAME PERSON WHO IS INTELLIGENT

CITATIONS

https://indiankanoon.org/doc/2514008/; Mohd. Sajjad Ali, vs The State Of Andhra Pradesh, on 9 January, 2024; CRL APPEAL NOs.1148 AND 1049 OF 2011 (DB)
Merely because the witnesses were closely related to the deceased person, their testimony cannot be discarded. Their relationship to one of the parties is not a factor that effects the credibility of a witness, more so, a relation would not concede the actual culprit and make allegation against an innocent person.

https://indiankanoon.org/doc/143218039/; Vijay Gopal vs State Of Telangana on 2 January, 2024; Crl.P.No.9318 of 2023 ;
The petitioner, party-in-person, submitted that when there appeared a Press Note that the Commissioner of Police, Hyderabad has issued prohibitory orders of all kinds of assembly of more persons near (500 yards) all the Telangana Open School Society (TOSS) SCC and Intermediate Public Examination Centres between 6 am, April 25 and 6 am, May 5, 2023, the petitioner has posted a comment as under:
"Law & Order has become a joke on Telangana... If you cannot do your job without being sooo insecured all the time, you should find another job. This is nothing but abuse of office. It's just exam, not some war. Prohibitory orders, silly!"
Taking cognizance of the same, the FIR was registered against the petitioner under Sections 504 and 505 (2) of IPC. Challenging the same, the present Criminal Petition has been filed.
On a literal reading of the above, it is clear that to attract the offence under the above sections, there has to be an intentional insult which is likely to cause provocation to break the public peace, or to Crl.P.No.9318 of 2023 commit any other offence and further, there shall also be promotion of feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities.
Therefore, this Court finds that in this case, there are no two groups as required to attract the said provisions and there appears to be no intention to create or promote feeling of enmity, hatred or ill-will between different groups or of disturbing the public peace.

https://indiankanoon.org/doc/67897996/; Konda Srinivas vs State Of Telangana on 4 January, 2024; Criminal Petition No.1046 OF 2018
Sections 420, 468, 471 and 406 of IPC.
The sale deeds which were registered were already filed in the private complaint and considered by the learned Magistrate and also the learned Sessions Judge. On the very same allegations during the pendency of adjudication of the complaint filed by the 2nd respondent's husband, separate complaint regarding the very same transactions cannot be filed. The 2nd respondent has suppressed the fact that her husband had filed a criminal complaint before the Court which was pending adjudication at the time of lodging the complaint by her. Regarding the very same transactions, the husband was prosecuting the private complaint by filing Revision petition before the Sessions Court.
Admittedly, disputes are regarding the family joint property. Restraint orders were passed by this Court from alienating the property. Alienation, if any, would be void for the reason of the restraint orders passed by this Court, subject to outcome of the Appeal. As already found by the learned Magistrate and the learned Sessions Judge, the sale transactions dated 25.06.2014, disposing the subject land under two different sale deeds on the very same day, the 2nd respondent and her husband ought to have taken steps to cancel the said documents.
For suppression of material information before the Sessions Court and present police complaint, further also for the reason of none of the ingredients of any of the penal provisions being made out, this Court is inclined to quash the proceedings against the petitioners.

https://indiankanoon.org/doc/89993616/; Nomula Ashok Kumar Goud And ... vs The State Of Telangana And Another on 4 January, 2024; CRLP No. 7415 / 2019
Issuance of process in criminal trial is a serious issue. Unless the criminal Court finds adequate grounds and reasons to summon the accused, the same cannot be done. As seen from the endorsement of the learned Magistrate, it was ordered to issue summons to accused Nos.1 and 2 without there being a prima facie satisfaction of the ingredients of the offence. It appears that the Magistrate has mechanically directed issuance of summons.
In view of the observations and directions of the Hon'ble Supreme Court in the judgments referred to supra, the act of issuing process and summoning the accused to face criminal trial is a serious issue and such orders directing summons to a person to face criminal trial cannot be on the basis of cryptic orders and it should be an order reflecting application of mind by the Presiding Officer while taking cognizance and issuing process.

https://indiankanoon.org/doc/188121080/; Dollar Dreams Plot Owners Welfare vs The State Of Telangana; 2 January, 2024; CRLP Nos.9791/ 2018 & 1083/ 2022
To attract the offence under Section 341 of the Indian Penal Code, a person should have wrongfully restrained another. There is no such allegation in the entire complaint. The allegation is one of constructing a wall obstructing the access to the plot of the 2nd respondent. Remedy, if any, would lie before the Civil Court or by complaining to the Municipal Authorities.

https://indiankanoon.org/doc/69977847/; Ireddy Srujan Reddy vs The State Of Telangana on 2 January, 2024; CRIMINAL PETITION No.12943 of 2023;
This Court vide common order dated 16.08.2023 has allowed Criminal Petition Nos.5073 of 2023 and batch holding that the ingredients of Section 370(A)(2) of IPC and Sections 3 to 5 of the Act are not at all attracted to the customers and therefore, they are not liable to be punished for the offence under Section 370(A)(2) of IPC and Sections 3 to 5 of the Act.

https://indiankanoon.org/doc/31607116/; Sankabuddi Venkatesham vs The State Of Telangana on 5 January, 2024; CRIMINAL REVISION CASE No.19 OF 2024
No doubt with the aid of Section 149 of the Indian Penal Code for forming into an unlawful assembly, the conviction can be recorded. However, in the absence of any evidence of criminal conspiracy or common object being established the accused would be liable for their individual acts only. Moreover, mere presence does not make a person member of unlawful assembly, unless he actively participate in rioting or does some over act with necessary criminal intention or shares common object of unlawful assembly as observed by the Honourable Supreme Court in Vijay Pandurang Thakre v. State of Maharashtra (2017) 4 SCC 377
Under Section 34, it is not necessary that previous plan has to be proved. The requirement under Section 34 of IPC is conscious meeting of minds of persons who participated in criminal action to bring about a particular result. Whether there was any criminal intention or not depends upon the facts of each case. The said observation made by the Honourable Supreme Court in Sudip Kumar Sen v. State of West Bengal (2016) 3 SCC 26.

https://indiankanoon.org/doc/154691312/; Anchipaka Adilaxmi vs The State Of Telangana, on 4 January, 2024; CRIMINAL PETITION NO. 82 OF 2024
In Babu Venkatesh and others v. State of Karnataka and another in Criminal Appeal No.253 of 2022 dated 18.02.2022, the Hon'ble Supreme Court held referring to the judgments in the case of State of Haryana and others v. Bhajan Lal and others 1 and Priyanka Srivastava and another v. State of Uttar Pradesh and others 2 and held that it is for the Magistrate to verify the veracity of the allegations since complaints under Section 156(3) of Cr.P.C are made in routine manner and without any responsibility and only to harass certain persons. The Hon'ble Supreme Court has found fault with the Magistrate passing an order under Section 156(3) of Cr.P.C without following the law laid down in Priyanka Srivastav's case (supra) and also for non-application of mind to the facts of the case.
Mere refusal of the police to entertain an application is not a ground to refer the complaint to the Station House Officer for the purpose of investigation, unless the learned Magistrate records reasons of his/her satisfaction on the facts of the case.

https://indiankanoon.org/doc/44396450/; Puli Madhavi vs The State Of Telangana on 2 January, 2024; Crl.P.No.10158 of 2023
Section 14 (2) of Juvenile Justice (Care and Protection of Children) Act, 2015, wherein it is provided that the inquiry shall be completed within a period of four months from the date of first production of the child before the Board, unless the period is extended, for a maximum period of two more months by the Board, having regard to the facts and circumstances of the case.

https://indiankanoon.org/doc/187472337/; Smt. P. Bhargavi vs The State Of Telangana on 3 January, 2024; CRIMINAL APPEAL No. 1007 OF 2023

The present appeal is filed under Section 372 of Cr.P.C. According to the proviso under Section 372 of Cr.P.C, the appeal against the acquittal would lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. In the event of conviction by the Magistrate Court for the offence under Section 498-A of the Indian Penal Code and/or under Sections 3 and 4 of Dowry Prohibition Act, the appeal would lie to the Sessions Court. In view of the same, the appellant is at liberty to avail the said remedy.

https://indiankanoon.org/doc/110648315/; Siddi Neelam Goud vs State Of Telangana on 10 January, 2024; CRL RC No. 556/20223

It is not the case of the police that the explosives are kept for making an attempt to cause explosion or keeping explosives with an intention to endanger life or property. Accordingly, Section 3 of the Act of 1908 is not attracted since there is no explosion which was caused even according to the charge sheet. Section 4 punishes any attempt to cause explosion unlawfully and maliciously, further possessing any explosive substance to endanger life or to cause serious injury to property is made punishable. There is no such allegation in the charge sheet.

12. The allegation according to investigation is that the purpose or storing the explosives was to cause more blasts of rocks for monetary benefit.

13. Under Section 5 of the Explosive Substances Act, the punishment is prescribed for being in possession of the explosives under suspicious circumstances. Admittedly, explosives were found over and above the permitted limit. The petitioner does not possess any licence for carrying out the business by blasting rocks. However, it was argued by the learned counsel that one Pulla Reddy, resident of Banaganapally had the requisite licence and the licence was not in the name of the revision petitioner. But the petitioner was carrying on business in the name of said Pulla Reddy.

14. Not having licence to carryon the business of quarrying, however, procuring explosives gives rise to suspicious circumstances as contemplated under Section 5 of the Act of 1908. It is admitted by the petitioner that he was carrying on business without licence and procured explosives. The allegation in the charge sheet that the explosives were stored for the purpose of causing more blasts to get more profits is on the basis of confession of the accused. Minus the confession, explosives were found without there being a valid licence with the petitioner. In the said circumstances, the burden is on the accused to show that he had the explosive substances in his possession for lawful object.

15. For the aforesaid reasons, the offences under Sections 3 & 4 of the Act are not attracted. However, the petitioner can only be tried under Section 5 of the Act of 1908.

2024 0 INSC 13; 2024 0 Supreme(SC) 6; Perumal Raja @ Perumal Vs. State, Rep. By Inspector of Police; Criminal Appeal No. of 2024 (arising out of Special Leave Petition (Criminal) No. 863 of 2019); Decided On : 03-01-2024

However, we must clarify that Section 27 of the Evidence Act, as held in these judgments, does not lay down the principle that discovery of a fact is to be equated to the object produced or found. The discovery of the fact resulting in recovery of a physical object exhibits knowledge or mental awareness of the person accused of the offence as to the existence of the physical object at the particular place. Accordingly, discovery of a fact includes the object found, the place from which it was produced and the knowledge of the accused as to its existence. To this extent, therefore, factum

of discovery combines both the physical object as well as the mental consciousness of the informant accused in relation thereto.

The pre-requisite of police custody, within the meaning of Section 27 of the Evidence Act, ought to be read pragmatically and not formalistically or euphemistically. The expression "custody" under Section 27 of the Evidence Act does not mean formal custody. It includes any kind of restriction, restraint or even surveillance by the police. Even if the accused was not formally arrested at the time of giving information, the accused ought to be deemed, for all practical purposes, in the custody of the police.

Reference is made to a recent decision of this Court in Rajesh & Anr. v. State of Madhya Pradesh, 2023 SCC OnLine SC 1202, which held that formal accusation and formal police custody are essential pre-requisites under Section 27 of the Evidence Act. In our opinion, we need not dilate on the legal proposition as we are bound by the law and ratio as laid down by the decision of a Constitution Bench of this Court in State of U.P. v. Deoman Upadhyaya, (1961) 1 SCR 14. The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength.[15][See Judgments of the Constitution Bench of this Court in Central Board of Dawoodi Bohra Community and Anr. v. State of Maharashtra and Anr., (2005) 2 SCC 673 and Union of India and Anr. v. Raghubir Singh (Dead) By Lrs., (1989) 2 SCC 754. Raghubir Singh (supra) and Central Board of Dawoodi Bohra Community (supra) have been subsequently followed and applied by this Court in Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi, 2022 SCC OnLine SC 1247.] This Court in Deoman Upadhyay (supra) observed that the bar under Section 25 of the Evidence Act applies equally whether or not the person against whom evidence is sought to be led in a criminal trial was in custody at the time of making the confession. Further, for the ban to be effective the person need not have been accused of an offence when he made the confession. The reason is that the expression "accused person" in Section 24 and the expression "a person accused of any offence" in Sections 26 and 27 have the same connotation, and describe the person against whom evidence is sought to be led in a criminal proceeding. The adjectival clause "accused of any offence" is, therefore, descriptive of the person against whom a confessional statement made by him is declared not provable, and does not predicate a condition of that person at the time of making the statement.

evidentiary value to be attached on evidence produced before the court in terms of Section 27 of the Evidence Act cannot be codified or put in a straightjacket formula. It depends upon the facts and circumstances of the case. A holistic and inferential appreciation of evidence is required to be adopted in a case of circumstantial evidence. The words "person accused of an offence" and the words "in the custody of a police officer" in Section 27 of the Evidence Act are separated by a comma. Thus, they have to be read distinctively. The wide and pragmatic interpretation of the term "police custody" is supported by the fact that if a narrow or technical view is taken, it will be very easy for the police to delay the time of filing the FIR and arrest, and thereby evade the contours of Sections 25 to 27 of the Evidence Act. Thus, in our considered view the correct interpretation would be that as soon as an accused or suspected person comes into the hands of a police officer, he is no longer at liberty and is under a check, and is, therefore, in "custody" within the meaning of Sections 25 to 27 of the Evidence Act. It is for this reason that the expression "custody" has been held, as earlier observed, to include surveillance, restriction or restraint by the police.

2024 0 INSC 19; 2024 0 Supreme(SC) 16; Darshan Singh Vs. State Of Punjab; Criminal Appeal No.163 of 2010; Decided on : 04-01-2024 (THREE JUDGE BENCH)

If the PWs had failed to mention in their statements u/s 161 CrPC about the involvement of an accused, their subsequent statement before court during trial regarding involvement of that particular accused cannot be relied upon. Prosecution cannot seek to prove a fact during trial through a witness which such witness had not stated to police during investigation. The evidence of that witness regarding the said improved fact is of no significance.

PW-3 claims to be an illiterate witness and therefore, her testimony must be interpreted in that light. We are cognizant that the appreciation of evidence led by such a witness has to be treated differently from other kinds of witnesses. It cannot be subjected to a hyper-technical inquiry and much emphasis ought not to be given to imprecise details that may have been brought out in the evidence. This Court has held that the evidence of a rustic/illiterate witness must not be disregarded if there were to be certain minor contradictions or inconsistencies in the deposition.

2024 0 INSC 32; 2024 0 Supreme(SC) 35; Dinesh Gupta Vs. The State of Uttar Pradesh & Anr.; Criminal Appeal No(S). 214 of 2024 (Arising out of S.L.P.(Crl.) No.3343 of 2022) With Rajesh Gupta Vs. The State of Uttar Pradesh & Ors.; Criminal Appeal No(S). 215 of 2024 (Arising out of S.L.P.(Crl.) No.564 of 2023) Decided On : 11-01-2024

Non-disclosure of such relevant facts was a deliberate and mischievous attempt on the part of the complainant to maliciously initiate criminal proceedings for ulterior motives.

2024 0 INSC 37; 2024 0 Supreme(SC) 30; S. Rajaseekaran Vs. Union Of India & Ors.; Kishan Chand Jain; I.A. No.71387 of 2023 in Writ Petition (C) No. 295 of 2012; Decided on : 12-01-2024

We issue the following directions, which will operate till further orders, which can be modified after looking at the compliance made by the Standing Committee :

a) If the particulars of the vehicle involved in the accident are not available at the time of registration of the report regarding the accident by the jurisdictional Police Station and if, after making reasonable efforts, the particulars of the vehicle involved in the accident could not be ascertained by the Police within a period of one month from the date of registration of accident report, the officer-in-charge of the Police Station shall inform in writing to the injured or the legal representatives of the deceased, as the case may be, that compensation can be claimed under the Scheme. The contact details such as e-mail ID and office address of the jurisdictional Claims Enquiry Officer shall be provided by the Police to the injured or the legal representatives of the deceased, as the case may be;

b) The officer in charge of the Police Station, within one month from the date of the accident, shall forward the FAR to the Claims Enquiry Officer as provided in sub-clause (1) of clause 21 of the Scheme. While forwarding a copy of the said report, the names of the victims in case of injury and the names of the legal representatives of the deceased victim (if available with the Police Station) shall also be forwarded to the jurisdictional Claims Enquiry Officer, who shall cause the same to be entered in a separate register. After receipt of the FAR and other particulars as aforesaid by the Claims Enquiry Officer, if the claim application is not received within one month, the information shall be provided by the Claims Enquiry

Officer to the concerned District Legal Service Authority with a request to the said authority to contact the claimants and assist them in filing the claim applications;
c) A Monitoring Committee shall be constituted at every district level consisting of the Secretary of the District Legal Service Authority, the Claims Enquiry Officer of the district or, if there is more than one, the Claim Enquiry Officer nominated by the State Government, and a police officer not below the level of Deputy Superintendent of Police as may be nominated by the District Superintendent of Police. The Secretary of the District Legal Services Authority shall be the Convener of the Monitoring Committee. The Committee shall meet at least once in every two months to monitor the implementation of the Scheme in the district and the compliance with the aforesaid directions;
d) The Claims Enquiry Officer shall ensure that a report containing his recommendation and other documents are forwarded to the Claim Settlement Commissioner within one month from receipt of the claim application duly filled in;
e) The Registry of this Court shall forward a copy of this order to the Member Secretaries of the Legal Services Authorities of each State and Union Territories. The Member Secretaries shall, in turn, forward the copies of this order to the Secretaries of each District Legal Services Authorities within its jurisdiction. After receipt of the copies of this order, the Secretaries of the District Legal Services Authorities shall take steps to form the Monitoring Committees for their respective districts and
f) The Secretaries of the District Legal Services Authorities shall submit quarterly reports on the functioning of the Monitoring Committees to the Member Secretaries of the respective Legal Services Authorities of the State or the Union Territories, as the case may be. The Member Secretaries shall collate the reports submitted by all districts and forward a comprehensive report to the Registry of this Court.

10) Sub-section (2) of Section 161 of MV Act provides that in case of death of any person resulting from hit and run motor accident, a compensation of Rs. 2 lakhs or such higher amount as may be prescribed by the Central Government shall be paid. In case of grievous injury, the compensation amount is Rs. 50 thousand. The value of money diminishes with time. We direct the Central Government to consider whether the compensation amounts can be gradually enhanced annually. The Central Government shall take an appropriate decision on this issue within eight weeks from today.

11) We direct the Central Government to consider whether the time limit prescribed in sub-clause (2) of clause 20 of the Solatium Scheme can be extended and permission be granted to the eligible claimants to apply within the extended time as a onetime measure. Even on this aspect, we expect the Central Government to decide within eight weeks from today.

2024 0 INSC 42; 2024 0 Supreme(SC) 40; Shadakshari Vs. State Of Karnataka & Anr.; Criminal Appeal No. 256 Of 2024; Decided On : 17-01-2024

The question for consideration in this appeal is whether sanction is required to prosecute respondent No. 2 who faces accusation amongst others of creating fake documents by misusing his official position as a Village Accountant, thus a public servant? The competent authority has declined to grant sanction to prosecute. High Court has held that in the absence of such sanction, respondent No. 2 cannot be prosecuted and consequently has quashed the complaint as well as the chargesheet, giving liberty to the appellant to assail denial of sanction to prosecute respondent No. 2 in an appropriate proceeding, if so advised.

The question whether respondent No.2 was involved in fabricating official documents by misusing his official position as a public servant is a matter of trial. Certainly, a view can be taken that manufacturing of such documents or fabrication of records cannot be a part of the official duty of a public servant. If that be the position, the High Court was not justified in quashing the complaint as well as the chargesheet in its entirety, more so when there are two other accused persons besides respondent No.2.

2024 0 INSC 46; 2024 0 Supreme(SC) 47; Kusha Duruka Vs. The State of Odisha; Criminal Appeal No. 303 of 2024, S.L.P. (Crl.) No. 12301 of 2023; Decided On : 19-01-2024

In our opinion, to avoid any confusion in future it would be appropriate to mandatorily mention in the applications filed for grant of bail:

(1) Details and copies of orders passed in the earlier bail applications filed by the petitioner which have been already decided.

(2) Details of any bail applications filed by the petitioner, which is pending either in any court, below the court in question or the higher court, and if none is pending, a clear statement to that effect has to be made.

This court has already directed vide order passed in Pradhani Jani's case (Criminal Appeal No. 1503/2023 decided on 15.05.2023) that all bail applications filed by the different accused in the same FIR should be listed before the same Judge except in cases where the Judge has superannuated or has been transferred or otherwise incapacitated to hear the matter. The system needs to be followed meticulously to avoid any discrepancies in the orders.

In case it is mentioned on the top of the bail application or any other place which is clearly visible, that the application for bail is either first, second or third and so on, so that it is convenient for the court to appreciate the arguments in that light. If this fact is mentioned in the order, it will enable the next higher court to appreciate the arguments in that light.

(3) The registry of the court should also annex a report generated from the system about decided or pending bail applications in the crime case in question. The same system needs to be followed even in the case of private complaints as all cases filed in the trial courts are assigned specific numbers (CNR No.) even if no FIR number is there.

(4) It should be the duty of the Investigating Officer/any officer assisting the State Counsel in court to apprise him of the orders, if any, passed by the court with reference to different bail applications or other proceedings in the same crime case. And the counsel appearing for the parties have to conduct themselves truly like officers of the Court.

Our suggestions are with a view to streamline the proceedings and avoid anomalies with reference to the bail applications being filed in the cases pending trial and even for suspension of sentence.

2024 0 INSC 48; 2024 0 Supreme(SC) 46; Jay Shri & Anr. Vs. State of Rajasthan; Criminal Appeal No. 330 of 2024 (arising out of SLP(Crl.) No. 14423 of 2023); Decided On : 19-01-2024

Prima facie, in our opinion, mere breach of contract does not amount to an offence under Section 420 or Section 406 of the Indian Penal Code, 1860,[1][For short, "IPC".], unless fraudulent or dishonest intention is shown right at the beginning of the transaction.,[2][Sarabjit Kaur v. State of Punjab and Another, (2023) 5 SCC 360.] This Court has time and again cautioned about converting purely civil disputes into criminal

cases.,[3][Indian Oil Corpn. v. NEPC India Ltd. and Others, (2006) 6 SCC 736; Vijay Kumar Ghai and Others v. State of West Bengal and Others, (2022) 7 SCC 124.] Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.,[4][Indian Oil Corpn. v. NEPC India Ltd. and Others, (2006) 6 SCC 736, para 13.]

2024 0 INSC 49; 2024 0 Supreme(SC) 58; Mariam Fasihuddin & Anr. Vs. State by Adugodi Police Station & Anr.; Criminal Appeal No. 335 of 2024 (Arising out of Special Leave to Appeal (Crl.) No. 2877 of 2021) Decided on : 22-01-2024

It is well known that every deceitful act is not unlawful, just as not every unlawful act is deceitful. Some acts may be termed both as unlawful as well as deceitful, and such acts alone will fall within the purview of Section 420 IPC. It must also be understood that a statement of fact is deemed 'deceitful' when it is false, and is knowingly or recklessly made with the intent that it shall be acted upon by another person, resulting in damage or loss.[2][P. Ramanatha Aiyar, Advanced Law Lexicon, 6th Edition, Vol. 1, pg. 903] 'Cheating' therefore, generally involves a preceding deceitful act that dishonestly induces a person to deliver any property or any part of a valuable security, prompting the induced person to undertake the said act, which they would not have done but for the inducement.

The term 'property' employed in Section 420 IPC has a well defined connotation. Every species of valuable right or interest that is subject to ownership and has an exchangeable value – is ordinarily understood as 'property'. It also describes one's exclusive right to possess, use and dispose of a thing. The IPC itself defines the term 'moveable property' as, **"intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth."** Whereas immoveable property is generally understood to mean land, benefits arising out of land and things attached or permanently fastened to the earth.

The offences of 'forgery' and 'cheating' intersect and converge, as the act of forgery is committed with the intent to deceive or cheat an individual.

The provision for submitting a supplementary report infers that fresh oral or documentary evidence should be obtained rather than reevaluating or reassessing the material already collected and considered by the investigating agency while submitting the initial police report, known as the chargesheet under Section 173(2) CrPC. [4][Vinay Tyagi v. Irshad Ali and others, (2013) 5 SCC 762, para 22.] In the absence of any new evidence found to substantiate the conclusions drawn by the investigating officer in the supplementary report, a Judicial Magistrate is not compelled to take cognizance, as such a report lacks investigative rigour and fails to satisfy the requisites of Section 173(8) CrPC. What becomes apparent from the facts on record of this case is that the investigating agency acted mechanically, in purported compliance with the Trial Magistrate's order dated 24.06.2015.

2024 0 INSC 57; 2024 0 INSC 58; 2024 0 Supreme(SC) 72; Central Bureau of Investigation Vs. Kapil Wadhawan & Anr.; Criminal Appeal No. 391 of 2024 (@ Special Leave Petition (Crl.) No. 11775 of 2023) Decided On : 24-01-2024

Indisputably, the power of the investigating officer to make a prayer for making further investigation in terms of sub-section (8) of Section 173 is not taken away only because a charge-sheet under sub-section (2) thereof has been filed. A further investigation is permissible even if order of cognizance of offence has been taken by the Magistrate.

we have no hesitation in holding that the chargesheet having been filed against the respondents-accused within the prescribed time limit and the cognizance having been taken by the Special Court of the offences allegedly committed by them, the respondents could not have claimed the statutory right of default bail under Section 167(2) on the ground that the investigation qua other accused was pending.
The statutory scheme does not lead to a conclusion in regard to an investigation leading to filing of final form under sub-section (2) of Section 173 and further investigation contemplated under sub-section (8) thereof. Whereas only when a charge-sheet is not filed and investigation is kept pending, benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to an offender; once, however, a charge-sheet is filed, the said right ceases. Such a right does not revive only because a further investigation remains pending within the meaning of subsection (8) of Section 173 of the Code.

2024 0 INSC 41; 2024 0 Supreme(SC) 38; Nara Chandrababu Naidu Vs. The State of Andhra Pradesh and Another; Criminal Appeal No. 279 of 2024, Arising out of Petition for Special Leave to Appeal (Criminal) No. 12289 of 2023; 16-01-2024

> If an enquiry, inquiry or investigation is intended in respect of a public servant on the allegation of commission of offence under the 1988 Act after Section 17A thereof becomes operational, which is relatable to any recommendation made or decision taken, at least prima facie, in discharge of his official duty, previous approval of the authority postulated in subsection (a) or (b) or (c) of Section 17A of the 1988 Act shall have to be obtained. In absence of such previous approval, the action initiated under the 1988 Act shall be held illegal.

Dissenting
In view of the afore-stated legal position, unless a different intention is disclosed in the new Act or repealing Act, a repeal of an Act would not affect the right of the investigating agency to investigate the offences which were covered under the repealed Act. If the offences were committed when the repealed Act was in force, then the repeal of such Act would neither affect the right of the investigating agency to investigate the offence nor would vitiate or invalidate any proceedings instituted against the accused. In the instant case also the offences under Section 13(1)(c) and 13(1)(d) were in force when the same were allegedly committed by the appellant. Hence, the deletion of the said provisions and the substitution of the new offence under Section 13 by the Amendment Act, 2018 would not affect the right of the investigating agency to investigate nor would vitiate or invalidate any proceedings initiated against the appellant.
28. Having considered the different contours of Section 17A, I am of the opinion that Section 17A would be applicable to the offences under the PC Act as amended by the Amendment Act, 2018, and not to the offences existing prior to the said amendment. Even otherwise, absence of an approval as contemplated in Section 17A for conducting enquiry, inquiry or investigation of the offences alleged to have been committed by a public servant in purported exercise of his official functions or duties, would neither vitiate the proceedings nor would be a ground to quash the proceedings or the FIR registered against such public servant.

https://indiankanoon.org/doc/187365174/; Chengaipattu Nathineni Sreenivasulu vs The State Of Ap Rep By Its Pp Hyd., on 25 January, 2024; CRLA 8 of 2011
During cross examination, P.W.1 denied that she did not state to police that when she took the deceased to the house of accused, accused asked her and the deceased

whether they brought any amount as demanded and she denied the above said suggestion. During cross examination of P.W.13, the investigating officer, the accused did not elicit that P.W.1 did not state so when she was examined by him. The omission with regard to the above incident suggested to P.W.1 was not elicited by the accused from the mouth of P.W.13. Hence, this Court has no reason to disbelieve the evidence of P.W.1 with regard to the incident happened when she took the deceased to the house of accused after providing necessary medical aid. In the light of the above, the evidence adduced by the prosecution squarely satisfies the proximity test.

https://indiankanoon.org/doc/172823656/; Sampangi Premkumar vs The State Of Telangana on 23 January, 2024; WP No. 5 of 2024

Disturbance of public order is to be distinguished, from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquility. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large Sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance of public order. He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquility there is a vast difference. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society.

2024 0 INSC 70; 2024 0 Supreme(SC) 86; Sheikh Arif Vs. State of Maharashtra & Anr.; Criminal Appeal No. 1368 of 2023; Decided On : 30-01-2024

If this material, which is a part of the investigation papers, is perused carefully, it is obvious that the physical relationship between the appellant and the second respondent was consensual, at least from 2013 to 2017. The fact that they were engaged was admitted by the second respondent. The fact that in 2011, the appellant proposed her and in 2017, there was engagement is accepted by the second

respondent. In fact, she participated in the engagement ceremony without any protest. However, she has denied that her marriage was solemnised with the appellant. Taking the prosecution case as correct, it is not possible to accept that the second respondent maintained a physical relationship only because the appellant had given a promise of marriage.

2024 0 INSC 72; 2024 0 Supreme(SC) 88; Sachin Garg Vs. State of U.P & Anr.; Criminal Appeal No. 497 of 2024 (Arising out of Petition for Special Leave to Appeal (Criminal) No.4415 OF 2023); Decided On : 30-01-2024

Past commercial relationship between the appellant's employer and the respondent no.2 is admitted. It would also be evident from the petition of complaint the dispute between the parties centred around the rate at which the assigned work was to be done. Neither in the petition of complainant nor in the initial deposition of the two witnesses (that includes the complainant) the ingredients of the offence under Section 405 of the 1860 Code surfaced. Such commercial disputes over variation of rate cannot per se give rise to an offence under Section 405 of the 1860 Code without presence of any aggravating factor leading to the substantiation of its ingredients.

The allegation of criminal intimidation against the accused is made in the complaint statements made by the appellant, no particulars thereof have been given. Both in the complaint petition and the initial deposition of one of the witnesses, there is only reproduction of part of the statutory provision giving rise to the offence of criminal intimidation. This would constitute a mere bald allegation, short of any particulars as regards to the manner in which threat was conveyed.

A commercial dispute, which ought to have been resolved through the forum of Civil Court has been given criminal colour by lifting from the penal code certain words or phrases and implanting them in a criminal complaint. The learned Magistrate here failed to apply his mind in issuing summons and the High Court also failed to exercise its jurisdiction under Section 482 of the 1973 Code to prevent abuse of the power of the Criminal Court.

the complaint case cannot be rejected at the nascent stage on the sole ground of not implicating the company.

https://indiankanoon.org/doc/148942954/; Sri Sankula Chandra Seker, vs State Of A.P., Rep By Pp., on 29 January, 2024; CRLA 820 of 2007

simply because PW.1 appears to have given false evidence giving a go bye to the case of the prosecution, the case of the prosecution cannot be thrown out.

https://indiankanoon.org/doc/114690986/; Ruda Chanti Babu vs The State Of Andhra Pradesh on 30 January, 2024; CRLP 241 of 2024;

The question of drawing of samples at the time of seizure which, more often than not, takes place in the absence of the Magistrate does not in the above scheme of things arise. This is so especially when according to Section 52-A(4) of the Act, samples drawn and certified by the Magistrate in compliance with subsections (2) and (3) of Section 52-A above constitute primary evidence for the purpose of the trial. Suffice it to say that there is no provision in the Act that mandates taking of samples at the time of seizure.

NOSTALGIA

Sec 27 IEA
Sections 25 and 26 were enacted not because the law presumed the statements to be untrue, but having regard to the tainted nature of the source of the evidence, prohibited them from being received in evidence. A person giving word of mouth information to police, which may be used as evidence against him, may be deemed to have submitted himself to the "custody" of the police officer. Reference can also be made to decision of this Court in Vikram Singh and Ors. v. State of Punjab (2010) 3 SCC 56, which discusses and applies Deoman Upadhyay (supra), to hold that formal arrest is not a necessity for operation of Section 27 of the Evidence Act. This Court in Dharam Deo Yadav v. State of Uttar Pradesh (2014) 5 SCC 509, has held that the expression "custody" in Section 27 of the Evidence Act does not mean formal custody, but includes any kind of surveillance, restriction or restraint by the police. Even if the accused was not formally arrested at the time of giving information, the accused is, for all practical purposes, in the custody of the police and the bar vide Sections 25 and 26 of the Evidence Act, and accordingly exception under Section 27 of the Evidence Act, apply. Reliance was placed on the decisions in State of A.P. v. Gangula Satya Murthy, (1997) 1 SCC 272 and A.N.Vekatesh and Anr. v. State of Karnataka, (2005) 7 SCC 714

Circumstantial Evidence
In Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, this Court referred to Hanumant v. State of Madhya Pradesh (1952) 2 SCC 71, and laid down the five golden principles ('panchsheel') that should be satisfied before a case based on circumstantial evidence against an accused can be said to be fully established:

(i) the circumstances from which the conclusion of guilt is to be drawn should be fully established;
(ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;
(iii) the circumstances should be of a conclusive nature and tendency;
(iv) they should exclude every possible hypothesis except the one to be proved; and
(v) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

UNCLEAN HANDS
In Dalip Singh vs. State of Uttar Pradesh and Others, (2010) 2 SCC 114 this Court noticed the progressive decline in the values of life and the conduct of the new creed of litigants, who are far away from truth. It was observed as under:

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahinsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the Pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post- Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to

pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

NEWS

- AP- Acts - Andhra Pradesh Regularization Of Services Of Contract Employees Act, 2023 –Coming Into Force Of The Act - Notification Under Sub Section (3) Of Section 1 Of The Act – Issued.
- Andhra Pradesh State Judicial Service - Civil Judges (Junior Division) - Notified For The Year, 2022 - Selection Of Candidates - Approved. [G.O.Ms.No.210, Law (L And LA & J - Home - Courts.A), 11th December, 2023.]
- High Court of Andhra Pradesh - Amendment to second para of Standing Order No. 282 of the High Court Standing orders 2004, in terms of Judgment of Hon'ble Division Bench – Notified- 22.01.2024.
- High Court of Andhra Pradesh - Amendment to first para of Standing Order No. 170 of the High Court Standing Orders 2004 - Notified.- 22.01.2024
- APHC- Judgement dated 04.01.2024 passed in Writ Petition (C) No. 643 of 2015 by Hon'ble Supreme Court of India - Recommendations of the Second National Judicial Pay Commission as approved by the Hon'ble Supreme Court - Certain instructions - Issued - Reg.- DISPLAY of JUDGE Sticker on Vehicles permitted.

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ON A LIGHTER VEIN

During a trial, the judge asked the prosecutor, "Do you have any new evidence?"
The prosecutor replied, "Your Honor, the only thing I've uncovered is that I need a better shovel for digging through the case files!"

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

क्षणशः कणशश्चैव विद्यामर्थं च साधयेत् ।
क्षणे नष्टे कुतो विद्या कणे नष्टे कुतो धनम् ॥

- **Hindi Translation:-** एक एक क्षण गवाये बिना विद्या ग्रहण करनी चाहिए और एक एक कण बचा करके धन ईकट्ठा करना चाहिए। क्षण गवाने वाले को विद्या कहाँ और कण को क्षुद्र समझने वाले को धन कहाँ ?

- **English Translation:-** One should take knowledge without losing a single moment and save Money by collecting every coin. The one who lost the moment does not get knowledge And those who consider coin as small do not get money.

CITATIONS

2024 0 INSC 81; 2024 0 Supreme(SC) 94; Haalesh @ Haleshi @ Kurubara Haleshi Vs. State of Karnataka; Criminal Appeal No. 1954 of 2012 With Criminal Appeal No. 1955 of 2012 and Criminal Appeal No. 1303 of 2014; 02-02-2024

It is true that according to the prosecution and the evidence on record only A-1 to A-3 had caught hold of the deceased Shivanna and had assaulted him with choppers. No other accused person is alleged to have assaulted him, though, some of them had caught hold of the wife and daughter of the deceased and had assaulted them with choppers causing grievous injuries. Nonetheless, the evidence on record clearly proves that all the accused persons have initially assembled in front of the house of the deceased Shivanna; first two of them arrived and later the rest of them came in auto rikshaw. They armed themselves with weapons especially choppers and thereafter trespassed into the house of the deceased Shivanna. They all indulged in assaulting one or the other members of his family with the weapons in their hand except for A-8 and A-9 who remained standing at the door of the house.

PW-3 and PW-4 are the eyewitnesses who were present at the scene of incident and were grievously injured. On being assaulted, they became unconscious and gained consciousness only on reaching hospital. Their testimony in the background of the case is the best evidence. No doubt, they are members of the family and may be interested persons but their testimony cannot be discarded simply for the reason that they are family members in the scenario of the case that the incident took place inside the house of the deceased Shivanna, where there could not have been any other eyewitnesses other than the family members. The evidence of the aforesaid two eyewitnesses could not be shaken in the cross-examination.

an overt act of some of the accused persons of an unlawful assembly with the common object to kill the deceased Shivanna and to cause grievous hurt to the other family members is enough to rope in all of them for an offence under Section 302 IPC in aid with Section 149 IPC.

The second contention advanced on behalf of the appellants that the medical evidence or the medical report on record does not substantiate the stand taken by the prosecution has no merit at all for the simple reason that the doctor (PW-18) who conducted the postmortem had proved the injuries. However, she suggested the

possibility of use of different weapons in causing those injuries. Undoubtedly, only one kind of weapon i.e. chopper was used in committing the crime and, therefore, the evidence of the doctor may not be matching with that of the prosecution, but again, the ocular evidence of PW-3 and PW-4 is sufficient enough to prove that only chopper was used as a weapon of crime. In the light of the said evidence of the two eyewitnesses, the suggestion or opinion of the doctor cannot prevail as the opinion based upon probability is a weak evidence in comparison to the ocular evidence of eyewitnesses.

2024 0 INSC 82; 2024 0 Supreme(SC) 99; Bhaggi @ Bhagirath @ Naran Vs. The State of Madhya Pradesh; Special Leave Petition (Crl.) No. 2888 of 2023; Decided On : 05-02-2024

We are of the concerned view that when the words 'barbaric' and 'brutal' are used simultaneously they are not to take the character of synonym, but to take distinctive meanings. In view of the manner in which the offence was committed by the petitioner-convict, as observed by the High Court under the above extracted recital, according to us, one can only say that the action of the petitioner-convict is barbaric though he had not acted in a brutal manner. We will take the meanings of the words 'barbaric', 'barbarians' and 'brutal' to know the distinctive meanings of the words 'barbaric' and 'brutal'. As per the New International Webster's Comprehensive Dictionary of the English Language, Encyclopedia Edition they carry the following meanings:

'Barbaric' (adj):

1. of or characteristic of barbarians.
2. Wild; uncivilized; crude

'Barbarians': (n)

1. One whose state of culture is between savagery and civilization.
2. Any rude, brutal or uncultured person.

'Brutal' (adj):

Characteristic of or like a brute; cruel; savage.

In the light of the evidence on record and rightly noted by the High Court in the above-extracted paragraph 34 of the impugned judgment it may be true to say that the petitioner-convict had committed the offence of rape brutally, but then, certainly his action was barbaric. In the instant case, the petitioner-convict was aged 40 years on the date of occurrence and the victim was then only a girl, aged 7 years. Thus, the position is that he used a lass aged 7 years to satisfy his lust. For that the petitioner-convict took the victim to a temple, unmindful of the holiness of the place disrobed her and himself and then committed the crime. We have no hesitation to hold that the fact he had not done it brutally will not make its commission non-barbaric.

2024 0 INSC 91; 2024 0 Supreme(SC) 105; Kishore and Others Vs. State of Punjab; Criminal Appeal No. 1465 of 2011; 07-02-2024

It is true that a test identification parade is not mandatory. The test identification parade is a part of the investigation. It is useful when the eyewitnesses do not know the accused before the incident. The test identification parade is usually conducted immediately after the arrest of the accused. Perhaps, if the test identification parade is properly conducted and is proved, it gives credence of the identification of the accused by the concerned eyewitnesses before the Court. The effect of the prosecution's failure to conduct a test identification parade will depend on the facts of each case.

The examination of the goldsmith or the person from whom the other ornaments were brought was necessary to prove that the ornaments were identical to the ones recovered at the instance of the accused. But that was not done. Therefore, even the identification of the ornaments by PW-9 becomes doubtful. The prosecution case regarding the recovery of the ornaments at the instance of the appellants also becomes doubtful.
It is established that there was no unlawful assembly as two out of five accused have been acquitted. The High Court could have altered the charge by applying Section 34 instead of Section 149 of the IPC, but that was not done.

2024 0 INSC 92; 2024 0 Supreme(SC) 104; Gurwinder Singh Vs. State of Punjab and Another; Criminal Appeal No. 704 of 2024, Special Leave Petition (Criminal) No. 10047 of 2023; 07-02-2024
The Appellant's counsel has stated that in the terror funding chart the name of the Appellant does not find place. It is pertinent to mention that the charges in the present case reveals the involvement of a terrorist gang which includes different members recruited for multiple roles. Hence, the mere fact that the accused has not received any funds or nothing incriminating was recovered from his mobile phone does not absolve him of his role in the instant crime.
In this background, the test for rejection of bail is quite plain. Bail must be rejected as a 'rule', if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are prima facie true. It is only if the test for rejection of bail is not satisfied - that the Courts would proceed to decide the bail application in accordance with the 'tripod test' (flight risk, influencing witnesses, tampering with evidence). This position is made clear by Sub-Section (6) of Section 43D, which lays down that the restrictions, on granting of bail specified in Sub-Section (5), are in addition to the restrictions under the Code of Criminal Procedure or any other law for the time being in force on grant of bail.
On a textual reading of Section 43 D(5) UAP Act, the inquiry that a bail court must undertake while deciding bail applications under the UAP Act can be summarised in the form of a twin-prong test:

(1) Whether the test for rejection of the bail is satisfied?

1.1 Examine if, prima facie, the alleged 'accusations' make out an offence under Chapter IV or VI of the UAP Act.

1.2 Such examination should be limited to case diary and final report submitted under Section 173 Cr.P.C.

(2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under Section 439 Cr.P.C. ('tripod test')?

On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused etc., the Courts must ask itself:

2.1 Whether the accused is a flight risk?

2.2. Whether there is apprehension of the accused tampering with the evidence?

2.3 Whether there is apprehension of accused influencing witnesses?

The question of entering the 'second test' of the inquiry will not arise if the 'first test' is satisfied. And merely because the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the 'tripod test'.

2024 0 INSC 114; 2024 0 Supreme(SC) 130; State by the Inspector of Police Vs. B. Ramu ; Criminal Appeal No. 801 of 2024, SLP (Crl.) No. 8137 of 2022; Decided On : 12-02-2024
In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents.
For entertaining a prayer for bail in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act.

https://indiankanoon.org/doc/151083483/; Habeeb Sultan Ali vs The State Of Telangana on 15 February, 2024; CRIMINAL PETITION No.1750 of 2024;
the Investigating Officer is directed to follow the procedure laid down under Section 41-A Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court of India in Arnesh Kumar v. State of Bihar scrupulously in a case registered for offences punishable under Section 506 of IPC and Section 7 read with 8 of POCSO Act.

https://indiankanoon.org/doc/141061029/; Payam Naveen vs The State Of Telangana on 14 February, 2024; CRLA 272/2022
In so far as the allegation regarding promise to marry, P.W.1 has consistently stated that right from the beginning, there was a promise to marry and ultimately, the appellant denied and went away from the village. It appears that the appellant had with an intention of indulging in sexual intercourse had made false promise of marrying her. In the said circumstances, the conviction for cheating under Section 417 of IPC is maintained.

https://indiankanoon.org/doc/36767353/; Korra Gopal vs The State Of Telangana on 14 February, 2024; WP 3887/2024
The case of the petitioner is that he has lodged a written complaint, dated 08.02.2024 before respondent No.5 against respondent Nos.6 to 8 and according to him the contents of the complaint would reveal commission of cognizable offence. The grievance of the petitioner is that even after receiving the complaint, dated 08.02.2024, respondent No.5 is not taking any action for registration of the crime against respondent Nos.6 to 8.
3. Learned Assistant Government Pleader for Home appearing for respondent Nos.1 to 5, on instructions, would submit that respondent No.5 had received the written complaint, dated 08.02.2024 and the police are conducting enquiry in the said complaint and they will take appropriate action in accordance with law, if the same would reveal commission of cognizable offence.
4. In view of the above submissions, this Court deems it appropriate to dispose of the writ petition directing respondent No.5 to take appropriate action on the complaint, dated 08.02.2024 submitted by the petitioner and if the contents of the said complaint reveal commission of cognizable offence, respondent No.5 is directed to conduct enquiry under Section 154 of Cr.P.C. and also follow the guidelines issued by the Hon'ble Apex Court in Lalita Kumari v. State of Uttar Pradesh

https://indiankanoon.org/doc/100945342/; Gudem Vikram Reddy vs The State Of Telangana; https://csis.tshc.gov.in/hcorders/2024/202100014662024_5.pdf; on 14 February, 2024; CRLP 1466/2024;

proceedings in Crime No. 855 of 2023 on the file of Patancheru Police Station, Sanga Reddy District, registered for the alleged offences punishable under Sections 147, 323,504, 149 of IPC and Section 3(1)(r)(s) of SC/ST (POA) Act, allowed to be compounded as the disputes have been settled amicably with the accused.

https://indiankanoon.org/doc/91317397/; Deep Singh , Deep Singh , Deepu vs The State Of Telangana on 13 February, 2024; CRLA 529/2020 (DB)

In view of several lapses on the part of the investigation, this Court finds that prosecution miserably failed to connect the accused with the offence. Admittedly, P.W.1 knows Hindi and he does not know how to read and write Telugu, but the complaint was written in Telugu and he signed in Hindi on the complaint. When the contents in the complaint were explained to P.W.1, he simply stated that he does not know Telugu. Though P.W.2 stated that she handed over the blood stained clothes of the victim to the police in the hospital, it was not mentioned in detail as to whether the said clothes are frock or underwear or any cloth in which victim girl was taken to the hospital. When the investigating Officer recorded the statements of P.Ws.1 to 3 in the hospital, why the investigating Officer has not collected the blood stained clothes of the minor child on the same day, was not explained anywhere. It appears to fill up lacuna, the frock was seized at the instance of P.W.1 by the investigating Officer. Even after representing the frock as M.O.3, when semen or spermatozoa was found on it, the investigating Officer has not opted for DNA profiling. In this case, the accused is languishing in jail from 15.10.2018. Admittedly, in this criminal case, the prosecution failed to prove guilt of the accused beyond all reasonable doubt and as such he is entitled to the benefit of doubt.

https://indiankanoon.org/doc/119760250/; Merla Bhavani Shankar Prasad vs Vallabhaneni Mytri Priyadarshini on 9 February, 2024; CRIMINAL PETITION No.12904 OF 2018;

In the present case, the learned Magistrate has taken cognizance against the accused and committed the accused to the Sessions Court and the learned Sessions Judge in Criminal Revision Petition No.125 of 2017, held by relying on the judgment of the Hon'ble Supreme Court in Jile Singh's case ((2012) 2 SCC (Cri) 175) deleting from the array of the accused that can be added only under Section 319 Cr.P.C. is unsustainable in law and it was contrary to the law laid down in Dharam Pal's case. Therefore, the order of the learned Sessions Judgfe to add the array of the deleted accused has to wait till the case reaches the stage of Section 319 Cr.P.C. is un-sustainable in view of the law laid down in Dharam Pal's case. Accordingly, it is liable to be set aside.

https://indiankanoon.org/doc/167461035/; Polasapalli Ravi Sankar vs The State Of Andhra Pradesh on 5 February, 2024; I.A.No.1 and 2in Crl.P.No.7595 of 2023

The case of the prosecution is that the de facto-complainant is working as Electrician in Railway Department in Guntur, he had confirmed his daughter marriage to the 1st petitioner on 02.09.2023 and his daughter engagement ceremony was also performed in his house and photos were also taken at the time. On all of sudden, on 21.09.2023, the groom‟s sister by name Savitri called the 2nd BSB, J respondent and stated that their family was not interested in this alliance and, hence the marriage was cancelled. Later, when the 2nd respondent contacted the groom through phone he stated that he has no interest to marry his daughter. Thereafter, the 2nd respondent made a report

basing on which, the police registered a case in Crime No.251 of 20232 against the petitioners and others under Sections 420, 506 r/w 34 IPC.
Having regard to the facts and circumstances and as the parties have entered into compromise, the chances of convictions are meagre and remote. Therefore, in view of the aforesaid decision of the apex court, this Court is of the view that this is a fit case to quash the proceedings by exercising jurisdiction under Section 482 CrPC. Hence, there is no need to pass any order under Section 320 CrPC and accordingly, I.A.No.1 and 2 are closed.

2024 0 Supreme(SC) 136; Souvik Bhattacharya Vs. Enforcement Directorate, Kolkata Zonal OFFICE-II; Criminal Appeal No. 963 of 2024, SLP (Criminal) No. 14476 of 2023; Decided On : 16-02-2024
the Court, while taking cognizance of an offence is of the opinion that there is sufficient ground for proceeding, may issue summons for the attendance of the accused when the case appears to be a summons case, or may issue a warrant for causing the accused to be brought or to appear before the Court, when the case appears to be a warrant case under Section 204 of Cr.P.C.
Section 437 would come into play when the accused is arrested or detained or when the summons or warrant is issued against the accused for causing him to be brought or to appear before the Court. In absence of any order for issuance of summons or warrant under Section 204 or under any other provision of Cr.P.C. the summons could not have been issued or served upon the appellant nor he could have been arrested or taken into custody.

2024 0 INSC 117; Deepak Kumar Shrivas & Anr. Vs. State of Chhattisgarh & Ors.; Criminal Appeal No. 1007 of 2024 @ Special Leave Petition (Crl.) No. 9800 of 2023; Decided On : 19-02-2024
A reading of the entire material on record clearly reflects that it was totally an unlawful contract between the parties where money was being paid for securing a job in the government department(s) or private sector. Apparently, a suit for recovery could not have been filed for the said purpose and even if it could be filed, it could be difficult to establish the same where the payment was entirely in cash. Therefore, the respondent no.6 found out a better medium to recover the said amount by building pressure on the appellant and his brother by lodging the FIR. Under the threat of criminal prosecution, maybe the appellant would have tried to sort out and settle the dispute by shelving out some money.
In conclusion, certain key observations from the factual matrix warrant a closer reflection. Prima facie, the conduct exhibited by the parties involved appears tainted with suspicion, casting a shadow over the veracity of their claims. The report from the previous inquiry reflects a convoluted landscape and unveils a trail of unethical, maybe even criminal, behaviour from both parties. The unexplained inordinate delay in bringing these allegations to the police’s attention despite knowledge of previous inquiry, raises even more doubts and adds a layer of scepticism to the authenticity of the claims. The facts stated, as well as the prior inquiry, reveal a shared culpability between the parties, indicative of a complex web of deceit, and unethical transactions where even civil remedies may not be sustainable. Thus, the object of this dispute, manifestly rife with mala fide intentions of only recovering the tainted money by coercion and threat of criminal proceedings, cannot be allowed to proceed further and exploit the time and resources of the law enforcement agency.

it becomes imperative to state that the police should exercise heightened caution when drawn into dispute pertaining to such unethical transactions between private parties which appear to be prima facie contentious in light of previous inquiries or investigations. The need for vigilance on the part of the police is paramount, and a discerning eye should be cast upon cases where unscrupulous conduct appears to eclipse the pursuit of justice. This case exemplifies the need for a circumspect approach in discerning the genuine from the spurious and thus ensuring that the resources of the state are utilised for matters of true societal import.

2024 0 INSC 106; 2024 0 Supreme(SC) 121; Directorate of Enforcement Vs. Niraj Tyagi & Ors.; Criminal Appeal No. 843 of 2024 (@ Special Leave Petition (Crl.) No. 10913 of 2023 With Mohit Singh Vs. Reena Bagga & Ors.; Criminal Appeal No. 844 of 2024 (@ Special Leave Petition (Crl.) No. 14942 of 2023; With Directorate of Enforcement Vs M3M India Private Limited & Ors.; Criminal Appeal No. 845 OF 2024 (@ Special Leave Petition (Crl.) No. 14935 of 2023; Decided On : 13-02-2024

Recently, a Three-Judge Bench in Neeharika Infrastructure (supra) while strongly deprecating the practice of the High Courts in staying the investigations or directing not to take coercive action against the accused pending petitions under Section 482 of Cr.PC, has issued the guidelines

Without elaborating any further, suffice it to say that judicial comity and judicial discipline demands that higher courts should follow the law. The extraordinary and inherent powers of the court do not confer any arbitrary jurisdiction on the court to act according to its whims and caprice.

2024 0 INSC 120; 2024 0 Supreme(SC) 141; State through Inspector of Police CBI, Chennai Vs. Naresh Prasad Agarwal and Another; Criminal Appeal Nos. 829-830 of 2024, S.L.P. (Criminal) Nos. 2210-2211 of 2024, Diary No. 29911 of 2018; Decided On : 13-02-2024

it is obvious that even after the learned Judge demitted the office, he assigned reasons and made the judgment ready. According to us, retaining file of a case for a period of 5 months after demitting the office is an act of gross impropriety on the part of the learned Judge. We cannot countenance what has been done in this case.

2024 0 INSC 124; 2024 0 Supreme(SC) 144; Kalinga @ Kushal Vs. State of Karnataka by Police Inspector Hubli; Criminal Appeal No. 622 of 2013; Decided On : 20-02-2024

No doubt, it is trite law that a reasonable doubt is essentially a serious doubt in the case of the prosecution and minor inconsistencies are not to be elevated to the status of a reasonable doubt. A reasonable doubt is one which renders the possibility of guilt as highly doubtful. It is also noteworthy that the purpose of criminal trial is not only to ensure that an innocent person is not punished, but it is also to ensure that the guilty does not escape unpunished. A judge owes this duty to the society and effective performance of this duty plays a crucial role in securing the faith of the common public in rule of law. Every case, wherein a guilty person goes unpunished due to any lacuna on the part of the investigating agency, prosecution or otherwise, shakes the conscience of the society at large and diminishes the value of the rule of law.

2024 0 INSC 128; 2024 0 Supreme(SC) 148; Ram Singh Vs. The State of U.P.; Criminal Appeal No. 206 of 2024; Decided On : 21-02-2024

what can be deduced from the above is that by itself non-recovery of the weapon of crime would not be fatal to the prosecution case. When there is such non-recovery, there would be no question of linking the empty cartridges and pellets seized during investigation with the weapon allegedly used in the crime. Obtaining of ballistic report and examination of the ballistic expert is again not an inflexible rule. It is not that in each and every case where the death of the victim is due to gunshot injury that opinion of the ballistic expert should be obtained and the expert be examined. When there is direct eye witness account which is found to be credible, omission to obtain ballistic report and non-examination of ballistic expert may not be fatal to the prosecution case but if the evidence tendered including that of eyewitnesses do not inspire confidence or suffer from glaring inconsistencies coupled with omission to examine material witnesses, the omission to seek ballistic opinion and examination of the ballistic expert may be fatal to the prosecution case.

2024 0 INSC 134; 2024 0 Supreme(SC) 154; Satender Kumar Antil Vs. Central Bureau Of Investigation And Anr.; MA No. 2034 of 2022 In MA No. 1849 of 2021 In Special Leave Petition (Crl.) No. 5191 of 2021 With MA No. 2035 of 2022 In Slp (Crl.) No.5191 of 2021;Decided On : 13-02-2024

I. STANDARD OPERATING PROCEDURE (SOP)

(i) Ms. Aishwarya Bhati, learned Additional Solicitor General has invited our attention to a document titled as "Guidelines and standard operating procedure for implementation of the scheme for support to poor prisoners" and requested that the same may form part of record and the Order of this Court. The same shall be taken on record.

(ii) In furtherance of the subsequent orders passed by this Court on ancillary issues concerned with training public prosecutors and including judgments of this Court in the Curriculum of State Judicial Academies, we wish to further pass a direction on an SOP framed by Central Government. The SOP if put in place by the Central Government, will indeed alleviate the situation of under trial prisoners by way of establishment of a dedicated empowered committee and funds etc.

(iii) For the sake of convenience and for extending the benefit of this SOP to the under-trial prisoners, we wish to extract the SOP in its entirety in this Order so that all concerned parties act in tandem to ensure due compliance of this SOP and the compliance thereof is incorporated in the next report.

> **"Guidelines and Standard Operating Procedure for implementation of the Scheme for support to poor prisoners**
>
> i) Funds to the States/UTs will be provided through the Central Nodal Agency (CNA). The National Crime Records Bureau has been designated as the CNA for this scheme.
>
> ii) States/UTs will draw the requisite amount from the CNA on case-to-case basis and reimburse the same to the concerned competent authority (Court) for providing relief to the prisoner.
>
> iii) An 'Empowered Committee' may be constituted in each District of the State/UT, comprising of (i) District Collector (DC)/District Magistrate (DM), (ii) Secretary, District Legal Services Authority, (iii) Superintendent of Police, (iv) Superintendent/ Dy. Supdt. of the concerned Prison and (v) Judge incharge of the concerned Prison, as nominee of the District Judge.
>
> Note : This Empowered Committee will assess the requirement of financial support in each case for securing bail or for payment of fine, etc. and based on the decision

taken, the DC/DM will draw money from the CNA account and take necessary action.

Note : The Committee may appoint a Nodal Officer and take assistance of any civil society representative/social worker/ District Probation Officer to assist them in processing cases of needy prisoners.

iv) An Oversight Committee may be constituted at the State Government level, comprising of (i) Principal Secretary (Home/Jail), (ii) Secretary (Law Deptt), (iii) Secretary, State Legal Services Authority,

iv) DG/IG (Prisons) and (v) Registrar General of the High Court.

Note : The composition of the State level 'Empowered Committee' and 'Oversight Committee' are suggestive in nature. Prisons/persons detained therein being 'State-List" subject, it is proposed that the Committees may be constituted and notified by the concerned State Governments/UT Administrations.

Standard Operating Procedure

UNDERTRIAL PRISONERS

1. If the undertrial prisoner is not released from the jail within a period of 7 days of order of grant of bail, then the jail authority would inform Secretary, District Legal Services Authority (DLSA).

2. Secretary, DLSA would inquire and examine whether the undertrial prisoner is not in a position to furnish financial surety for securing bail in terms of the bail conditions.

For this, DLSA may take the assistance of Civil Society representatives, social workers/ NGOs, District Probation officers or revenue officer. This exercise would be completed in a time bound manner within a period of 10 days.

3. Secretary, DLSA will place all such cases before the District Level Empowered Committee every 2-3 weeks.

4. After examination of such cases, if the Empowered Committee recommends that the identified poor prisoner be extended the benefit of financial benefit under 'Support to poor prisoners Scheme", then the requisite amount upto Rs. 40,000/- per case for one prisoner, can be drawn and made available to the Hon'ble Court by way of Fixed Deposit or any other method, which the District Committee feels appropriate.

5. This benefit will not be available to persons who are accused of offences under Prevention of Corruption Act, Prevention of Money Laundering Act, NDPS or Unlawful Activities Prevention Act or any other Act or provisions, as may be specified later.

6. If the prisoner is acquitted/convicted, then appropriate orders may be passed by the trial Court so that the money comes back to the Government's account as this is only for the purposes of securing bail unless the accused is entitled to the benefit of bail U/s. 389 (3) Cr.P.C. in which event the amount can be utilised for bail by Trial Court to enable the accused to approach the Appellate Court and also if the Appellate Court grants bail U/s. 389 (1) of Cr.P.C.

7. If the bail amount is higher than Rs. 40,000/-, Secretary, DLSA may exercise discretion to pay such amount and make a recommendation to the Empowered Committee. Secretary, DLSA may also engage with legal aid advocate with a plea to have the surety amount reduced. For any amount over and above Rs. 40,000/-, the proposal may be approved by the State level Oversight Committee.

CONVICTED PRISONERS:

1. If a convicted person is unable to get released from the jail on account of non-payment of fine amount, the Superintendent of the Jail would immediately inform Secretary, DLSA (Time bound manner: 7 days).
2. Secretary, DLSA would enquire into the financial condition of the prisoner with the help of District Social Worker, NGOs, District Probation Officer, Revenue Officer who would be mandated to cooperate with the Secretary, DLSA. (Time bound manner: 7 days)
3. The Empowered Committee will sanction the release of the fine amount upto Rs. 25,000/- to be deposited in the Court for securing the release of the prisoner. For any amount over and above Rs. 25,000/-, the proposal may be approved by the State level Oversight Committee."

2024 0 INSC 138; 2024 0 Supreme(SC) 158; Ram Nath Vs. The State of Uttar Pradesh and Others; Criminal Appeal Nos. 472, 476-478, 479 of 2012, Criminal Appeal @ SLP (Crl.) No. 1379 of 2011; Decided On : 21-02-2024
When the offences under Section 272 and 273 of the IPC are made out, even the offence under Section 59 of the FSSA will be attracted. In fact, the offence under Section 59 of the FSSA is more stringent.

https://main.sci.gov.in/supremecourt/2008/35057/35057_2008_10_102_50755_Judgement_22-Feb-2024.pdf; 2024 INSC 149; CRIMINAL APPEAL (NO.) 1722 of 2010 (@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 8873/2008) NARESH KUMAR Vs. STATE OF HARYANA; 22-02-2024
The court should be extremely careful in assessing evidence under section 113A for finding out if cruelty was meted out. If it transpires that a victim committing suicide was hyper sensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court would not be satisfied for holding that the accused charged of abetting the offence of suicide was guilty.
This Court has held that from the mere fact of suicide within seven years of marriage, one should not jump to the conclusion of abetment unless cruelty was proved. The court has the discretion to raise or not to raise the presumption, because of the words 'may presume'. It must take into account all the circumstances of the case which is an additional safeguard.

2024 INSC 146; CRIMINAL APPEAL NO. 607/2024 WILLIAM STEPHEN Vs. THE STATE OF TAMIL NADU AND ANR. WITH CRIMINAL APPEAL NO. 608/2024; 21.02.2024
The record relating to the call details has been discarded by the High Court as there was no certification under Section 65B of the Evidence Act.
Before we part with the judgment, we must note here that the PW-19, the Investigating Officer, was not aware of the procedure to be followed for obtaining a certificate under Section 65B of the Evidence Act. He cannot be blamed as a proper training was not imparted to him. The State Government must ensure that the Police Officers are imparted proper training on this aspect.

2024 INSC 139; CRIMINAL APPEAL NO(S). OF 2024 Arising out of SLP(Crl.) No(s). 786 of 2024) HIMANSHU SHARMA Vs. STATE OF MADHYA PRADESH

WITH CRIMINAL APPEAL NO(S). OF 2024 (Arising out of SLP(Crl.) No(s). 2032 of 2024); 20.02.2024

Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail,

(a) the accused has misused the liberty granted to him;

(b) flouted the conditions of bail order;

(c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail;

(d) or that the bail was procured by misrepresentation or fraud.

2024 INSC 150; CRIMINAL APPEAL NO.3589 OF 2023 High Court Bar Association, Allahabad Vs. State of U.P. & Ors. with Special Leave Petition (Crl.) nos.13284-13289 of 2023 and Criminal Appeal..Diary no. 49052 of 2023; 29.02.2024

Subject to what we have held earlier, we summarise our main conclusions as follows:

a. A direction that all the interim orders of stay of proceedings passed by every High Court automatically expire only by reason of lapse of time cannot be issued in the exercise of the jurisdiction of this Court under Article 142 of the Constitution of India;

b. Important parameters for the exercise of the jurisdiction under Article 142 of the Constitution of India which are relevant for deciding the reference are as follows:

> (i) The jurisdiction can be exercised to do complete justice between the parties before the Court. It cannot be exercised to nullify the benefits derived by a large number of litigants based on judicial orders validly passed in their favour who are not parties to the proceedings before this Court;
>
> (ii) Article 142 does not empower this Court to ignore the substantive rights of the litigants;
>
> (iii) While exercising the jurisdiction under Article 142 of the Constitution of India, this Court can always issue procedural directions to the Courts for streamlining procedural aspects and ironing out the creases in the procedural laws to ensure expeditious and timely disposal of cases. However, while doing so, this Court cannot affect the substantive rights of those litigants who are not parties to the case before it. The right to be heard before an adverse order is passed is not a matter of procedure but a substantive right; and
>
> (iv) The power of this Court under Article 142 cannot be exercised to defeat the principles of natural justice, which are an integral part of our jurisprudence.

c. Constitutional Courts, in the ordinary course, should refrain from fixing a time-bound schedule for the disposal of cases pending before any other Courts. Constitutional Courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritising the disposal of cases should be best left to the decision of the concerned Courts where the cases are pending; and d. While dealing with the prayers for the grant of interim relief, the High Courts should take into consideration the guidelines incorporated in paragraphs 34 and 35 above.

We clarify that in the cases in which trials have been concluded as a result of the automatic vacation of stay based only on the decision in the case of Asian Resurfacing1, the orders of automatic vacation of stay shall remain valid.

(Hon'ble Justice PANKAJ MITHAL)

Sometimes, in quest of justice we end up doing injustice. Asian Resurfacing is a clear example of the same. Such a situation created ought to be avoided in the normal

course or if at all it arises be remedied at the earliest. In doing so, 6 we have to adopt a practical and a more pragmatic approach rather than a technical one which may create more problems burdening the courts with superfluous or useless work. It is well said that useless work drives out the useful work. Accordingly, it is expedient in the interest of justice to provide that a reasoned stay order once granted in any civil or criminal proceedings, if not specified to be time bound, would remain in operation till the decision of the main matter or until and unless an application is moved for its vacation and a speaking order is passed adhering to the principles of natural justice either extending, modifying, varying or vacating the same.

https://indiankanoon.org/doc/105718815/; Avinash Reddy Paladugu vs The Bureau Of Immigration Boi, on 26 February, 2024; WP_515_2024
In the present case a Notice U/s.41-A of the Criminal Procedure Code has been issued by the Police and charge sheet has also been filed and if the Police have apprehensions about non-cooperation of the Petitioner in the conduct of Court proceedings or trial it is always open to the Police to make an appropriate application before the Court concerned, but the Respondent Police cannot continue the LOC for years.

https://indiankanoon.org/doc/137849375/; WP_4883_2024; Goverdhan Reddy Bobbili vs The Union Of India on 26 February, 2024
this Court opines that mere pendency of criminal case is not a ground to decline issuance of passport. Further, the petitioner is ready to co-operate with the trial Court in concluding trial.

https://indiankanoon.org/doc/18183668/; CRIMINAL REVISION CASE No.187 OF 2010; PAMARTHI VENKATESWARA RAO & Ors Vs State Of A.P.; 26.02.2024
As seen from Section 28 of the A.P. Prohibition Act, 1995 officials of all departments of government and of all local bodies shall be legally bound to assist in prohibition or police officer in carrying out the provisions of this Act. Thus, on the date of offence there was a statutory obligation on the part of P.W.1{ Village Secretary} to assist the Prohibition Police or regular police. So, when such a statutory is cast upon P.W.1, his evidence cannot be branded as interested. Absolutely, nothing was brought out during the course of cross examination of P.W.1 that he was acting as a stock mediator in several cases.

https://indiankanoon.org/doc/24940726/; Reddy Srinu vs The State Of A.P. on 26 February, 2024; CRLRC NO.1902 OF 2009;
It is to be noted that it is not as though P.W.1 and P.W.2 had no chance to identify the accused. It is to be noted that the incident occurred was so severe as impact was such that the deceased was thrown on the road and the vehicle driven by the accused could be stopped at the distance of 200 feet after the place of accident. In such circumstances, even the accused was in the process of controlling the vehicle so as to take it to a halt. By then P.W.1 and P.W.2 were moving on motorbikes. Thus, there was a possibility for them to rush to the offending vehicle which stands on the left side. They had every possibility to see the accused, as such, they categorically testified that they identified the driver. According to the evidence of P.W.9, investigating officer, on production of accused by P.W.3, he confirmed from P.W.1 that the accused was the driver of the offending vehicle. In the entire cross examination of P.W.1 and P.W.2, accused did not venture to put any suggestion that he was not the driver of the

offending vehicle. P.W.3 obviously, for the reasons best known appears to have given a goby to his Section 161 of Cr.P.C. statement. He admitted that the vehicle involved in the accident in question. If that be the case, his bounden duty was to reveal the name of the driver, if not the accused. It appears that only so as to help the accused, P.W.3 appears to have given a goby from deviating his Section 161 of Cr.P.C. statement. The conduct of P.W.3 in this regard further strengthens the case of the prosecution. When it is the evidence of P.W.9, the investigating officer, that P.W.3 brought the accused before him along with crime vehicle records, that portion of the evidence of P.W.9 was not challenged by the accused. In the considered view of this Court, the prosecution adduced proper evidence before the learned Additional Judicial Magistrate of First Class, which was rightly taken into consideration by the learned Additional Judicial Magistrate of First Class as well as the learned Additional Sessions Judge. The evidence on record proves the fact that the accused was the driver of the offending vehicle.

NOSTALGIA

Witness adding explanation during his cross examination

The oft quoted observation of Lord Herschell, L.C. in Browne vs. Dunn [(1893) 6 The Reports 67] clearly elucidates the principle underlying those provisions.
It reads thus:
I cannot help saying, that it seems to me to be absolutely essential to the proper conduct of a cause, where it is intended to suggest that a witness is not speaking the truth on a particular point, to direct his attention to the fact by some questions put in cross-examination showing that imputation is intended to be made, and not to take his evidence and pas it by as a matter altogether unchallenged, and then, when it is impossible for him to explain, as perhaps he might have been able to do if such questions had been put to him, the circumstances which, it is suggested, indicate that story he tells ought not to be believed, to argue that he is a witness unworthy of credit. My Lords, I have always understood that if you intend to impeach a witness, you are bound, whilst he is in the box, to give an opportunity of making any explanation which is open to him; and, as it seems to me, that is not only a rule of professional practice in the conduct of a case, but it is essential to fair play and fair dealing with witnesses. This aspect was unfortunately missed by the High Court when it came to the conclusion that explanation for the delay is not at all convincing. This reason is, therefore, far from convincing.

Non-Cross examination amounts to admission

State Uttar Pradesh vs Nahar Singh (Dead) & Ors on 18 February, 1998;
AIR 1998 SUPREME COURT 1328, 1998 (3) SCC 561,

It may be noted here that that part of the statement of PW-1 was not cross-examined by the accused. In the absence of cross-examination on the explanation of delay, the evidence PW-1 remained unchallenged and ought to have been believed by the High Court. Section 138 of the Evidence Act confers a valuable right of cross-examining the witness tendered in evidence by the opposite party. The scope of that provisions is enlarged by Section 146 of the Evidence Act by a allowing a witness to be questioned:
(1) to test his veracity.
(2) to discover who he is and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

Test for Rejection of Bail: Guidelines as laid down by Supreme Court in Watali's Case {NIA vs. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1}

23. In the previous section, based on a textual reading, we have discussed the broad inquiry which Courts seized of bail applications under Section 43D(5) UAP Act r/w Section 439 Cr.P.C. must indulge in. Setting out the framework of the law seems rather easy, yet the application of it, presents its own complexities. For greater clarity in the application of the test set out above, it would be helpful to seek guidance from binding precedents. In this regard, we need to look no further than Watali's case which has laid down elaborate guidelines on the approach that Courts must partake in, in their application of the bail limitations under the UAP Act. On a perusal of paragraphs 23 to 29 and 32, the following 8-point propositions emerge and they are summarised as follows:

(i) **Meaning of 'Prima facie true'** [Para 23]: On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.

(ii) **Degree of Satisfaction at Pre-Chargesheet, Post Chargesheet and Post-Charges - Compared** [Para 23]: Once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 Cr.P.C.) do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

(iii) **Reasoning, necessary but no detailed evaluation of evidence** [Para 24]: The exercise to be undertaken by the Court at this stage-of giving reasons for grant or non-grant of bail-is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage.

(iv) **Record a finding on broad probabilities, not based on proof beyond doubt** [Para 24]: "The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise."

(v) **Duration of the limitation under Section 43D(5)** [Para 26]: The special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof.

(vi) **Material on record must be analysed as a 'whole' no piecemeal analysis** [Para 27]: The totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is

required to be reckoned and not by analysing individual pieces of evidence or circumstance.

(vii) **Contents of documents to be presumed as true** [Para 27]: The Court must look at the contents of the document and take such document into account as it is.

(viii) **Admissibility of documents relied upon by Prosecution cannot be questioned** [Para 27]: The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail until contradicted and overcome or disproved by other evidence......In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible.

NEWS

- THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2024 applicable to A.P.
- Act notified- the Public Examinations (Prevention of Unfair Means) Act, 2024 dated 12th February,2024
- Bharatiya Nyaya Sanhita, 2023 effective date notified
- the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) notified
- the Bharatiya Sakshya Adhiniyam, 2023 (47 of 2023) notified
- AP- National Pension System Contributory Pension Scheme Adoption of centralized mode Permission for operating ERM operations Modification Orders Issued G.O.Ms.No.22 from Finance HR. III Pension GPF Department dated 28.02.2024
- High Court Of Andhra Pradesh At Amaravati Roc.No.597/So/2023. Dated: 22.12.2023. Declaration Of 4th Saturday Of Every Month, Except The Court Working Saturdays, As Holiday For The Employees Of The High Court, And The Offices Working Under The Administrative Control Of The High Court
- TSHC - Circular No. 03 of 2024 - Courts - Civil and Criminal-Delay in supply of certified copies to the litigant public and to the advocates - Certain instructions issued - Reg.
- TSHC - Judgement and Orders of Honourable Supreme Court of India in WP(Civil) No.215 of 2005 and Miscellaneous Application No.1699 of 2019 - Passive Euthanasia -Certain directions issued - Instructions for implementation. Spl. Officers Section
- APHC- High Court of Andhra Pradesh Order dated 10.01.2024 passed in Shama Sharma versus Kishan Kumar (Tranfer Petition (Civil) No. 1957 of 2023) by the Hon'ble Supreme Court - Certain Directions - Issued - Reg.

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ON A LIGHTER VEIN

Did you hear about the mathematician who's afraid of negative numbers?

He'll stop at nothing to avoid them

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NOTES

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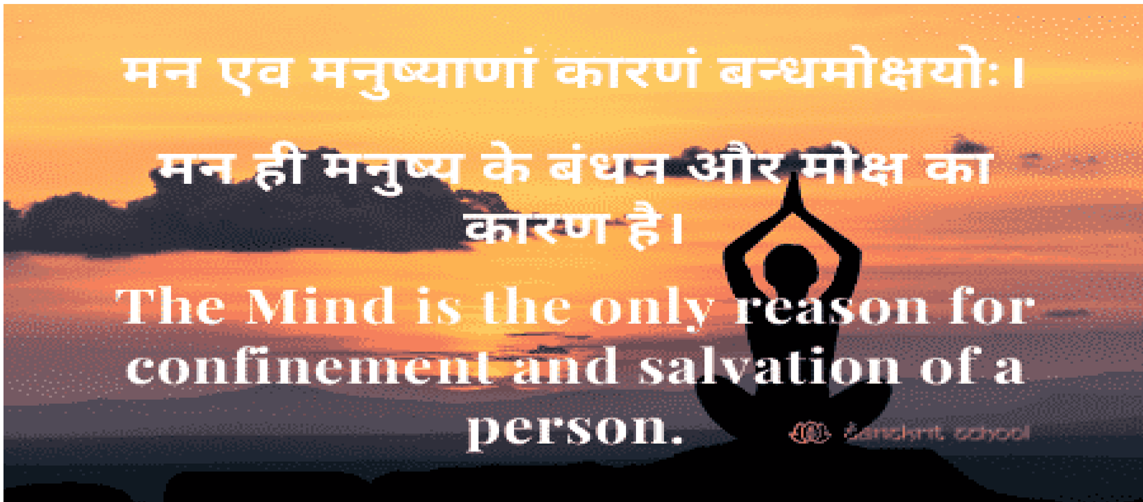
Aano Bhadr Kratvo Yantu Viswatah
(Let Noble Thoughts Come To Me from All Directions)



CITATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2024 0 INSC 156; 2024 0 Supreme(SC) 175; Kumar @ Shiva Kumar Vs. State Of Karnataka; Criminal Appeal No. 1427 Of 2011; Decided On : 01-03-2024
From a reading of Section 107 IPC what is deducible is that a person would be abetting the doing of a thing if he instigates any person to do that thing or if he encourages with one or more person or persons in any conspiracy for doing that thing or if he intentionally aids by any act or illegal omission doing of that thing. Explanation 1 clarifies that even if a person by way of wilful misrepresentation or concealment of a material fact which he is otherwise bound to disclose voluntarily causes or procures or attempts to cause or procure a thing to be done, is said to instigate the doing of that thing. Similarly, it is clarified by way of Explanation-2 that whoever does anything in order to facilitate the commission of an act, either prior to or at the time of commission of the act, is said to aid the doing of that act.
Thus, this Court held that to 'instigate' means to goad, urge, provoke, incite or encourage to do 'an act'. To satisfy the requirement of 'instigation', it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. But, a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then instigation may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.
Human mind is an enigma. It is well neigh impossible to unravel the mystery of the human mind. There can be myriad reasons for a man or a woman to commit or attempt to commit suicide: it may be a case of failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of

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

2024 0 Supreme(SC) 214; Ashok Kumar Vs. State of Union Territory Chandigarh; Criminal Appeal No. 1472 of 2024, Special Leave Petition (Crl.) No. 9949 of 2023; Decided On : 01-03-2024
There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.

https://indiankanoon.org/doc/115691172/; Mr. Murusu Upendra Naidu vs The State Of Telangana on 1 March, 2024; crlp_682 & 674_2024
It was also alleged that he requested the clients to stop copying all Maxo e-mails to ensure that their fraud was not detected and diverted the revenue of M/s.Maxoind Tech Solutions Private Limited to the company floated by A1 and A2, in criminal breach of trust being the Director of the company (agent) and converted the property of the de-facto complainant's company for their own use by diverting the same to their own company. Considering the submissions of the learned counsel for respondent No.2 that the petitioner and the other co-accused not only addressed e-mails to the de-facto company's clients for diverting the revenue but also deleted the said e-mails to prevent detection of fraud which came to light through the clients of the de-facto complainant company and the same would be within the exclusive knowledge of the accused and without retrieving the same, it could not even be estimated the extent of diversion of funds and custodial interrogation was necessary for proper investigation of the case, it is considered not fit to grant anticipatory bail to the petitioners herein.

https://indiankanoon.org/doc/154458306/; Premchand Kolli vs The State Of Telangana, on 1 March, 2024; crlrc_136_2024;
Issuance of notice under Section 41-A Cr.P.C. was the prerogative of the Investigating Officer and the remanding Court cannot dictate the investigating agency the method in which investigation need to be carried out.
While granting remand under Section 167 of Cr.P.C., the Magistrate has to see whether there exists a cognizable offence in the report

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

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

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

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

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

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

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

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

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

2024 0 INSC 221; 2024 0 Supreme(SC) 244; Puneet Sabharwal Vs. CBI; Criminal Appeal No. of 2024(@ Special Leave Petition (Criminal) No. 2044 OF 2021); With R.C. Sabharwal Vs. CBI; Criminal Appeal No. of 2024 (@ Special Leave Petition (Criminal) No. 2685 OF 2021); Decided on : 19-03-2024
We are not to conduct a dress rehearsal of the trial at this stage. The tests applicable for a discharge are well settled by a catena of judgments passed by this Court. Even a strong suspicion founded on material on record which is ground for presuming the existence of factual ingredients of an offence would justify the framing of charge against an accused person [Onkar Nath Mishra & Ors. v. State (NCT of Delhi) & Anr. (2008) 2 SCC 561 Paragraph 11]. The Court is only required to consider judicially whether the material warrants the framing of charge without blindly accepting the decision of the prosecution [State of Karnataka v. L. Muniswamy & Ors. (1977) 2 SCC 699 Paragraph 10].

2024 0 INSC 223; 2024 0 Supreme(SC) 248; Apoorva Arora & Anr.Vs. State (Govt. Of NCT Of Delhi) & Anr.; CRIMINAL APPEAL Nos. 1964-1965 of 2024(ARISING OUT OF SLP (CRL.) NO(S). 5463-5464 of 2023, CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 6786 of 2023), CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 532 of 2023), CRIMINAL APPEAL NO(S). /2024 (Arising out of SLP (Crl.) No. 8385-8387 of 2023); Decided on : 19-03-2024
Recounting the development through judicial precedents: This Court upheld the constitutional validity of Section 292 as a reasonable restriction on free speech and applied the Hicklin test, (1868) LR 3 QB 360 to determine whether the book ‘Lady Chatterley’s Lover’ was obscene in the

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

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

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

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

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

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

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

> “7. …“Related” is not equivalent to “interested”. A witness may be called “interested” only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be “interested.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOSTALGIA

Breach of contract and Cheating

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

Dying Declaration

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

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

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

Indecent

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

Obscenity

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

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

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

Conditions to attract Section 27 IEA

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

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

Reckon of Limitation

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

NEWS

- BNS, BNSS and BSA officially published in Hindi

- TSHC-Circular No.7/2024-(i)Official functions relating to laying of foundation stones etc. (ii)arranging grand functions on the eve of retirement or transfer of Judicial Officers-Instructions Reiterated-reg

- TSHC-Circular No.6/2024-Instructions issued to all the Judicial Officers in the State to record evidence etc., of the experts/Judicial Officers and other officials through VC as far as possible instead of summoning them to attend the Courts-Reg

- TSHC- Delay in supply of certified copies to the litigantpublic and to the advocates- instructions issued- reg.

- Special Rules - Amendment to the Andhra Pradesh State Prosecution Service Rules, 1992 - Notification - Orders - Issued.

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ON A LIGHTER VEIN

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

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

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

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

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

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

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

CITATIONS

2024 0 INSC 290; 2024 0 Supreme(SC) 327; SMT. Najmunisha In Criminal Appeal No. 2319 of 2009; 2. Abdul Hamid Chandmiya Alias Ladoo Bapu In Criminal Appeal No. 2320 of 2009 Vs. 1. The State of Gujarat; 2. Narcotics Control Bureau; Criminal Appeal Nos. 23192320 of 2009; Decided On : 09-04-2024

In light of the aforementioned constitutional backdrop, provisions of general search warrants and seizure were incorporated for the first time in Code of Criminal Procedure, 1882, thereupon, in Sections 96, 97, 98, 102, 103, 105, 165 and 550 of the Code of Criminal Procedure, 1898 and presently, in the Code of Criminal Procedure, 1973 under Sections 93, 94, 100, 102, 103 and 165. Upon perusal of Section 41(1) of the NDPS Act 1985, it is evident that the said provision empowers a Magistrate to issue search warrant for the arrest of any person or for search, whom he has reason to believe to have committed any offence under the provisions of the NDPS Act 1985. Section 41(2) of the NDPS Act 1985 further enables a Gazetted Officer, so empowered in this regard by the Central Government or the State Government, to arrest or conduct a search or authorize an officer subordinate to him to do so, provided that such subordinate officer is superior to the rank of a peon, sepoy or constable. It is pertinent to note that the empowered Gazetted Officer must have reason to believe that an offence has been committed under Chapter IV

of the NDPS Act 1985, which necessitated the arrest or search. As per Section 41(2) of the NDPS Act 1985, such reason to believe must arise from either personal knowledge of the said Gazetted Officer or information given by any person to him. Additionally, such knowledge or information is required to be reduced into writing by virtue of expression “and taken in writing” used therein.
The evidentiary value of confessional statements recorded under Section 67 of the NDPS Act 1985 was dealt with by this Court in the case of Tofan Singh (supra). As per the majority verdict delivered by 3Judges’ Bench in this case has held that the powers conferred on the empowered officers under Section 41 and 42 of the NDPS Act 1985 read with Section 67 of the NDPS Act 1985 are limited in nature conferred for the purpose of entry, search, seizure and arrest without warrant along with safeguards enlisted thereof. The “enquiry” undertaken under the aforesaid provisions may lead to initiation of an investigation or enquiry by the officers empowered to do so either under Section 53 of the NDPS Act 1985 or otherwise. Thus, the officers empowered only under the aforesaid provisions neither having power to investigate nor to file a police report meet the test of police officer for the purpose of Section 25 of the IEA 1872. Consequently, the bar under Section 25 of the IEA 1872 is not applicable against the admissibility of confessional statement made to the officers empowered under Section 41 and 42 of the NDPS Act 1985.
Furthermore, it was also held by this Court that Section 67 is at an antecedent stage to the investigation, which occurs after the empowered officer under Section 42 of the NDPS Act 1985 has the reason to believe upon information gathered in an enquiry made in that behalf that an offence under NDPS Act 1985 has been committed and is thus not even in the nature of a confessional statement. Hence, question of its being admissible in trial as a confessional statement against the accused does not arise.

2024 0 INSC 285; 2024 0 Supreme(SC) 321; Khengarbhai Lakhabhai Dambhala Vs. The State Of Gujarat; Criminal Appeal No. 1547 Of 2024; Decided On : 08-04-2024
As could be seen from the bare reading of Section 132, the authorised Prohibition Officer or the officer in charge of Police Station may after such inquiry as may be necessary either (a) forward the article seized to the jurisdictional Magistrate where the person arrested is forwarded, if it appears to him that such seized article is required as an evidence; or (b) send the seized article to the collector with the full report, if it appears to him that such seized article is liable to confiscation but is not required as an evidence; or (c) return such seized article to the person from whose possession it was taken, if no offence appears to have been committed.

Thus, on the conjoint reading of the provisions contained in Section 98 and 132 of the said Act and of Section 451 Cr.PC, it is discernible that all these provisions operate in different fields. Section 98 deals with the Confiscation of the Articles whenever any offence punishable under the Act has been committed. The second part of sub-section (2) thereof would come into play when the Prohibition Officer or Police Officer sends the seized article liable to be confiscated but not required as an evidence, to the Collector as per Clause (b) of Section 132. However, Section 451 of the Cr.P.C. would come into play when the article property seized during the course of inquiry or investigation is produced before the jurisdictional Court as per Clause (a) of Section 132 and the Court is called upon to pass appropriate orders for the proper custody of such article/property pending the conclusion of the inquiry or the trial.

2024 0 INSC 271; 2024 0 Supreme(SC) 305; Chandan Vs. The State (Delhi Admn.); Criminal Appeal No. 788 Of 2012; 05-04-2024

The accused, it must be stated here, was caught the same day in the vicinity itself along with the knife, which was the weapon, used in the commission of the crime. The forensic report and other evidences show that this was the knife which was recovered from the possession of the sole accused and was used in the commission of the crime. The blood of the deceased was found to be matching with the blood found on the knife, which was recovered from the accused/appellant. Brahm Pal Singh (PW-12) Head Constable is a witness to this recovery. He states that upon receiving information of stabbing, he along with constable Mahabir found the accused at Hamilton Road. They saw the accused coming out from the side of 'ganda Nala', carrying a blood stained knife and wearing a blood stained shirt. The accused was then apprehended by constable Brahm Pal and the knife and shirt were accordingly recovered.

There were certain doubts raised on the manner of recovery of the knife from the accused, but nothing moves on this aspect alone, more particularly, in view of the fact that the blood of the deceased clearly matches with the blood which was found on the knife, together with the ocular evidence in the form of an eyewitness (PW-2), who is a reliable eye-witness of the incident. We can also not lose sight of the fact that the murder, the arrest of the accused and the recovery of the knife from him happened in quick succession, with a very little time gap. The entire evidence put together by the prosecution does establish the guilt of the accused beyond a reasonable doubt. Both the Trial Court as well as the Appellate Court have rightly held that the prosecution has proved their case as such.

The principle that the lack or absence of motive is inconsequential when direct evidence establishes the crime has been reiterated by this Court in

Bikau Pandey v. State of Bihar, (2003) 12 SCC 616; Rajagopal v. Muthupandi, (2017) 11 SCC 120; Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195.

2024 0 INSC 272; 2024 0 Supreme(SC) 306; Manikandan Vs. State by the Inspector of Police; Criminal Appeal No. 1609 Of 2011 with Criminal Appeal No. 407 Of 2019; Decided On : 05-04-2024
Thus, the scenario which emerges is that precisely a day before the evidence of PW-1 to PW-5 was recorded before the Trial Court, they were called to the Police Station and were taught to depose in a particular manner. One can reasonably imagine the effect of “teaching” the witnesses inside a Police Station. This is a blatant act by the police to tutor the material prosecution witnesses. All of them were interested witnesses. Their evidence will have to be discarded as there is a distinct possibility that the said witnesses were tutored by the police on the earlier day. This kind of interference by the Police with the judicial process, to say the least, is shocking. This amounts to gross misuse of power by the Police machinery. The Police cannot be allowed to tutor the prosecution witness. This conduct becomes more serious as other eyewitnesses, though available, were withheld.
Although available, independent witnesses were not examined by the Prosecution. Therefore, adverse inference must be drawn against the prosecution. Hence, there is a serious doubt created about the genuineness of the prosecution case. The benefit of this substantial doubt must be given to the appellants.

https://indiankanoon.org/doc/78476904/; crlrc_617_2022; Sri G Chinna Reddy vs The State Of Telangana on 2 April, 2024
This Criminal Revision Case is filed by the petitioner - accused aggrieved by the order dated 24.08.2022 of the learned Principal Special Judge for Trial of SPE & ACB Cases at Hyderabad in Crl.M.P.No.616 of 2022 in C.C.No.18 of 2014 in dismissing the petition filed under Section 321 of Cr.P.C.
The continuation of the case would be waste of public money and public time of the Court. As such, the trial court ought to have granted permission to withdraw the case. When the evidence collected during the investigation was meager and no useful purpose would be served for proceeding with the case against the accused, it was a legitimate ground for withdrawal as observed by the Hon'ble Apex Court in Chandrika Mahapatra's Case. As such, it is considered fit to allow the revision setting aside the orders of the learned Principal Special Judge for Trial of SPE & ACB Cases at Hyderabad in Crl.M.P.No.616 of 2022 in C.C.No.18 of 2014 dated 24.08.2022 and the petition is allowed permitting the prosecution to

withdraw the case against the petitioner - AO under Section 321 of Cr.P.C. and the petitioner - AO is acquitted for the offences with which he was charged.

https://indiankanoon.org/doc/108140164/; Crl.P.Nos. 4322, 7574 & 8123 of 2019; M. Harinath Babu vs The State Of Telangana And Another on 2 April, 2024; Dr. Laxmi Bhaskar vs State Of Telangana And Another; K. Philips Buelah vs State Of Telangana.
As per his contention, he came to know about the same when his well-wisher Ramulu, made an application to the Tahsildar under Right to Information Act for the particulars of the land shown in the pattedar passbooks of A4 and A5 and the Tahsildar issued a letter dated 08.12.2014 stating that they did not belong to A4 and A5and gave a reply that the pattedar passbooks and pahani records were forged and fabricated and that the office of Tahsildar never issued such documents in favour of A4 and A5 and furnished the particulars of the owners of the land in Sy.No.650.
The final report filed by the SI of police, Panjagutta would show that as per the proceedings of the MRO, Maheshwaram and passbooks, A4 and A5 were the land owners and there was no need of manipulation of records by A4 and A5.
The offence under Section 478 is pertaining to property mark, which was repealed.
Thus, the learned judge without even looking into the said provisions whether they were existing or repealed had taken cognizance of Dr.GRR,J Crl.P.Nos. 4322, 7574 & 8123 of 2019 the said offences against the petitioners which were not at all applicable as per the facts of the case. Without examining the Tahsildar who issued the pattedar passbooks, title deeds or the proceedings, considering them as forged documents and the stamps and seals on them as forged and taking cognizance against the persons holding respectable positions, basing only upon the oral statement of the complainant even after the police filing the final report stating that as per their investigation, A4 and A5 were land owners and there was no need for them to manipulate the records is considered as abuse of process of law. As such, the impugned order of taking cognizance by the learned XIV Additional Chief Metropolitan Magistrate is liable to be quashed.
(The cognizance on a private complaint should not be taken basing alone on the oral statement of the complainant. The defacto complainant has to produce sufficient evidence to attract the offences mentioned in the private complaint.)

https://indiankanoon.org/doc/6542118/; Doddapuneni Raja Raja Naidu vs The State Of Andhra Pradesh on 1 April, 2024; IA Nos.1 and 2 of 2023 in/and Criminal Petition No.8482 of 2022

Offences under Sections 341, 324 and 307 read with 34 IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, quashed basing on compromise.

The facts and circumstances as stated hereinabove are peculiar in the present case. Respondent No. 2 is a young lady of 23 years. She feels that going through trial in one case, where she is a complainant and in the other case, wherein she is the accused would rob the prime of her youth. She feels that if she is made to face the trial rather than getting any relief, she would be faced with agony of undergoing the trial.

In both the cases, though the charge sheets have been filed, the charges are yet to be framed and as such, the trial has not yet commenced. It is further to be noted that since the respondent No. 2 herself is not supporting the prosecution case, even if the criminal trial is permitted to go ahead, it will end in nothing else than an acquittal. If the request of the parties is denied, it will be amounting to only adding one more criminal case to the already overburdened criminal courts.

In that view of the matter, we find that though in a heinous or serious crime like rape, the Court should not normally exercise the powers of quashing the proceedings, in the peculiar facts and circumstances of the present case and in order to give succour to Respondent No. 2 so that she is saved from further agony of facing two criminal trials, one as a victim and one as an accused, we find that this is a fit case wherein the extraordinary powers of this Court be exercised to quash the criminal proceedings."

https://indiankanoon.org/doc/96689127/; CRLP NO.9404 of 2023 Date: 02.04.2024; M/S Sri Satvfi/Arayana Educational vs State Of Andhra Pradesh; https://indiankanoon.org/doc/56953898/; Vedula Yagneswara Chainulu vs The State Of Andhra Pradesh; CRLP NO: 8103/2023 Date: 02.04.2024

This Court finds substantial force in the submission of the Petitioners' counsel that merely mentioning a penal section in the complaint to register the F.I.R. under Section 467 IPC is insufficient to preclude the scope of Section 41A Cr.P.C.

This Court finds force in the submission of the Petitioners' counsel that section 467 of I.P.C. has been added merely to make out a case against the Accused. Apart from section 467 of I.P.C., other sections mentioned in the F.I.R. may attract a punishment of less than seven years, which gives the scope of section 41A of C.r.P.C. in the present case. In the absence of documents claimed to be forged, no arrest can be made;

merely the allegation of section 467 of I.P.C. would not debar the police from applying section 41A of Cr.P.C.

{Section 41A applied to offence punishable more than 7 years too, in correct application of Section 41A CrPC}

https://indiankanoon.org/doc/143716632/; Crl.P No. 12069 OF 2018 : 02-04-2024; Mr. M. Satayanarayana Raju vs The State Of AP

After considering the judgment of the Hon'ble Apex Court and the Judgments referred therein it tantamounts cheating when the deceiver get benefit or advantage, will always cause loss or detriment to the deceived, even in those rare cases when there is a benefit or advantage to the deceiver but no corresponding loss to the deceived, the condition is satisfied.

Applying the principle, the petitioner/accused though have not forged the signature, but have obtained employment by procuring false certificate from the authorities, which is a benefit or advantage to the petitioner. Whether, there is corresponding loss or no loss to the deceived, it is also deceive to induce other person to believe that a thing is true, which is false.

There in the said circumstances, it can be held without hesitation that a person who obtains employment by producing/procuring false certificate amounts to cheating, as it is detriment to the candidate who belongs to the Scheduled Tribe and advantage to the petitioner/accused.

https://indiankanoon.org/doc/143286923/; CRLP NO: 457/ 2024 Date: 02-04-2024; P Vijayababu Vijay vs State Of Andhra Pradesh

The anticipatory bail, the extraordinary privilege, should be granted only in exceptional circumstances, where the Court is prima facie convinced that the Petitioner is enroped in the crime and unlikely to misuse the liberty granted.

Each case is evaluated based on its own merits, and the fact that others were released on bail does not automatically entitle the Petitioner to anticipatory bail. Cooperation with the investigation is indeed a significant factor, and the court may consider whether the Petitioner has cooperated fully with the authorities. Ultimately, the decision regarding anticipatory bail will depend on various factors, including the strength of the evidence against the Petitioner, the seriousness of the allegations, and the Petitioner's level of cooperation with the investigation.

The custodial interrogation of the Petitioner is paramount in this case to facilitate a thorough investigation into the allegations made against the Petitioner. Denying custodial interrogation could result in significant loopholes and gaps in the ongoing investigation, adversely affecting its integrity. The grant of anticipatory at the investigation stage may frustrate

the investigating agency in interrogating the accused and collecting helpful information and the materials which might have been concealed. Success in such interrogation will elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order when he is interrogated.
It is not the Petitioner's case that he cooperated with the investigation and as such his present is not required for interrogation. As the said accused persons were available to the investigating officer to conduct investigation, it cannot be a factor that can be taken to consider the anticipatory bail application of the petitioner.
When an investigation by the police is in progress, the Courts should not go into the merits of the allegations in the FIR. On the contrary, the police must be permitted to complete the investigation. The test of a prima facie or probable case is only required to be shown at the time of framing of charge.

https://indiankanoon.org/doc/66744142/; CRLP NO.2015 OF 2024 Date: 03.04.2024; Shaik Nawab vs The State Of Andhra Pradesh
In a case containing serious allegations, the Investigating Officer deserves free hand to take the investigation to its logical conclusion. It goes without saying that the investigation officer who has been prevented from subjecting the Petitioner to custodial interrogation, can hardly be fruitful to find out prima facie substance in the allegations which are of extreme serious in nature. Possibility of the investigation getting effected, once the Petitioner is released on bail is very much foreseen. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking an anticipatory bail.
Considering the gravity of the allegations against the Petitioner, including accusations of forcibly engaging in sexual intercourse by threatening the victim with a knife, and subsequently coercing her into repeated sexual encounters under false promises of marriage, the Court recognizes the seriousness of the charges. It is settled principle of law that power of grant of bail under Section 438 Cr.P.C., is to be sparingly exercised in extraordinary circumstances and thus, no such circumstances being having been made out in this case, this Court does not find it a proper case for granting the relief of anticipatory bail to the Petitioner/Accused.

https://indiankanoon.org/doc/16225212/;Crl.P.No.12152 OF 2023; Patnam Naveen Kumar vs The State Of Telangana on 2 April, 2024;
When Municipal commissioner went to the spot to stop the construction, the owner of the property was not available and the relatives of the owner of the property obstructed him while discharging his duties. This by itself,

in the opinion of this Court, would not amount to use of assault or criminal force against a public servant from discharging of this duties

https://indiankanoon.org/doc/170865062/; Crl.P. No. 9645 OF 2023; Choppadandi Prakash vs The State Of Telangana on 3 April, 2024; Crl.P.No.8463 OF 2023; Balli Srinivas vs The State Of Telangana
it cannot be said that the petitioners-accused Nos.6 and 7 have committed the offence under Section 3 of the A.P. Gaming Act, more particularly when there is no person, who was in- charge and in possession for collecting money towards usage charges. Therefore, Section 3 of the A.P. Gaming Act cannot be fastened on the petitioners-accused Nos.6 and 7 as the house, wherein they are alleged to have been playing cards is not a gaming house.

https://indiankanoon.org/doc/124977925/; Raheem Charaniya vs The State Of Telangana, on 4 April, 2024; CRLP 2441/2024
In the present case, the police have launched the prosecution according to the provisions of Cr.P.C. for the offence punishable under Sections 272 and 273 of IPC. The Police cannot launch a prosecution or conduct investigation in respect of offence of food related laws. The main contention of the counsel for the petitioners is that after the enactment of Special Act, the provision under Sections 272 and 273 of IPC has impliedly repealed. Thus, the investigation conducted by the Investigating Officer other than the Food Safety Officer is illegal.
10. As per the decision of the Hon'ble Supreme Court in Sayyed Hassan and Sayyed Subhan and also by virtue of the principle under Section 26 of General Clauses Act, investigation by the Police is not illegal and the petitioners shall not put into jeopardy for continuance of the proceedings. As such, to safeguard the protection of the public, the Police can investigate the case of food relating offences when there is no specific bar under the Act. Therefore, the investigation done by the Investigating Officer cannot be said to be vitiated.
11. The another contention of the learned counsel for the petitioners is that the Police who is the complainant, cannot investigate the same and cannot file charge sheet. As per the decision of the Hon'ble Supreme Court in Mukesh Singh vs. State (Narcotic Branch of Delhi) 2, wherein it is observed that where informant officer himself is an investigator, that by itself cannot be said that 2 (2020) 10 SCC 120 SKS,J investigation is vitiated on the ground of bias or a like factor. Therefore, the said contention is also not tenable.

https://indiankanoon.org/doc/99885169/; Shankaraiah vs State Of Ap on 3 April, 2024; CRLP No.1913 OF 2019

The said FIR was assailed by the petitioners/accused Nos.2 to 4 on the ground that Section 309 of the Indian Penal Code, 1860 (for short "I.P.C") has been repealed by the parliament by way of Bharatiya Nyaya Sanhita, 2023. Hence, it is no more an offence and Section 109 of I.P.C has no application. Therefore, implore to quash the proceedings.
As seen from the amended Section, it was newly introduced by way of Section 224 of Bharatiya Nyaya Sanhita, 2023. The Section indicates that whoever attempts to commit suicide with the intent to compel or restrain any public servant from discharging his official duty shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both or with community service. Admittedly, the amended Section is prospective in nature it is not applicable to the present case.
It is relevant to refer Article 20(1) of the Constitution of India to answer the issue. No person shall be convicted of any offence except for violation of law in force at the time of commission of the act, charge is an offence or subjected to a penalty greater than that which might have been inflicted under the law enforced at the time of the commission of the offence. whereas, in the present case, the act was committed in the year 2019, as on the date of commission of offence, Section 309 of I.P.C is in force and is applicable. Therefore, the contention raised by the learned counsel for the petitioners is un-merit.
It is trite law that every statute prospective unless it is expressly or by necessary implication made to have retrospective operation. It is well settled principle when the legislature enacts law, that the amendment has not been introduced with retrospective effect and it is amply clear the amended provision that the amendment is only prospective in nature and not retrospective. Petitioners cannot claim any vested right claiming that he should be governed by the new provision pertaining to sec 309 I.P.C.
It is well settled that a First Information Report is not an encyclopaedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. If the police has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. The question as to whether the report is true, whether it discloses full details regarding the manner of occurrence, whether the accused is named, and whether there is sufficient evidence to support the allegations are all matters which are alien to the consideration of the question whether the report discloses the

commission of a cognizable offence. Even if the information does not give full details regarding these matters, the investigating officer is not absolved of his duty to investigate the case and discover the true facts, if he can.

https://indiankanoon.org/doc/172555194/; Criminal Petition No.2244 of 2024(A.P); Date:02.04.2024; M.K. Venu Yadav, vs P. Bhaskar
offences punishable under Sections 452, 323, 354, 506 read with 34 IPC and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. - Since the offences alleged are punishable with imprisonment of less than seven years, this Court directs the police to follow the procedure as contemplated under Section 41A of Cr.P.C. scrupulously as per the guidelines enunciated in Arnesh Kumar Vs. State of Bihar and another

https://indiankanoon.org/doc/24943647/; Yarlagadda Sai Sri Harsha vs Union Of India on 1 April, 2024; W.P. No. 6647/2024
As per the Office Memorandum dated 22.02.2021 and Clause (M)(v) thereunder "whenever the subject of LOC is arrested or the purpose of the LOC is over, a deletion request shall be sent by the Originator immediately to the concerned authorities". This Court, vide order dated 28.09.2022 in W.P.No.37448 of 2022; and order dated 26.07.2023 in W.P.No.16265 of 2023 relying on the Circular Instructions issued by the Director General of Police held that whenever a notice under Section 41-A Cr.P.C is issued or bail is obtained by the accused, the concerned police shall address a letter to the Commissioner concerned and the Commissioner in turn shall address a letter to the Immigration authorities to close the Look Out Circular.In the instant case, the petitioner was apprehended in the Mumbai Airport and was released after issuing notice under Section 41-A Cr.P.C. The petitioner stated that he has submitted his explanation to the notice issued under Section 41-A Cr.P.C and he has been regularly appearing in the subject Crime.

https://indiankanoon.org/doc/53201326/; Guduru Laxman Rao A1 vs The State Of Telangana, on 3 April, 2024; CRLP No. 3732/2024
Learned counsel for the petitioner submitted that a notice under Section 41-A of Cr.P.C. has already been issued.
Learned Assistant Public Prosecutor submitted that alteration memo was filed against the petitioners by adding Section 326 of IPC.
As seen from the record, there are no allegations against the petitioners to constitute offences under Section 326 of IPC.

Hence, the Investigating Officer is directed to follow the guidelines formulated by the Apex Court in Arnesh Kumar v. State of Bihar 1 scrupulously and shall consider the explanation offered by the petitioners and complete the investigation in accordance with law. Further, if the petitioners are not cooperating with the investigation, the Investigating Officer is at liberty to take action in accordance with the law.

https://indiankanoon.org/doc/117859990/; Venkatapuram aravind Chary vs State Of Telangana on 1 April, 2024; CRLP No. 3605/2024
Learned counsel for the petitioners submitted that a notice under Section 41-A of Cr.P.C. has already been issued. He further submitted that on the date of incident, respondent No.2 was not present in her laws.
In the circumstances of the case, without going into the merits of the case, the Investigating Officer is directed to follow the guidelines formulated by the Apex Court in Arnesh Kumar v. State of Bihar scrupulously and shall consider the explanation offered by the petitioners and complete the investigation in accordance with law.

https://indiankanoon.org/doc/28250415/; K. Govind Singh vs The State Of Telangana on 10 April, 2024; WP No. 9161/2024
Section 133 of Cr.P.C., mandates that there must be a report of Police Officer or other information and on taking such evidene, the Executive Magistrate has to make a conditional order requiring the person causing obstruction or nuisance, within a time to be fixed in the order to remove the same or to desist from carrying on. Even for that also a reasonable opportunity shall be given to the affected parties to show cause and to adduce evidence in terms of Section 137 of Cr.P.C. The said order should be conditional order and it should not be an absolute order. Whereas, in the present case, while issuing the aforesaid Memo and panchanama, respondents failed to comply with the said procedure.

2024 0 INSC 318; 2024 0 Supreme(SC) 356; Hansraj Vs. State of M.P.; Criminal Appeal No(s). 2143 of 2024 (Arising out of SLP (Crl.) No(s). 4626 of 2024); Decided On : 19-04-2024
This Court in the case of Ramanand alias Nandlal Bharti v. State of Uttar Pradesh, 2022 SCC OnLine SC 1396 has postulated that for proving a disclosure memo recorded under Section 27 of the Indian Evidence Act, 1872 at the instance of the accused, the Investigating Officer would be required to state about the contents of the disclosure memo and in absence thereof, the disclosure memo and the discovery of facts made in pursuance thereto would not be considered as admissible for want of proper proof.

2024 0 INSC 320; 2024 0 Supreme(SC) 357; Babu Sahebagouda Rudragoudar And Others Vs. State Of Karnataka; Criminal Appeal No(S). 985 of 2010; Decided on : 19-04-2024

The statement of an accused recorded by a police officer under Section 27 of the Evidence Act is basically a memorandum of confession of the accused recorded by the Investigating Officer during interrogation which has been taken down in writing. The confessional part of such statement is inadmissible and only the part which distinctly leads to discovery of fact is admissible in evidence as laid down by this Court in the case of State of Uttar Pradesh v. Deoman Upadhyaya, AIR 1960 SC 1125.

Thus, when the Investigating Officer steps into the witness box for proving such disclosure statement, he would be required to narrate what the accused stated to him. The Investigating Officer essentially testifies about the conversation held between himself and the accused which has been taken down into writing leading to the discovery of incriminating fact(s).

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.

2024 0 INSC 324; 2024 0 Supreme(SC) 363; Parteek Bansal Vs. State of Rajasthan & Ors.; Criminal Appeal No. 2167 of 2024 (Special Leave to Petition (Crl.) No. 2520 of 2017); Decided On : 19-04-2024

It is also not in dispute that in the complaint lodged at Udaipur, the allegations were the same as in the complaint at Hisar and additionally it was stated in the complaint at Udaipur that the complainant had earlier lodged a complaint at Hisar. Thus, the investigating agency at Udaipur was well aware of the complaint on similar allegations being lodged at Hisar.

In the facts and circumstances as recorded above, we are of the view that respondent Nos. 2 and 3 had been misusing their official position by lodging complaints one after the other. Further, their conduct of neither appearing before the Trial Court at Hisar nor withdrawing their complaint

at Hisar, would show that their only intention was to harass the appellant by first making him face a trial at Hisar and then again at Udaipur. It would also be relevant to note that the appellant had been arrested and thereafter granted bail. And now before this Court, the respondent Nos. 2 and 3 have been vehemently opposing the quashing of the FIR at Udaipur. We may also note that in the complaint made at Hisar, there are allegations to the effect that when respondent No.2 visited the appellant at Hisar, he had made a demand of Rs.50,00,000/- and also an Innova Car. Thus, the argument that no offence was committed in Hisar but only at Udaipur was also not correct. We thus deprecate this practice of state machinery being misused for ulterior motives and for causing harassment to the other side, we are thus inclined to impose cost on the respondent No.2 in order to compensate the appellant.

2024 0 INSC 313; 2024 0 Supreme(SC) 350; State of West Bengal Vs. Jayeeta Das; Criminal Appeal No(S). 2128 of 2024 (Arising out of SLP(Crl.) No(s). 7880 of 2023); Decided On : 18-04-2024

After considering the entirety of the material available on record, the learned Single Judge proceeded to hold as below:-

(i) That the special Court constituted by the Central Government or the State Government, as the case may be, under the NIA Act has the exclusive jurisdiction to try offences under UAPA.

(ii) In view of Section 16 of the said Act, the special Court cannot take cognizance of the offence under the UAPA directly without the case being committed to it.

(iii) In terms of the proviso to sub-Section(2) of Section 43(D) of the UAPA, the Court is empowered to extend the period of detention pending investigation. On a report of the Public Prosecutor indicating progress of investigation and specific reason for detention of the accused beyond 90 days but not more than 180 days.

(iv) Sub-Section (3) of Section 22 of the NIA Act states that until a special Court is designated by the State Government under sub-Section (1), the jurisdiction conferred by the Act on a special Court notwithstanding anything contained in the Code, shall be exercised by the Court of Sessions in which the scheduled offence is committed and it shall have powers to follow the procedure provided under Chapter IV of the Act.

(v) Reliance was also placed on the judgment of this Court in the case of Bikramjit Singh v. State of Punjab (2020) 10 SCC 616 wherein it has been held that for all offences under the UAPA, the special Court alone has the exclusive jurisdiction to try such offences.

2024 0 INSC 316; 2024 0 Supreme(SC) 353; Mukhtar Zaidi Vs. The State of Uttar Pradesh and Another; Criminal Appeal No. 2134 of 2024 Arising Out of SLP (Crl.) No. 9122 of 2021; Decided On : 18-04-2024

From a perusal of the above opinion of this Court, it is also reflected that the Magistrate also had the liberty to reject the Protest Petition along with all other material which may have been filed in support of the same. In that event the Complainant would be at liberty to file a fresh complaint. The right of the Complainant to file a petition under Section 200 Cr.P.C. is not taken away even if the Magistrate concerned does not direct that such a Protest Petition be treated as a complaint.

In the present case as the Magistrate had already recorded his satisfaction that it was a case worth taking cognizance and fit for summoning the accused, we are of the view that the Magistrate ought to have followed the provisions and the procedure prescribed under Chapter XV of the Cr.P.C. Accordingly, we allow this appeal, set aside the impugned orders passed by the High Court as also the CJM, Aligarh.

However, we leave it open for the Magistrate to treat the Protest Petition as a complaint and proceed in accordance to law as laid down under Chapter XV of the Cr.P.C.

2024 0 INSC 308; 2024 0 Supreme(SC) 345; Ramvir @ Saket Singh Vs. The State Of Madhya Pradesh; Criminal Appeal No(s). 1258 Of 2010; Decided On : 16-04-2024

The contention advanced by learned counsel for the appellant that these witnesses are partisan witnesses as being closely related to the deceased and hence their evidence should be discarded, does not for a moment, convince us because in a case involving gruesome broad daylight double murder by repeated gun firing, it is unlikely that any of the persons from the neighbourhood, would have the courage to step forward as witnesses. Even otherwise, Indal Singh(PW-12) himself received injuries in the same incident. He has truthfully accepted his role in the incident stating that he fired the gun shots which hit two assailants namely, Chutallu @ Ram Mohan and Shiv Singh leading to their death. Hence, clearly the prosecution has given thorough explanation for the injuries received by persons from the side of the accused.

The trivial contradictions sought to be highlighted by learned senior counsel for the appellant regarding absence of empty cartridges etc. at the place of incident and the plea of alibi is not tenable because we find that these contradictions are far too trivial so as to discard the entire prosecution case which is based on reliable and trustworthy set of eye witnesses whose evidence is corroborated by the evidence of the Medical Jurist and other attending circumstances.

https://indiankanoon.org/doc/42426485/; **Reddy Narasimha Murthy, vs State Of State Of AP; CRLP No. 163 of 2024: 22.04.2024.;**

It is erroneous to say that confessionals statement made by the accused during interrogation cannot be considered or looked into to connect the other co-accused. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

https://indiankanoon.org/doc/155746688/; **Kondruganti Subba Rao vs The State Of Andhra Pradesh on 22 April, 2024; WP No. 16694/2017.**

https://indiankanoon.org/doc/77506683/; **Neelapuja Subanna Achary vs The State Of Andhra Pradesh on 22 April, 2024; WP No. 5551/2017**

when police failed to register F.I.R. based on the report lodged with them, which discloses commission of a cognizable offence, the remedy of the aggrieved person is not by way of a writ under Article 226 of the Constitution of India, but only by way of exhausting the other remedies contemplated under Cr.P.C. i.e. under Section 154(3), 156(3) and Section 190 r/w.Sec.200 of Cr.P.C. and held that the writ petition seeking such direction to the police to register the F.I.R. is not maintainable.

2024 0 INSC 342; 2024 0 Supreme(SC) 385; Aniruddha Khanwalkar Vs. Sharmila Das & Others; Criminal Appeal No. 2272 of 2024 (Arising out of S.L.P.(CRL.) No.10746 of 2023); 26-04-2024

For summoning of an accused, prima facie case is to be made out on the basis of allegations in the complaint and the pre-summoning evidence led by the complainant.

https://indiankanoon.org/doc/177026754/; **Potha Raju Saidulu vs State Of Telangana on 25 April, 2024; CRLA No. 1049 of 2015 (DB)**

When the Magistrate was not available, he issued requisition to Tahsildar to record dying declaration. The Tahsildar instead of putting the date as 15.01.2012, he put the date as 14.01.2012. P.W.16 simply stated that when he enquired about the Magistrate, he could not get his presence, as such he requested the Executive Magistrate to record the statement, but the victim survived till 18.01.2012. He should have given another requisition to Magistrate either on the same day or the next day to record the statement, but he failed to do so. Moreover, the question of non-availability of the Magistrate does not arise. When the Magistrate is leaving the head quarters, in-charge officer would be kept in his place for recording dying declarations and for attending remands. In this case, A.S.I of Police simply stated that Magistrate was not available. Naturally, the

dying declaration recorded by a Judicial Magistrate has much sanctity, as he records statement by duly following **Crimin**al rules of practice. Even in this case, Tahsildar had put some preliminary questions, took endorsement of the Doctor and recorded the statement of the victim in the vernacular language and also stated the same in his evidence before the Court. Therefore, it cannot be totally brushed aside, but the A.S.I of Police was negligent in not getting it recorded by the Judicial Magistrate when she was alive till 18.01.2012 and his conduct is deprecated.

https://indiankanoon.org/doc/37353620/; Mohammed Abdul Raoof vs The State Of Telangana on 26 April, 2024; CRLP 4052/2024
Hence, this Court deems it appropriate to direct the petitioners to appear before the Investigating Officer on or before 03.05.2024 between 11:00 a.m. and 05:00 p.m. and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 41-A Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court of India in Arnesh Kumar v. State of Bihar scrupulously.

https://indiankanoon.org/doc/57737173/; Y.Venkata.Munesh vs State Of Ap on 25 April, 2024; CRLP 1278/2019
the judgment in C.C.No.130 of 2018 cannot be extended to the petitioner herein, as the allegations against the co-accused are entirely different from the allegations against the petitioner herein, who is accused No.3-Yedidha Venkata Munish Kumar.
{acquittal of co-accused in same case cannot be ground for acquittal of the accused, when the allegations against them are different}

https://indiankanoon.org/doc/155938667/; Syed Akbar Hussaini vs The State Of Telangana, on 26 April, 2024; CRLP No. 4058/2024
Learned counsel for the petitioner submitted that without serving summons upon the petitioner, the Police has issued look-out notice (for short 'LOC') against him.
During the course of the hearing, the learned counsel for petitioner restricted his prayer seeking the SKS,J relief of recalling of non-bailable warrants issued against the petitioner by suspending the LOC issued against him.
In view of the above, the LOC issued against the petitioner is suspended, subject to the condition that the petitioner shall appear before the trial Court on 01.05.2024 and file appropriate application for recall of non-bailable warrants.

NOSTALGIA

Sec 42 of NDPS Act

In Dharamveer Parsad v. State of Bihar (2020) 12 SCC 492, there was non examination of the independent witness without any explanation provided by the prosecution and even the panchnama or the seizure memo were not prepared on the spot but after having had reached police station only. Since the vehicle was apprehended and contraband was seized in noncompliance of the Section 42 of the NDPS Act 1985 – conviction and sentence of the appellant therein was set aside. Apart from the said reasons there were various suspicious circumstances that inspired the confidence of the Court to set aside the conviction affirmed by the High Court therein. Paragraph numbers 05 and 06 are reiterated below for reference:

> "5. In the present case PW 1, who is the investigating officer, in his deposition has stated that the information i.e. the contraband was being carried from the IndoNepal border identified in a vehicle, details of which had also been provided, had been received in the evening of 27 2007. PW 1 has further stated that on receipt of this information, he had formed a team and had moved to Raxaul from Patna, which place they had reached by 2.00 a.m. in the morning of 372007. The vehicle in question had been apprehended and the contraband seized at about 6.00 a.m. of 372007. No explanation has been offered why the statement had not been recorded at any anterior point of time and the same was so done after the seizure was made.
>
> 6. Even if we were to assume that the anxiety of the investigating officer was to reach Raxaul which is on the international border and therefore, he did not have the time to record said information as per requirement of Section 42 of the Act, the matter does not rest there. There are other suspicious circumstances affecting the credibility of the prosecution case. Though, the investigating officer has stated that he had moved to Raxaul along with a team and two independent witnesses, the said independent witnesses were not examined. No explanation is forthcoming on this count also. That apart from the materials on record it appears that no memos including the seizure memo were prepared at the spot and all the papers were prepared on reaching the police station at Patna on 472007."

Bail on ground of gross delay in Trial

Two authorities have been cited by the appellant in which gross delay in trial was held to be a ground for granting bail in statutes in which there was

restriction on such grant. These are the judgments of this court in the cases of Shaheen Welfare Association vs. Union of India and Others, (1996) 2 SCC 616 and Angela Harish Sontakke vs. State of Maharashtra, (2021) 3 SCC 723. But each of these cases has been decided on their own facts

Custodial interrogation

It is settled law that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Cr.P.C. The Hon'ble Apex, in the case of State V. Anil Sharma 12 , has also underlined the importance of custodial interrogation as under:

> "6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

Punishment

in State of M.P. v. Bablu [(2014) 9 SCC 281 : (2014) 6 SCC (Cri) 1], after considering and following the earlier decisions, this Court reiterated the settled proposition of law that one of the prime objectives of **crimin**al law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity, nature of crime and the manner in which the offence is committed. One should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding the sentence as awarding lesser sentence encourages any **crimin**al and, as a result of the same, the society suffers.

Acquittal of co-accused

In the cases of Deepak Rajak v. State of W.B., (2007) 15 SCC 305 and Central Bureau of Invesitgation v. Akhilesh Singh AIR 2005 SC 268 = (2005) 1 SCC 478 , the Hon'ble Supreme Court held that if the proceedings initiated against the co-accused is on similar allegations and the said judgment is reached finality that in the case of acquittal of the accused in the same offence and some set of facts, the accusations if considered it would entitle for acquittal of co-accused also.

NEWS

- F. No. 23(45)/2022-Leg-III(LD) dt 16.4.2024 –the Central Government constitutes a Committee to be chaired by the Cabinet Secretary to examine the various issues relating to queer community.
- Method of Assessment of Work of the Judicial Officers - Enhancement of Units/Incentives to the Judicial Officers - Regarding
- Circular - ROC No.04-Reg.Judl-2024 Dated 30-03-2024 - Honourable Supreme Court Order- Criminal Appeal No. 303 of 2024 arising out of SLP-CRL-No. 12301-2023 between Kusha Duruka vs State of Odisha

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ON A LIGHTER VEIN

I was going to tell a time traveling joke, but you guys didn't like it.

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Prosecution Replenish

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

CITATIONS

Sec 319 CrPC

2024 0 INSC 366; 2024 0 Supreme(SC) 407; Shankar Vs. The State Of Uttar Pradesh & Ors.; Criminal Appeal No. 2367 OF 2024 (@ S.L.P. (CRL.) NO. 5530 OF 2023); Vishal Singh Vs. The State Of Uttar Pradesh & Ors.; Criminal Appeal No. 2368 of 2024(@ S.L.P. (CRL.) No. 6321 OF 2024) (Diary No. 29192 of 2023) Decided On : 02-05-2024

The degree of satisfaction required to exercise power under Section 319 Cr.P.C. is well settled after the above-referred decision. The evidence before the trial court should be such that if it goes unrebutted, then it should result in the conviction of the person who is sought to be summoned. As is evident from the above-referred decision, the degree of satisfaction that is required to exercise power under Section 319 Cr.P.C. is much stricter, considering that it is a discretionary and an extra-ordinary power. Only when the evidence is strong and reliable, can the power be exercised. It requires much stronger evidence than mere probability of his complicity.

It is evident from the above that the appellants were named in the first information statement, however, in the statement under Section 161 Cr.P.C, PW-1 clarified that the names of appellants were written in the FIR falsely and without full information. She has also stated that the appellants were not involved in the murder of her son. Even in the charge sheet, the names of the appellants were not mentioned as accused. It is only in her deposition before the Trial Court the names of the accused resurfaces again.
Having considered the matter in detail, we are of the opinion that PW-1, not being an eye-witness, her deposition is not sufficient enough to invoke the extra-ordinary jurisdiction under Section 319 to summon the appellants.

2024 0 INSC 368; 2024 0 Supreme(SC) 409; Anees Vs. The State Govt. Of NCT; Criminal Appeal No. 437 of 2015; Decided On : 03-05-2024; (THREE JUDGE BENCH)
However, in the aforesaid context, we would like to sound a note of caution. Although the conduct of an accused may be a relevant fact under Section 8 of the Evidence Act, yet the same, by itself, cannot be a ground to convict him or hold him guilty and that too, for a serious offence like murder. Like any other piece of evidence, the conduct of an accused is also one of the circumstances which the court may take into consideration along with the other evidence on record, direct or indirect. What we are trying to convey is that the conduct of the accused alone, though may be relevant under Section 8 of the Evidence Act, cannot form the basis of conviction.
Section 162 Cr.P.C. bars the use of statement of witnesses recorded by the police except for the limited purpose of contradiction of such witnesses as indicated therein. The statement made by a witness before the police under Section 161(1) Cr.P.C. can be used only for the purpose of contradicting such witness on what he has stated at the trial as laid down in the proviso to Section 162(1) Cr.P.C. The statements under Section 161 Cr.P.C. recorded during the investigation are not substantive pieces of evidence but can be used primarily for the limited purpose: (i) of contradicting such witness by an accused under Section 145 of the Evidence Act; (ii) the contradiction of such witness also by the prosecution but with the leave of the Court; and (iii) the re-examination of the witness if necessary.
The court cannot suo motu make use of statements to police not proved and ask questions with reference to them which are inconsistent with the testimony of the witness in the court. The words ‘if duly proved’ used in Section 162 Cr.P.C. clearly show that the record of the statement of witnesses cannot be admitted in evidence straightaway, nor can be looked

into, but they must be duly proved for the purpose of contradiction by eliciting admission from the witness during cross-examination and also during the cross-examination of the Investigating Officer. The statement before the Investigating Officer can be used for contradiction but only after strict compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction.

Under Section 145 of the Evidence Act when it is intended to contradict the witness by his previous statement reduced into writing, the attention of such witness must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of a witness, it becomes the duty of the trial court to ensure that the part of the police statement with which it is intended to contradict the witness is brought to the notice of the witness in his crossexamination. The attention of witness is drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need of further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process the contradiction is merely brought on record, but it is yet to be proved. Thereafter, when the Investigating Officer is examined in the court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the Investigating Officer who, again, by referring to the police statement will depose about the witness having made that statement. The process again involves referring to the police statement and culling out that part with which the maker of the statement was intended to be contradicted. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the court cannot suo motu make use of statements to police not proved in compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction." [See: V.K. Mishra v. State of Uttarakhand : (2015 9 SCC 588]

In the case at hand, not only proper contradictions were not brought on record in the oral evidence of the hostile witnesses, but even those few that were brought on record, were not proved through the evidence of the Investigating Officer. Does the State expect Section 106 of the Evidence Act to come to its aid in every criminal prosecution. At times, such procedural lapses may lead to a very serious crime going unpunished. Any crime committed against an individual is a crime against the entire society. In such circumstances, neither the public prosecutor nor the presiding officer of the trial court can afford to remain remiss or lackadaisical in any manner. Time and again, this Court has, through its

judgments, said that there should not be any element of political consideration in the matters like appointment to the post of public prosecutor, etc. The only consideration for the Government should be the merit of the person. The person should be not only competent, but he should also be a man of impeccable character and integrity. He should be a person who should be able to work independently without any reservations, dictates or other constraints. The relations between the Public Prosecution Service and the judiciary are the very cornerstone of the criminal justice system. The public prosecutors who are responsible for conducting prosecutions and may appeal against the court decisions, are one of judges' natural counterparts in the trial proceedings and also in the broader context of management of the system of criminal law.

Over a period of time, we have noticed, while hearing criminal appeals, that there is practically no effective and meaningful crossexamination by the Public Prosecutor of a hostile witness. All that the Public Prosecutor would do is to confront the hostile witness with his/her police statement recorded under Section 161 of the Cr.P.C. and contradict him/her with the same. The only thing that the Public Prosecutor would do is to bring the contradictions on record and thereafter prove such contradictions through the evidence of the Investigating Officer. This is not sufficient. The object of the cross-examination is to impeach the accuracy, credibility and general value of the evidence given in-chief; to sift the facts already stated by the witness; to detect and expose the discrepancy or to elicit the suppressed facts which will support the case of the cross-examining party. What we are trying to convey is that it is the duty of the Public Prosecutor to cross-examine a hostile witness in detail and try to elucidate the truth & also establish that the witness is speaking lie and has deliberately resiled from his police statement recorded under Section 161 of the Cr.P.C. A good, seasoned and experienced Public Prosecutor will not only bring the contradictions on record, but will also cross-examine the hostile witness at length to establish that he or she had actually witnessed the incident as narrated in his/her police statement.

If the questioning by the public prosecutor is not skilled, like in the case at hand, the result is that the State as a prosecuting agency will not be able to elicit the truth from the child witness. It is the duty of the court to arrive at the truth and subserve the ends of justice. The courts have to take a participatory role in the trial and not act as mere tape recorders to record whatever is being stated by the witnesses. The judge has to monitor the proceedings in aid of justice. Even if the prosecutor is remiss or lethargic in some ways, the court should control the proceedings effectively so that the ultimate objective that is the truth is arrived at. The court must be conscious of serious pitfalls and dereliction of duty on the part of the prosecuting agency. Upon failure of the prosecuting agency showing

indifference or adopting an attitude of aloofness, the trial judge must exercise the vast powers conferred under Section 165 of the Evidence Act and Section 311 of the Cr.P.C. respectively to elicit all the necessary materials by playing an active role in the evidence collecting process. (See: Zahira Habibulla H. Sheikh & Anr. vs. State of Gujarat & Ors., (2004) 4 SCC 158).
The judge is expected to actively participate in the trial, elicit necessary materials from the witnesses in the appropriate context which he feels necessary for reaching the correct conclusion. The judge has uninhibited power to put questions to the witness either during the chief examination or cross-examination or even during re-examination for this purpose. If a judge feels that a witness has committed an error or slip, it is the duty of the judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. (See: (para 12) of State of Rajasthan vs. Ani alias Hanif & Ors., AIR 1997 SC 1023).
Where the offender takes undue advantage or has acted in a cruel or an unusual manner, the benefit of Exception 4 cannot be given to him. If the weapon used or the manner of attack by the assailant is disproportionate, that circumstance must be taken into consideration to decide whether undue advantage has been taken. In Kikar Singh v. State of Rajasthan reported in AIR 1993 SC 2426, it was held that if the accused used deadly weapons against an unarmed man and struck a blow on the head it must be held that using the blows with the knowledge that they were likely to cause death, he had taken undue advantage. A fight suddenly takes place, for which both the parties are more or less to be blamed. It might be that one of them starts it, but if the other had not aggravated it by his own conduct, it would not have taken the serious turn it did. There is then mutual provocation and aggravation and it is difficult to apportion the share of blame which attaches to each fighter. It takes two to make a fight. Assuming for the moment that it was the deceased who picked up a fight with the appellant or provoked the appellant in some manner with her conduct or behaviour, still the appellant could be said to have taken undue advantage & acted in a cruel manner.

2024 0 INSC 369; 2024 0 Supreme(SC) 410; Achin Gupta Vs. State of Haryana and Another; Criminal Appeal No. 2379 of 2024, Arising Out of SLP (Crl.) No. 4912 of 2022: 03-05-2024
We request the Legislature to look into the issue as highlighted above taking into consideration the pragmatic realities and consider making necessary changes in Sections 85 and 86 respectively of the Bharatiya Nyaya Sanhita, 2023, before both the new provisions come into force.

2024 0 INSC 373; 2024 0 Supreme(SC) 414; T.R. Vijayaraman Vs. The State Of Tamil Nadu; Special Leave Petition (Criminal) No. 3787 of 2024; With B. Kangarajan Vs. The State; SLP(Criminal) No. 3788 of 2024; 03-05-2024

As already noticed above it is a case where bank officers and the private businessmen, two of whom are petitioners before this court, had cheated the bank. The fraud started in the year 2002, when without there being any instrument submitted to the bank for clearance from the accounts in which there was no balance, entries were made in the external clearing account and local drafts account for giving credit to the petitioners. The entries were made on 27.09.2002 for clearing of overdraft of about Rs. 20 lakhs granted to the petitioner/T.R. Vijayaraman from July, 2002 onwards, immediately, after the petitioner opened his current account with the bank. The modus operandi having come to the notice of the higher officers, inspection of the branch was carried out on 09.01.2004. When confronted the accused persons got the amount deposited immediately on the next day. It came out in the report that advance was enjoyed by the petitioners without payment of any interest. It was not a loan transaction as was sought to be argued.

The argument that the petitioners did not have any control over the bank officials in the manner in which the entries were made in the books of accounts, is nothing else but of desperation. All the accused in connivance with each other have cheated the bank, by submitting cheques of the accounts in which there was no balance, or without any submission thereof and entries by the bank officers in the books of account showing them to be pending for clearing and giving credit to the account holder/accused.

2024 0 INSC 376; 2024 0 Supreme(SC) 417; Alauddin & Ors. Vs. The State Of Assam & Anr.; Criminal Appeal No. 1637 of 2021; Decided on : 03-05-2024

When the two statements cannot stand together, they become contradictory statements. When a witness makes a statement in his evidence before the Court which is inconsistent with what he has stated in his statement recorded by the Police, there is a contradiction. When a prosecution witness whose statement under Section 161 (1) or Section 164 of CrPC has been recorded states factual aspects before the Court which he has not stated in his prior statement recorded under Section 161 (1) or Section 164 of CrPC, it is said that there is an omission. There will be an omission if the witness has omitted to state a fact in his statement recorded by the Police, which he states before the Court in his evidence. The explanation to Section 162 CrPC indicates that an omission may amount to a contradiction when it is significant and relevant. Thus, every

omission is not a contradiction. It becomes a contradiction provided it satisfies the test laid down in the explanation under Section 162. Therefore, when an omission becomes a contradiction, the procedure provided in the proviso to sub-Section (1) of Section 162 must be followed for contradicting witnesses in the cross-examination.

We are tempted to quote what is held in a landmark decision of this Court in the case of Tahsildar Singh & Anr. v. State of U.P., 1959 Supp (2) SCR 875 Paragraph 13 of the said decision reads thus:

> "13. The learned counsel's first argument is based upon the words "in the manner provided by Section 145 of the Indian Evidence Act, 1872" found in Section 162 of the Code of Criminal Procedure. Section 145 of the Evidence Act, it is said, empowers the accused to put all relevant questions to a witness before his attention is called to those parts of the writing with a view to contradict him. In support of this contention reliance is placed upon the judgment of this Court in Shyam Singh v. State of Punjab [(1952) 1 SCC 514 : (1952) SCR 812]. Bose, J. describes the procedure to be followed to contradict a witness under Section 145 of the Evidence Act thus at p. 819: Resort to Section 145 would only be necessary if the witness denies that he made the former statement. In that event, it would be necessary to prove that he did, and if the former statement was reduced to writing, then Section 145 requires that his attention must be drawn to these parts which are to be used for contradiction. But that position does not arise when the witness admits the former statement. In such a case all that is necessary is to look to the former statement of which no further proof is necessary because of the admission that it was made."
>
> It is unnecessary to refer to other cases wherein a similar procedure is suggested for putting questions under Section 145 of the Indian Evidence Act, for the said decision of this Court and similar decisions were not considering the procedure in a case where the statement in writing was intended to be used for contradiction under Section 162 of the Code of Criminal Procedure. **Section 145 of the Evidence Act is in two parts : the first part enables the accused to cross-examine a witness as to previous statement made by him in writing or reduced to writing without such writing being shown to him; the second part deals with a situation where the cross-examination assumes the shape of contradiction : in other words, both parts deal with cross-examination; the first part with cross-examination other than by way of contradiction, and the second with cross-examination by way of contradiction only. The procedure prescribed is that, if it is intended to contradict a witness by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of**

contradicting him. The proviso to Section 162 of the Code of Criminal Procedure only enables the accused to make use of such statement to contradict a witness in the manner provided by Section 145 of the Evidence Act. It would be doing violence to the language of the proviso if the said statement be allowed to be used for the purpose of cross-examining a witness within the meaning of the first part of Section 145 of the Evidence Act. Nor are we impressed by the argument that it would not be possible to invoke the second part of Section 145 of the Evidence Act without putting relevant questions under the first part thereof. The difficulty is more imaginary than real. The second part of Section 145 of the Evidence Act clearly indicates the simple procedure to be followed. To illustrate : A says in the witness box that B stabbed C; before the police he had stated that D stabbed C. His attention can be drawn to that part of the statement made before the police which contradicts his statement in the witness box. If he admits his previous statement, no further proof is necessary; if he does not admit, the practice generally followed is to admit it subject to proof by the police officer. On the other hand, the procedure suggested by the learned counsel may be illustrated thus : If the witness is asked “did you say before the police officer that you saw a gas light?” and he answers “yes”, then the statement which does not contain such recital is put to him as contradiction. This procedure involves two fallacies : one is it enables the accused to elicit by a process of cross-examination what the witness stated before the police officer. If a police officer did not make a record of a witness's statement, his entire statement could not be used for any purpose, whereas if a police officer recorded a few sentences, by this process of cross-examination, the witness's oral statement could be brought on record. This procedure, therefore, contravenes the express provision of Section 162 of the Code. The second fallacy is that by the illustration given by the learned counsel for the appellants there is no self-contradiction of the primary statement made in the witness box, for the witness has yet not made on the stand any assertion at all which can serve as the basis. The contradiction, under the section, should be between what a witness asserted in the witness box and what he stated before the police officer, and not between what he said he had stated before the police officer and what he actually made before him. In such a case the question could not be put at all : only questions to contradict can be put and the question here posed does not contradict; it leads to an answer which is contradicted by the police statement. This argument of the learned counsel based upon Section 145 of the Evidence Act is, therefore, not of any relevance in considering the

express provisions of Section 162 of the Code of Criminal Procedure." (emphasis added)

This decision is a **locus classicus**, which will continue to guide our Trial Courts. In the facts of the case, the learned Trial Judge has not marked those parts of the witnesses' prior statements based on which they were sought to be contradicted in the cross-examination.

2024 0 INSC 363; Sharif Ahmed And Another Vs. State Of Uttar Pradesh And Another; CRIMINAL APPEAL NO. 2357 OF 2024 (ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) NO. 1074 OF 2017) WITH CRIMINAL APPEAL NO. OF 2024 (ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) NO. 9482 OF 2021) AND CRIMINAL APPEAL NO. OF 2024 (ARISING OUT OF SPECIAL LEAVE PETITION (CRL.) NO. 5419 OF 2022); Decided on : 01-05-2024

There is an inherent connect between the chargesheet submitted under Section 173(2) of the Code, cognisance which is taken under Section 190 of the Code, issue of process and summoning of the accused under Section 204 of the Code, and thereupon issue of notice under Section 251 of the Code, or the charge in terms of Chapter XVII of the Code. The details set out in the chargesheet have a substantial impact on the efficacy of procedure at the subsequent stages. The chargesheet is integral to the process of taking cognisance, the issue of notice and framing of charge, being the only investigative document and evidence available to the court till that stage. Substantiated reasons and grounds for an offence being made in the chargesheet are a key resource for a Magistrate to evaluate whether there are sufficient grounds for taking cognisance, initiating proceedings, and then issuing notice, framing charges etc.

The object and purpose of the police investigation is manyfold. It includes the need to ensure transparent and free investigation to ascertain the facts, examine whether or not an offence is committed, identify the offender if an offence is committed, and to lay before the court the evidence which has been collected, the truth and correctness of which is thereupon decided by the court.

The final report has to be prepared with these aspects in mind and should show with sufficient particularity and clarity, the contravention of the law which is alleged. When the report complies with the said requirements, the court concerned should apply its mind whether or not to take cognisance and also proceed by issuing summons to the accused. While doing so, the court will take into account the statement of witnesses recorded under Section 161 of the Code and the documents placed on record by the investigating officer.

In case of any doubts or ambiguity arising in ascertaining the facts and evidence, the Magistrate can, before taking cognisance, call upon the

investigating officer to clarify and give better particulars, order further investigation, or even record statements in terms of Section 202 of the Code.

An offence under Section 406 of the IPC requires entrustment, which carries the implication that a person handing over any property or on whose behalf the property is handed over, continues to be the owner of the said property. Further, the person handing over the property must have confidence in the person taking the property to create a fiduciary relationship between them. A normal transaction of sale or exchange of money/consideration does not amount to entrustment. [24][See Section 405 of the IPC and judgments of this Court in State of Gujarat v. Jaswantlal Nathalal AIR 1968 SC 700; Indian Oil Corpn. v. NEPC India Ltd. and Others (2006) 6 SCC 736; Central Bureau of Investigation, SPE, SIU(X), New Delhi v. Duncans Agro Industries Ltd., Calcutta (1996) 5 SCC 591.] Clearly, the charge/offence of Section 406 IPC is not even remotely made out.

However, what is surprising and a matter of concern in the present case, is that the police had initially rightly not registered the FIR, which had prompted the complainant to approach the Court of Additional Chief Judicial Magistrate, Chandpur, Bijnor, Uttar Pradesh, alleging that he is an honest and respected person in the society and is well established in business, while the accused are fraudulent individuals. The Additional Chief Judicial Magistrate had subsequently ordered for the FIR to be registered on the basis of the written complaint.

We would also like to emphasise on the need for a Magistrate to be cautious in examining whether the facts of the case disclose a civil or a criminal wrong. Attempts at initiating vexatious criminal proceedings should be thwarted early on, as a summoning order, or even a direction to register an FIR, has grave consequences for setting the criminal proceedings in motion. [27][Deepak Gaba and Others v. State of U.P. and Another, (2023) 3 SCC 423] Any effort to settle civil disputes and claims which do not involve any criminal offence, by way of applying pressure through criminal prosecution, should be deprecated and discouraged. [28][Indian Oil Corpn. v. NEPC India Ltd. and Others, (2006) 6 SCC 736.]

Further, the observation that there is no provision for granting exemption from personal appearance prior to obtaining bail, is not correct, as the power to grant exemption from personal appearance under the Code[31][Section 205 of the Code. Also see, Section 317 of the Code.] should not be read in a restrictive manner as applicable only after the accused has been granted bail. This Court in Maneka Sanjay Gandhi and Another v. Rani Jethmalani (1979) 4 SCC 167. held that the power to grant exemption from personal appearance should be exercised liberally, when

facts and circumstances require such exemption. [33][See also, Puneet Dalmia v. Central Bureau of Investigation, Hyderabad, (2020) 12 SCC 695.] Section 205 states that the Magistrate, exercising his discretion, may dispense with the personal attendance of the accused while issuing summons, and allow them to appear through their pleader. While provisions of the Code are considered to be exhaustive, cases arise where the Code is silent and the court has to make such order as the ends of justice require. In such cases, the criminal court must act on the principle, that every procedure which is just and fair, is understood as permissible, till it is shown to be expressly or impliedly prohibited by law. [34][See, Popular Muthiah v. State Represented by Inspector of Police (2006) 7 SCC 296 and earlier judgment of the Calcutta High Court in Rahim Sheikh (1923) 50 Cal 872, 875.]

History Sheets
2024 0 INSC 383; 2024 0 Supreme(SC) 425; Amanatullah Khan Vs. The Commissioner of Police, Delhi & Ors.; Criminal Appeal No. 2349 of 2024 (Arising out of SLP (Crl.) No.5719 of 2023); 07-05-2024
Having partially addressed the grievance of the appellant, we now, in exercise of our suo motu powers, propose to expand the scope of these proceedings so that the police authorities in other States and Union Territories may also consider the desirability of ensuring that no mechanical entries in History Sheet are made of innocent individuals, simply because they happen to hail from the socially, economically and educationally disadvantaged backgrounds, along with those belonging to Backward Communities, Scheduled Castes & Scheduled Tribes. While we are not sure about the degree of their authenticity, but there are some studies available in the public domain that reveal a pattern of an unfair, prejudicial and atrocious mindset. It is alleged that the Police Diaries are maintained selectively of individuals belonging to Vimukta Jatis, based solely on caste-bias, a somewhat similar manner as happened in colonial times. All the State Governments are therefore expected to take necessary preventive measures to safeguard such communities from being subjected to inexcusable targeting or prejudicial treatment. We must bear in mind that these pre-conceived notions often render them 'invisible victims' due to prevailing stereotypes associated with their communities, which may often impede their right to live a life with self-respect.
The value for human dignity and life is deeply embedded in Article 21 of our Constitution. The expression 'life' unequivocally includes the right to live a life worthy of human honour and all that goes along with it. Self-regard, social image and an honest space for oneself in one's surrounding society, are just as significant to a dignified life as are adequate food, clothing and shelter.

It seems that a periodic audit mechanism overseen by a senior police officer, as directed for the NCT of Delhi, will serve as a critical tool to review and scrutinize the entries made, so as to ascertain that these are devoid of any biases or discriminatory practices. Through the effective implementation of audits, we can secure the elimination of such deprecated practices and kindle the legitimate hope that the right to live with human dignity, as guaranteed under Article 21, is well protected.

2024 0 INSC 387; 2024 0 Supreme(SC) 427; Child In Conflict With Law through His Mother Vs. The State of Karnataka and Another; Criminal Appeal No. 2411 of 2024, Arising Out of Special Leave Petition (Crl.) No. 3033 of 2024: 07-05-2024

In view of our aforesaid discussions, the present appeal is disposed of with the following directions:

(i) The provision of Section 14(3) of the Act, providing for the period of three months for completion of a preliminary assessment under Section 15 of the Act, is not mandatory. The same is held to be directory. The period can be extended, for the reasons to be recorded in writing, by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate.

(ii) The words 'Children's Court' and 'Court of Sessions' in Juvenile Justice (Care and Protection of Children) Act, 2015 and the 2016 Rules shall be read interchangeably. Primarily jurisdiction vests in the Children's Court. However, in the absence of constitution of such Children's Court in the district, the power to be exercised under the Act is vested with the Court of Sessions.

(iii) Appeal, under Section 101(2) of the Act against an order of the Board passed under Section 15 of the Act, can be filed within a period of 30 days. The appellate court can entertain the appeal after the expiry of the aforesaid period, provided sufficient cause is shown. Endeavour has to be made to decide any such appeal filed within a period of 30 days.

(iv) There is no error in exercise of revisional jurisdiction by the High Court in the present matter.

(v) There is no error in the order dated 15.11.2023 passed by the High Court dealing with the procedure as provided for under the Act in terms of Section 7(4) thereof.

(vi) Order passed by the Board as signed by the Principal Magistrate on 05.04.2022 was final. However, the same is subject to right of appeal of the aggrieved party. The appellant shall have the right of appeal against the aforesaid order within a period of 10 days from today. The appellate authority shall make an endeavour to decide the same within a period of two months from the date of filing.

(vii) In all the orders passed by the Courts, Tribunals, Boards and the Quasi-Judicial Authorities the names of the Presiding Officer and/or the Members who sign the orders shall be mentioned. In case any identification number has been given, the same can also be added.
(viii) The Presiding Officers and/or Members while passing the order shall properly record presence of the parties and/or their counsels, the purpose for which the matter is being adjourned and the party on whose behalf the adjournment has been sought and granted.

2024 0 INSC 385; 2024 0 Supreme(SC) 429; Sukhpal Singh Vs. NCT Of Delhi; Criminal Appeal No(s).55 of 2015; 07-05-2024
This Court in the case of Nirmal Singh v. State of Haryana, (2000) 4 SCC 41 while considering the issue that under what circumstances and by what method, the statement of a witness under Section 299 of CrPC could have been tendered in the case for being admissible under Section 33 of the Indian Evidence Act, 1872 and whether they can form the basis of conviction, held as follows:

> **"4. …..Section 299 of the Code of Criminal Procedure consists of two parts. The first part speaks of the circumstances under which witnesses produced by the prosecution could be examined in the absence of the accused and the second part speaks of the circumstances when such deposition can be given in evidence against the accused in any inquiry or trial for the offence with which he is charged.** This procedure contemplated under Section 299 of the Code of Criminal Procedure is thus an exception to the principle embodied in Section 33 of the Evidence Act inasmuch as under Section 33, the evidence of a witness, which a party has no right or opportunity to cross-examine is not legally admissible. Being an exception, it is necessary, therefore, that all the conditions prescribed, must be strictly complied with. In other words, before recording the statement of the witnesses produced by the prosecution, the court must be satisfied that the accused has absconded or that there is no immediate prospect of arresting him, as provided under the first part of Section 299(1) of the Code of Criminal Procedure….
> …..There possibly cannot be any dispute with the proposition of law that for taking the benefits of Section 299 of the Code of Criminal Procedure, the conditions precedent therein must be duly established and the prosecution, which proposes to utilise the said statement as evidence in trial, must, therefore, prove about the existence of the preconditions before tendering the evidence. ….
> **….On a mere perusal of Section 299 of the Code of Criminal Procedure as well as Section 33 of the Evidence Act, we have no hesitation to come to the conclusion that the preconditions in**

> **both the sections must be established by the prosecution and it is only then, the statements of witnesses recorded under Section 299 CrPC before the arrest of the accused can be utilised in evidence in trial after the arrest of such accused only if the persons are dead or would not be available or any other condition enumerated in the second part of Section 299(1) of the Code of Criminal Procedure is established….”**
> **(emphasis supplied)**

33. Further, in the case of Jayendra Vishnu Thakur v. State of Maharashtra & Another, (2009) 7 SCC 104 it was held as follows: -**“25. It is also beyond any cavil that the provisions of Section 299 of the Code must receive strict interpretation, and, thus, scrupulous compliance therewith is imperative in character.** It is a well-known principle of interpretation of statute that any word defined in the statutory provision should ordinarily be given the same meaning while construing the other provisions thereof where the same term has been used. Under Section 3 of the Evidence Act like any other fact, the prosecution must prove by leading evidence and a definite categorical finding must be arrived at by the court in regard to the fact required to be proved by a statute. Existence of an evidence is not enough but application of mind by the court thereupon as also the analysis of the materials and/or appreciation thereof for the purpose of placing reliance upon that part of the evidence is imperative in character.

> **29. Indisputably both the conditions contained in the first part of Section 299 of the Code must be read conjunctively and not disjunctively. Satisfaction of one of the requirements should not be sufficient….” (emphasis supplied)**

2024 0 INSC 393; 2024 0 Supreme(SC) 435; Selvamani Vs The State Rep. By The Inspector of Police; CrlA No. 906 of 2023; 08-05-2024

In the present case also, it appears that, on account of a long gap between the examination-in-chief and cross examination, the witnesses were won over by the accused and they resiled from the version as deposed in the examination-in-chief which fully incriminates the accused. However, when the evidence of the victim as well as her mother (PW-2) and aunt (PW-3) is tested with the FIR, the statement recorded under Section 164 CrPC and the evidence of the Medical Expert (PW-8), we find that there is sufficient corroboration to the version given by the prosecutrix in her examination-in-chief.

Insofar as the reliance placed by the learned counsel for the appellant on the judgment of this Court in the case of Rai Sandeep alias Deepu (supra) is concerned, the said case can be distinguished, inasmuch as in the said case except a minor abrasion on the right side of the neck below jaw, there

were no other injuries on the private part of the prosecutrix, although it was allegedly a forcible gang rape. As such, the said judgment would not be applicable in the present case.

Bail

2024 0 INSC 404; 2024 0 Supreme(SC) 452; Union of India Vs. Mrityunjay Kumar Singh @ Mrityunjay @ Sonu Singh; Criminal Appeal No. 2487 of 2024, Special Leave Petition (Criminal) No. of 2024, Diary No. 27308 of 2023; Decided On : 10-05-2024

It is, furthermore, trite that for the purpose of considering an application for grant of bail, although detailed reasons are not necessary to be assigned, the order granting bail must demonstrate application of mind at least in serious cases as to why the applicant has been granted or denied the privilege of bail.

The duty of the court at this stage is not to weigh the evidence meticulously but to arrive at a finding on the basis of broad probabilities. However, while dealing with a special statute like MCOCA having regard to the provisions contained in sub-section (4) of Section 21 of the Act, the court may have to probe into the matter deeper so as to enable it to arrive at a finding that the materials collected against the accused during the investigation may not justify a judgment of conviction. The findings recorded by the court while granting or refusing bail undoubtedly would be tentative in nature, which may not have any bearing on the merit of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial, without in any manner being prejudiced thereby.

NDPS sample

https://indiankanoon.org/doc/109458070/; APHC010216852024; Bernard Ashok Fernando vs State Of Andhra Pradesh on 10 May, 2024; Criminal Petition No.3303 of 2024;

On perusal of the mediators report shows that the samples were drawn in the presence of mediators but not before the presence of Magistrate. Learned counsel for the petitioners relied on a decision reported in between Simaranjit Singh vs. State of Punjab2023 LawSuit(SC) 859; wherein it is held that:

Sub-section (3) of Sec.52-A requires that the Magistrate shall as soon as may be allow the application. This implies that no sooner the seizure is effected and the contraband forwarded to the officer-in-charge of the police station or the officer empowered, the officer concerned is in law duty-bound to approach the Magistrate for the purposes mentioned above including grant of permission to draw representative samples in his presence, which samples will then be enlisted and the correctness of the

list of samples so drawn certified by the Magistrate. In other words, the process of drawing of samples has to be in the presence and under supervision of the Magistrate and the entire exercise has to be certified by him to be correct.
The question of drawing of samples at the time of seizure which, more often than not, takes place in the absence of the Magistrate does not in the above scheme of things arise. This is so especially when according to Section 52-A(4) of the Act, samples drawn and certified by the Magistrate in compliance with subsections (2) and (3) of Section 52-A above constitute primary evidence for the purpose of the trial. Suffice it to say that there is no provision in the Act that mandates taking of samples at the time of seizure. That is perhaps why none of the States claim to be taking samples at the time of seizure
Hence, the act of PW-7 of drawing samples from all the packets at the time seizure is not in conformity with the law laid down by this Court in the case of Union of India v. Mohanlal & Anr

https://indiankanoon.org/doc/9839159/; Smt. Veeramshetty Padmavathi vs The State Of Telangana, on 9 May, 2024; CRIMINAL PETITION No.5465 of 2024
Learned Additional Public Prosecutor submits that the Investigation Officer has already issued notice under Section 41-A of Cr.P.C. to the accused in the above crime.
Learned counsel appearing for the petitioners has submitted that the petitioners have already submitted reply to the notice issued under Section 41-A of Cr.P.C.
In view of the above said submissions, without going into the merits of the case, this Court deems it appropriate to direct the Investigating Officer concerned to follow the procedure laid down under Section 41-A of Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar 1 scrupulously. However, the petitioners shall cooperate with the Investigating Officer as and when required and provide the information and documents sought by him to conclude the investigation. If the petitioners are not cooperating with the investigation, the Investigating Officer is at liberty to take action, in accordance with law. The petitioners shall file all the documents, if any, before the Investigating Officer to show that they did not come under the offences with which they were charged, and the Investigating Officer shall consider the same and file appropriate report before the Court concerned.

41A CrPC notice for above 7 yrs punishment case
https://indiankanoon.org/doc/49415478/; P Ramesh vs The State Of Telangana on 9 May, 2024;CRLP 5153/2024

41A CrPC notice directed to be issued

{Case registered for the offences punishable under Sections 406 and 420 of Indian Penal Code (for short, "IPC") and Section 5 of the Telangana Protection of Depositors of Financial Establishments Act (for short, "TSPDFEA").}

https://indiankanoon.org/doc/3798378/; Smt.Jadhav Parvathi vs The State Of Telangana on 9 May, 2024; CRLP 5466/2024;
the petitioner/accused is directed to appear before the concerned Investigating Officer on or before 16.05.2024 between 02.00 P.M. and 04.00 P.M., and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 41-A of Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court in Arnesh Kumar (supra), scrupulously.

2024 0 INSC 407; 2024 0 Supreme(SC) 454; Shento Varghese Vs. Julfikar Husen and Others; Criminal Appeal Nos. 2531-2532 of 2024, Special Leave Petition (Crl.) Nos. 10504-10505 of 2023; Decided On : 13-05-2024
Therefore, in deciding whether the police officer has properly discharged his obligation under Section 102(3) Cr.P.C. the Magistrate would have to, firstly, examine whether the seizure was reported forthwith. In doing so, it ought to have regard to the interpretation of the expression 'forthwith' as discussed above. If it finds that the report was not sent forthwith, then it must examine whether there is any explanation offered in support of the delay. If the Magistrate finds that the delay has been properly explained, it would leave the matter at that. However, if it finds that there is no reasonable explanation for the delay or that the official has acted with deliberate disregard/ wanton negligence, then it may direct for appropriate departmental action to be initiated against such erring official. We once again reiterate that the act of seizure would not get vitiated by virtue of such delay, as discussed in detail herein above.

2024 0 INSC 414; Prabir Purkayastha Vs. State (NCT of Delhi); Criminal Appeal No 2577 of 2024, Arising Out of SLP (Crl.) No. of 2024, D. No. 42896 of 2023; Decided On : 15-05-2024
It may be reiterated at the cost of repetition that there is a significant difference in the phrase 'reasons for arrest' and 'grounds of arrest'. The 'reasons for arrest' as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence; for proper investigation of the offence; to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner; to prevent the arrested

person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the 'grounds of arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature.

https://indiankanoon.org/doc/149358150/; Mukesh Mahtha vs The State Of Telangana on 16 May, 2024; WP No. 7524/2024
It is settled law that the bank account of the accused/petitioner or any of his relation constitutes 'property' within the meaning of Section 102 Cr.P.C. and during the course of investigation, the Investigating Officer concerned can seize operation of the said account if such assets have direct link with commission of offence.

https://indiankanoon.org/doc/75305047/; Cheguri Ramesh vs The State Of Telangana on 16 May, 2024; CRLP No. 5571/2024
though the petitioners are charged with the offences under Sections 420, 467, 468 and 471 read with 34 of IPC, prima facie Section 467 of IPC is not applicable to the petitioners/accused Nos.1 to 3 herein and without going into the merits of the case, the petitioners/accused Nos.1 to 3 are directed to appear before the concerned Investigating Officer on or before 24.05.2024 between 02.00 P.M. and 04.00 P.M., and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 41-A of Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court in Arnesh Kumar (supra), scrupulously.

https://indiankanoon.org/doc/173074633/; New Lucky Kirana And General Store vs The State Of Telangana on 16 May, 2024;WP 13401/2024
In Ganesh Trader's case (2002 (1) ALD 210) a Full Bench of this Court observed as under:
"41. We may, however, hasten to add that unless the Commissioner, Collector, Police Officer or competent Excise Officer "has reason to believe" that black jaggery is intended to manufacture ID liquor mere keeping and/or transporting any other material cannot be violation of law. In such an event, it is always open to the accused to prove before the

competent criminal Court that black jaggery was material intended not for manufacture of liquor but was intended for other purpose. The learned counsel for the petitioners have not placed before us any evidence/ material to show that black jaggery can also be used for other purposes. Be that as it may they only submitted that black jaggery or jaggery with which they were dealing was not intended for manufacturing liquor.

https://indiankanoon.org/doc/81516669/; Baba Khan vs The State Of Telangana on 16 May, 2024; WP No. 13355/2024
The basis for the impugned notice is the finding of the Tahsildar that, having offered to maintain good behavior for a period of three years, the petitioner committed a breach in as much as a case in Cr.No.51 of 2024 was registered by the Mavala Police Station against him under Section 8(c) of T.S Prohibition Act, 1995 r/w. Sections 20 (a) (i) and 20(b) (ii) (B) of NDPS Act. The impugned notice reflects that the petitioner was not given an opportunity to explain his stand before the penalty was imposed. That apart, mere institution of a criminal case against him would not, by itself, constitute breach of the bond furnished by him as it cannot be treated on par with conviction. Thus, on both these counts, the impugned notice dated nil, is unsustainable on facts and in law.

Fair and Speedy Trial
https://webapi.sci.gov.in/supremecourt/2022/36682/36682_2022_13_1502_53326_Judgement_17-May-2024.pdf

https://indiankanoon.org/doc/62991323/; I.A.No. 1 of 2024 in Crl.P.No.3778 of 2024 and I.A.No.1 of 2024 in Crl.P.No.3789 of 2024 and I.A.No.1 of 2024 in Crl.P.No.3790 of 2024 COMMON ORDER 28.05.2024; Pinnelli Ramakrishna Reddy vs The State Of Andhra Pradesh on 28 May, 2024; APHC010243282024
It is relevant to mention that observations made by the Court during the course of hearing bail applications, be it regular or anticipatory, are not conclusions on the prosecutions launched.

https://indiankanoon.org/doc/147840844/; Rathod Ravi vs The State Of Telangana on 23 May, 2024; CRLP 5555/2024
In view of the allegations of criminal trespass, kidnapping, extortion and causing attack on person and property, this Court is not inclined to grant anticipatory bail. However, on perusal of the medical certificate issued from the Continental Hospital, it appears that the victim was assaulted by few known men with bat, bare hands and legs. There are three injuries shown in the certificate which are on nose, right shoulder and lower back. Thus in the opinion of this Court, prima facie, offence under Section 307 of

IPC is not attracted and petitioners are entitled for benefit under Section 41-A of Cr.P.C.

2024 0 INSC 452; 2024 0 Supreme(SC) 503; Union of India rep. by the Inspector of Police National Investigation Agency Chennai Branch Vs. Barakathullah; Criminal Appeal Nos. 2715 - 2719 of 2024 (@ SLP (Crl.) Nos. 14036-14040 of 2023); Decided On : 22-05-2024

It is trite to say that the consideration applicable for cancellation of bail and consideration for challenging the order on the grant of bail on the ground of arbitrary exercise of discretion are different. While considering the application for cancellation of bail, the Court ordinarily looks for some supervening circumstances like tampering of evidence either during the investigation or during the trial, threatening of witness, accused likely to abscond and the trial getting delayed on that account etc. whereas in an order challenging the grant of bail on the ground that it has been granted illegally, the consideration would be whether there was improper or arbitrary exercise of discretion in the grant of bail or the findings recorded were perverse.

Though it was sought to be submitted by learned counsel appearing for the respondents that the material / evidence collected by the Investigating Agency and statements of witnesses relied upon by the prosecuting agency is not reliable, the said submission cannot be accepted. As held by this Court in Watali's case, the question of discarding the material or document at the stage of considering the bail application of an accused, on the ground of being not reliable or inadmissible in evidence, is not permissible. The Court must look at the contents of the documents and take such documents into account as it is and satisfy itself on the basis of broad probabilities regarding the involvement of the accused in the commission of the alleged offences for recording whether a prima facie case is made out against the accused.

2024 0 Supreme(SC) 505; Basudha Chakraborty & Anr. Vs. Neeta Chakraborty; Petition(s) for Special Leave to Appeal (Crl.) D.No(s). 23582 of 2024*;Decided On : 20-05-2024

The dispute that the High Court is seized of arises out of a marital discord between the spouses and the situation, prima facie, was not such so as to call for the Court's insistence for personal presence of both the petitioners including the ailing petitioner no.2 by taking an arduous journey from a distant place like Mumbai despite his medical conditions. If the Court thought it fit to interact and bring about a settlement between the parties, an attempt to achieve it by allowing the petitioners to attend proceedings through the virtual mode ought to have been made.

Exception 4 to Sec 300 IPC

in Vishal Singh v. State of Rajasthan , (2009) Cri. LJ 2243 has explained the scope and ambit of Exception 4 to 300 of the IPC. A three-Judge Bench observed in para 7 as under:

> "7. The Fourth Exception of Section 300, IPC covers acts done in a sudden fight. The said exception deals with a case of prosecution not covered by the First Exception, after which its place would have been more appropriate. The exception is founded upon the same principle, for, in both there is absence of premeditation. But, while in the case of Exception 1 there is total deprivation of self-control, in case of Exception 4, there is only that heat of passion which clouds men's sober reasons and urges them to deeds which they would not otherwise do. There is provocation in Exception 4 as in Exception 1; but the injury done is not the direct consequence of that provocation. In fact Exception 4 deals with cases in which notwithstanding that a blow may have been struck, or some provocation given in the origin of the dispute or in whatever way the quarrel may have originated, yet the subsequent conduct of both parties puts them in respect of guilt upon equal footing. <u>A 'sudden fight' implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor in such cases could the whole blame be placed on one side. For if it were so, the Exception more appropriately applicable would be Exception 1. There is no previous deliberation or determination to fight. A fight suddenly takes place, for which both parties are more or less to be blamed. It may be that one of them starts it, but if the other had not aggravated it by his own conduct it would not have taken the serious turn it did. There is then mutual provocation and aggravation, and it is difficult to apportion the share of blame which attaches to each fighter. The help of Exception 4 can be invoked if death is caused (a) without premeditation, (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the 'fight' occurring in Exception 4 to Section 300, IPC is not defined in the IPC. It takes two to make a fight. Heat of passion requires that there must be no</u>

time for the passions to cool down and in this case, the parties have worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two and more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression 'undue advantage' as used in the provision means 'unfair advantage'. These aspects have been highlighted in Dhirajbhai Gorakhbhai Nayak v. State of Gujrat (2003 (5) Supreme 223]; Parkash Chand v. State of H.P. (2004 (11) SCC 381); Byvarapu Raju v. State of A.P. and Anr. (2007 (11) SCC 218) and Hawa Singh and Anr. v. State of Haryana (SLP (Crl.) No. 1515/2008, disposed of on 15.1.2009)."

(Emphasis supplied)

Sec 27 & 8 of IEA

In the State (NCT of Delhi) v. Navjot Sandhu alias Afsan Guru, (2005) 11 SCC 600, the two provisions i.e. Section 8 and Section 27 of the Evidence Act were elucidated in detail with reference to the case law on the subject and apropos to Section 8 of the Evidence Act, wherein it was held:

"205. Before proceeding further, we may advert to Section 8 of the Evidence Act. Section 8 insofar as it is relevant for our purpose makes the conduct of an accused person relevant, if such conduct influences or is influenced by any fact in issue or relevant fact. It could be either a previous or subsequent conduct. There are two Explanations to the section, which explains the ambit of the word 'conduct'. They are:

"Explanation 1.- The word 'conduct' in this section does not include statements, unless those statements accompany and explain acts other than statements, but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.- When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant."

The conduct, in order to be admissible, must be such that it has close nexus with a fact in issue or relevant fact. Explanation 1 makes it clear that the mere statements as distinguished from acts do not constitute "conduct" unless those statements "accompany and explain acts other than statements". Such statements accompanying the acts are considered to be evidence of res gestae. Two illustrations appended to Section 8 deserve special mention:

"(f) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence— 'the police are coming to look for the man who robbed B', and that immediately afterwards A ran away, are relevant.

***

(i) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant."

206. We have already noticed the distinction highlighted in Prakash Chand case (supra) between the conduct of an accused which is admissible under Section 8 and the statement made to a police officer in the course of an investigation which is hit by Section 162 Cr.P.C. The evidence of the circumstance, simpliciter, that the accused pointed out to the police officer, the place where stolen articles or weapons used in the commission of the offence were hidden, would be admissible as "conduct" under Section 8 irrespective of the fact whether the statement made by the accused contemporaneously with or antecedent to such conduct, falls within the purview of Section 27, as pointed out in Prakash Chand case. In Om Prakash case (supra) this Court held that: (SCC p.262, para 14)

"Even apart from the admissibility of the information under Section 27, the evidence of the investigating officer and the panchas that the accused had taken them to PW 11 (from whom he purchased the weapon) and pointed him out and as corroborated by PW 11 himself would be admissible under Section 8 of the Evidence Act as conduct of the accused.""

(Emphasis supplied)

Discovery U/s 27 IEA basing on evidence of Police

In Madan Singh v. State of Rajasthan, 1979 SCC (Cri) 56, it was observed that where the evidence of the Investigating Officer who discovered the material objects is convincing, the evidence as to discovery need not be rejected on the ground that the panch witnesses did not support the prosecution version. Similar view was expressed in Mohd. Aslam v. State of Maharashtra, (2001) 9 SCC 362.

In Anter Singh v. State of Rajasthan, (2004) 10 SCC 657, it was further held: -

> "10. ... even if Panch witness turn hostile which happens very often in criminal cases, the evidence of the person who effected the recovery would not stand vitiated."

"prima facie case"

The Latin expression prima facie means "at first sight", "at first view", or "based on first impression". According to Webster's Third International Dictionary (1961 Edn.), "prima facie case" means a case established by "prima facie evidence" which in turn means "evidence sufficient in law to raise a presumption of fact or establish the fact in question unless rebutted". In both civil and criminal law, the term is used to denote that, upon initial examination, a legal claim has sufficient evidence to proceed to trial or judgment. In most legal proceedings, one party (typically, the plaintiff or the prosecutor) has a burden of proof, which requires them to present prima facie evidence for each element of the case or charges against the defendant. If they cannot present prima facie evidence, the initial claim may be dismissed without any need for a response by other parties.

Criminal Intimidation

in Manik Taneja and Another v. State of Karnataka and Another, (2015) 7 SCC 423, had referred to Section 506 which prescribes punishment for the offence of 'criminal intimidation' as defined in Section 503 of the IPC, to observe that the offence under Section 503 requires that there must be an act of threating another person with causing an injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested. This threat must be with the intent to cause alarm to the person threatened or to do any act which he is not legally bound to do, or omit to do an act which he is entitled to do. Mere expression of any words without any intent to cause alarm

would not be sufficient to bring home an offence under Section 506 of the IPC. The material and evidence must be placed on record to show that the threat was made with an intent to cause alarm to the complainant, or to cause them to do, or omit to do an act. Considering the statutory mandate, offence under Section 506 is not shown even if we accept the allegation as correct.

NEWS

- Roc.No.415/2020-Cps. Dated: 30.04.2024. High Court Of Andhra Pradesh - Andhra Pradesh Live Streaming Rules For Court Proceedings - Date Of Commencement Of The Rules - Notified.
- Roc.No.415/2020-Cps. Dated: 30.04.2024. High Court Of Andhra Pradesh - Rules For On-Line Electronic Filing (E-Filing Rules) - Date Of Commencement Of The Rules - Notified.
- AP- Public Services – Personal Files – Annual Confidential Report To The Government Employees Of The Cadre Of Group-I, Equivalent Cadre And Above Level Officials – Online Portal Introduced – Extending Time Limits For The Year 2024 – Orders – Issued.
- The Bar Council Of The State Of Andhra Pradesh Roc.No.149 Of 2024. Date: 14-05-2024. Notification No. 1 Of 2024 Removal Of The Names Of The Advocates From The Rolls Of The Bar Council Of Andhra Pradesh.

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ON A LIGHTER VEIN

How does an attorney sleep?
Well, first he lies on one side, then he lies on the other.

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

Vicarious Liability as mentioned in Sec 149 IPC

https://indiankanoon.org/doc/21002946/; Perla Yellaiah, Visakhapatnam vs The State Of AP, on 27 June, 2024; CRLA 609/2017 & Batch

Generally there is no vicarious liability under criminal law except in few instances, one of which is, when a member of unlawful assembly commits an offence in prosecution of common object of that assembly or if the members of such assembly knew it to be likely to be committed, every person who was a member of the said assembly at the time of commission of the offence will be guilty of that offence though he himself has not perpetrated that offence. This is precisely one of the instances of fastening criminal liability on one person vicariously for the offence committed by another person. Chapter VIII of the IPC under the heading of offences against the public tranquillity deals with the nuances of unlawful assembly.

(a) Section 141 defines unlawful assembly thus:

"141. An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is -

First.- To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislative of any State, or any public servant in the exercise of the lawful power of such public servant; or Second.- To resist the execution of any law, or of any legal process; or Third.- To commit any mischief or criminal trespass, or other offence; or Fourth.- By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or Fifth.- By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.- An assembly, which was not unlawful when it assembled, may subsequently become an unlawful assembly."

The ingredients of unlawful assembly are

(i) there is an assembly of five persons

(ii) the assembly had a common object and

(iii) the common object is to do one or more of the illegal acts specified in section.
(iv) the explanation: An assembly which at its beginning was not an unlawful assembly, may subsequently become an unlawful assembly.
(a) Thus an assembly of five or more persons having its common object any of the five objects enumerated under section 141 IPC is deemed to be an unlawful assembly. Membership of an unlawful assembly is itself an offence punishable under section 143 of IPC for a term which may extent to six months or with fine or with both. The other species of the said offence are dealt with under sections 143 to 145.
(b) We have seen that mere membership in unlawful assembly itself is an independent offence. Then the question is when the members of unlawful assembly commits an act in furtherance of the common object, what is the sentence provided there-for. Section 146 to 148 of IPC deal with the offence of rioting. Section 146 lays down that whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of common object of such assembly, every member of such assembly is guilty of the offence of rioting and punishable for a term which may extend to two years or with fine or with both under section 147. Then the aggravated form of rioting is using arms or deadly weapons for committing rioting. Section 148 lays down that whoever is guilty of rioting being armed with deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with a term extended upto three years.
5. Then the constructive liability among the members of unlawful assembly is more vividly pronounced under Section 149 of IPC. This section reads thus:
"149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object or that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence."
The section has the following ingredients:
1. There must be an unlawful assembly.
2. Commission of an offence by any member of an unlawful assembly.
3. Such offence must have been committed in prosecution of the common object of the assembly; or must be such as the members of the assembly knew to be likely to be committed.
(a) Thus section 149 is a specific, distinct and substantive offence. When a person falls within the groove of unlawful assembly and any other member of unlawful assembly commits an offence, then former cannot putforth a defence that he himself, did not commit the offence with his own hands. The constructive culpability is thus explained in this section. The principle of vicarious liability in criminal law has been more vividly extrapolated in different cases by Hon'ble Apex Court.
(i) In Masalti v. State of U.P.4 the Apex Court observed that section 149 is in a sense vicarious and does not always proceed on the basis that the offence has been actually committed by every member of the unlawful assembly.
(ii) Expressing similar view, in Lalji and Ors v. State of U.P.5 the Apex Court held that it is not necessary for each member of an unlawful assembly to do an overt act to fasten him with criminal liability. It was observed thus:
"9. Section 149 makes every member of an unlawful assembly at the time of committing of the offence guilty of that offence. Thus this section created a specific and distinct offence. In other words, it created a constructive or vicarious liability of the members of the unlawful assembly for the unlawful acts committed pursuant to the common object by any other member of that assembly. However, the vicarious liability

of the members of the unlawful assembly extends only to the acts done in pursuance of the common object of the unlawful assembly, or to such offences as the members of the unlawful assembly knew to be likely to be committed in prosecution of that object. Once the case of a person falls within the ingredients of the section the question that he did nothing with his own hands would be immaterial. He cannot put forward the defence that he did not with his own hands commit the offence committed in prosecution of the common object of the unlawful AIR 1965 SC 202 AIR 1989 SC 754 assembly or such as the members of the assembly knew to be likely to be committed in prosecution of that object. Everyone must be taken to have intended the probable and natural results of the combination of the acts in which he joined, It is not necessary that all the persons forming an unlawful assembly must do some overt act. When the accused persons assembled together, armed with lathis, and were parties to the assault on the complainant party, the prosecution is not obliged to prove which specific overt act was done by which of the accused. This section makes a member of the unlawful assembly responsible as a principal for the acts of each, and all, merely because he is a member of an unlawful assembly. While overt act and active participation may indicate common intention of the person perpetrating the crime, the mere presence in the unlawful assembly may fasten vicariously criminal liability under Section
149. It must be noted that the basis of the constructive guilt under Section 149 is mere membership of the unlawful assembly, with the requisite common object or knowledge."
(iii) In Bhudeo Mandal and Ors v. State of Bihar 6 the Apex Court observed that common object is the sine qua non to punish a person with the aid of section 149. It was observed thus:
"1.xxx We should like to point out that whenever the High court convicts any person or persons of an offence with the aid of Section 149 a clear finding regarding the common object of the assembly must be given and the evidence discussed must show not only the nature of the common object but also that the object was unlawful. Before recording a conviction under Section 149 of the Indian Penal Code, the essential ingredient of Section 141 of the Indian Penal Code must be established. Section 149 creates a specific offence and deals with the punishment of that offence. There is an assembly of five or more persons having a common object and the doing of acts by members is in prosecution of that object. The emphasis is on common object.xxxx"
(iv) In Musakhan and Ors v. State of Maharashtra7 the Apex Court held that mere presence in the mob will not make a person a member of an unlawful assembly. It observed thus:
"5. xxxx It is well settled that a mere innocent presence in an assembly of persons, as for example a bystander, does not make the accused a member of an unlawful assembly, unless it is shown by direct or circumstantial evidence that the accused AIR 1981 SC 1219 AIR 1976 SC 2566 shared the common object of the assembly. Thus a court is not entitled to presume that any and every person who is proved to have been present near riotous mob at any time or to have joined or left it at any stage during its activities is in law guilty of every act committed by it from the beginning to the end, or that each member of such a crowd must from the beginning have anticipated and contemplated the nature of the illegal activities in which the assembly would subsequently indulge. In other words, it must be proved in each case that the person concerned was not only a member of the unlawful assembly at some stage, but at all the crucial stages and shared the common object of the assembly at all these stages. xxxx"

(v) Above similar view is expressed in Bishambher Bhagat and Ors. v. State of Bihar8. The Supreme Court observed that mere presence of a person at the place where members of an unlawful assembly have gathered for carrying out their illegal common object, does not incriminate him. But the question is one of the fact in each case as to whether a person happens to be innocently present at the place of the occurrence or was actually a member of the unlawful assembly.
(vi) In Bhagwan Singh and Ors v. State of Madhya Pradesh9 the Apex Court held thus: "9. Common object, as contemplated by Section 149 of the Indian Penal Code, does not require prior concert or meeting of minds before the attack. Generally no direct evidence is available regarding the existence of common object which, in each case, has to be ascertained from the attending facts and circumstances. When a concerted attack is made on the victim by a large number of persons armed with deadly weapons, it is often difficult to determine the actual part played by each offender and easy to hold that such persons attacked the victim had the common object for an offence which was known to be likely to be committed in prosecution of such an object. It is true that a mere innocent person, in an assembly of persons or being a by-stander does not make such person a member of an unlawful assembly but where the persons forming the assembly are shown to be having identical interest in pursuance of which some of them come armed, others though not armed would, under the normal AIR 1971 SC 2381 (2002) 4 SCC 85 circumstances, be deemed to be the members of the unlawful assembly.
In this case the accused persons have been proved to be on inimical terms with the complainant-party. The enmity between the parties had been aggravated on account of litigation with respect to the dispute over the mango trees. Accused persons who came on the spot are shown to have come armed with deadly weapons. The facts and circumstances of the case unequivocally prove the existence of the common object of such persons forming the unlawful assembly who had come on the spot and attacked the complainant party in consequence of which three precious lives were lost. The High Court was, therefore, justified in holding that the accused persons, involved in the occurrence, had shared the common object."
6. Thus the jurimetrical jurisprudence on constructive liability envisaged in section 149 IPC tells us that a person can be vicariously held liable for the criminal act of an another person provided the former is proved to be a member of unlawful assembly sharing the common object to commit an offence. However, mere presence of a person will not automatically make him a member of unlawful assembly. Whether a person is member of such unlawful assembly is a question of fact. With this knowledge the case on hand has to be scrutinized.

CITATIONS

https://indiankanoon.org/doc/35260071/; M/S. Hindustan Unilever Ltd vs The State Of Telangana on 3 June, 2024; CRLP 5596/2023
In view of my observations above and also the judgments cited supra, once the offence has been compounded, the question of proceeding against this petitioner does not arise. The complaint cannot selectively make an application before a Court stating that he intends to compound the offence against one accused and continue prosecution against another. It is apparent from Section 320 Cr.P.C. that compounding would be of the offence and not against a particular offender.

https://indiankanoon.org/doc/87646765/; Divyanshu Jain vs The State Of Telangana, on 3 June, 2024; CRLP 8529/2023

Further, a perusal of the record reveals that the investigation is not yet concluded and without investigation, this Court cannot conclude that it is a false case and the cause of death has to be investigated by the Police. Therefore, at this stage, proceedings cannot be quashed against the petitioners.

https://indiankanoon.org/doc/26499818/; P.V.Parameshwar Rao vs The State Of Telangana on 3 June, 2024; CRLP 5600/2024

it is made clear that the counsel for the petitioner shall furnish the correct address and contact particulars of the petitioner to the Additional Public Prosecutor appearing in this petition, for communication in turn to the concerned Police for service of notice under Section 41-A of Cr.P.C., and for further proceedings.

https://indiankanoon.org/doc/69941186/; Pailla Anjaneyullu vs The State Of Telangana on 3 June, 2024;CRLA 509/2021

In the case before this Court, the bonafide certificate (Ex.P4) issued by the Government High School is available which shows the age of the victim to be around 14 years, while the in the age certificate (Ex.P10) given by the Assistant Dental Surgeon/P.W.12 on the basis of oral examination, it is mentioned as 15 years. The medical certificate (Ex.P11) given by the medical officer/P.W.13 is apparently not on the basis of any test conducted by him. In view of the same, it is clear that the certificate given by the Head Master, Government High School, Atmakur is corroborated and supported by the evidence of the age certificate given by P.W.12. Therefore, this Court is also satisfied that the victim girl was under the age of 18 years at the time of commission of the offence and therefore, the presumptions to be drawn are against the accused both under IPC as well as POCSO Act.

The trial Court also observed that P.W.3 is the only witness for the alleged incident of sexual assault by the accused and also the argument of the learned counsel for the accused is that P.W.3 victim girl was a consenting party to all the alleged acts committed by the accused. The trial Court, however, observed that since the victim girl was a minor, i.e., under 18 years of age, the question of giving her consent is immaterial to come to a just conclusion both under Section 375 of IPC and also under Sections 29 and 30 of POCSO Act. Thus, the trial Court held the accused guilty for the offences under Section 5(l) of POCSO Act and punishable under Section 6 of the POCSO Act and also under Section 376(2)(i) and (n) of IPC.

As regards Point No.(4) for the offence under Section 420 of IPC, the trial Court observed that the testimonies of P.Ws.1 to 3 and 6 clearly show that the accused, by making false promise to marry P.W.3, made her to participate in sexual intercourse with the accused and later on, refused to marry her and therefore, has committed the offence under Section 420 of IPC.

https://indiankanoon.org/doc/119923615/; M.A. Qavi Abbasi vs The State Of Telangana on 3 June, 2024; WP 28000/2023

As per the decision of this Court in MAJID BABU v. HOME SECRETARY, GOVERNMENT OF ANDHRA PRADESH(1987) 2 ALT 904, in order to classify a person as a habitual offender, he should be involved in more than two criminal cases. As seen from the above discussion, there are only two criminal cases pending against the petitioner, hence, the continuance of rowdy sheet against the petitioner is unsustainable.

The writ petition is allowed and the respondents are directed to forthwith close the rowdy sheet opened against the petitioner. This order, however, shall not preclude the respondents from opening rowdy sheet against the petitioner, in accordance with law, if he is involved in more than two criminal cases and if the conditions stipulated under Police Standing Order 601 of the Telangana Police Manual are attracted.

https://indiankanoon.org/doc/53538914/; Mallavarapu Veera Reddy vs The State Of Telangana on 3 June, 2024; CRLP 2822/2024

A plain reading of the above would abundantly make it clear that Section 6 of the Act does not attract the customers who approach a brothel house or a woman in prostitution.

It is pertinent to note that as per prosecution, the petitioners/accused Nos.3 and 4 are found at the scene of offence in the capacity of customer. Therefore, in view of the above discussion and provision of law, this Court is of the considered opinion that continuation of proceedings against the petitioners/accused Nos.3 and 4, under Section 6 of the Act, are undesirable and the same are liable to be quashed.

(The earlier judgment in case between S.Naveen Kumar Vs State of Telangana, stated that Section 370A IPC was attracted for Customers. It appears that the said judgment was not brought to the notice of the Hon'ble Court)

https://indiankanoon.org/doc/180851389/; Satturi Shekar Goud vs The State Of Telangana on 6 June, 2024; CRLP 5730/2024

Learned Assistant Public Prosecutor submitted that the Police filed alteration memo and the Sections were altered from 324 of IPC to Section 326 read with 34 of IPC and further Section 307 of IPC and Section 3(2)(v) of the Act were added. He further submitted that more than 10 cases are pending against petitioner No.1/accused No.1 and he is habitual offender of illegal transportation of cows.

Without going into the merits of the case, the punishment prescribed for the offence alleged against the petitioners is less than seven (07) years. However, there are allegations against petitioner No.1/accused No.1 and there are no allegations against petitioner Nos.2 to 5/accused Nos.2 to 5, this Court deems it appropriate to direct petitioner Nos.2 to 5/accused Nos.2 to 5 to appear before the Investigating Officer on or before 14.06.2024 between 11:00 a.m. and 05:00 p.m. and inturn the Investigating Officer is directed to follow the procedure laid down under Section 41-A Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar scrupulously.

(41A CRPC notice directed to be served in case under Section 307 IPC)

https://indiankanoon.org/doc/55797721/; **Akkala Anjaneyulu vs The State Of Telangana on 5 June, 2024; CRLP 4591/2023**

Having regard to the rival submissions, and material on record though there are allegations as per the statement and victim and complaint given to the police, and police also filed charge sheet stating the same whereas the statement given to the Magistrate under Section 164 Cr.PC, she clearly stated that no such offence took place on the date of incident, and she went to her friend's home and when she did not return her mother dialed 100 and police unnecessarily registered the case under these Sections. No such offence took place with her. The statements of witnesses under Section 164 Cr.PC shows that there is no offence against the petitioner, and except Section 161 Cr.P.C statement, there is no allegation against the petitioner.

In view of the same, as the allegations against the petitioner are vague in nature the petition is allowed quashing the proceedings against the petitioner/accused in S.C.No.983 of 2019 on the file of Fast Track Special Judge for trial and Disposal of Rape and POCSO Act Cases, at LB Nagar.

https://indiankanoon.org/doc/87658857/; Mohammed Gibran vs The State Of Telangana on 5 June, 2024; CRLP 3592/2023
when the offences are allegedly committed outside India by a citizen of India, then previous sanction of the Central Government is required for the trial to commence.

https://indiankanoon.org/doc/120477320/; Mir Barkath Ali Khan Alias Azmath Khan vs The State Of Telangana on 6 June, 2024; CRLP 5880/2024
the petitioner shall submit his defense and co-operate with the Investigating Officer as and when required by furnishing information and produce all relevant documents/material required for the purpose of the investigation and the Investigating Officer shall consider the same before filing appropriate report before the learned Magistrate concerned.

https://indiankanoon.org/doc/109523042/; Endrila Venkatesh vs The State Of Telangana on 5 June, 2024; WP 12340/2024
Learned counsel for the petitioners submitted that the petitioners have so far not responded to the Section 41-A notice and the statement made in the acknowledgement that the petitioner No.2 appeared on 23.05.2024 is incorrect.
As the order of this Court dated 02.05.2024 has been complied with and notice under Section 41-A Cr.P.C has been issued, no further orders are required to be passed. The writ petition is accordingly closed. However, the petitioners are given liberty to respond to the notice under Section 41-A Cr.P.C, if necessary, by taking assistance of an advocate. On the petitioners submitting reply/response to the notice under Section 41-A Cr.P.C., proper acknowledgment shall be given by the Investigation Officer.

https://indiankanoon.org/doc/91353530/; Boya Shaik Shavali vs The State Of Telangana on 3 June, 2024
Learned Assistant Government Pleader submitted that a notice under Section 41-A Cr.P.C was issued to the petitioner through Registered Post as the petitioner was not co- operating in the investigation and not coming forward to receive the notice.
In the above facts and circumstances and taking into consideration that notice under Section 41-A Cr.P.C has been issued, respondent No.3 is directed to follow the due process of law while conducting investigation in Crime No.264 of 2023 and also not to insist the petitioner for his presence in the Police Station, unless necessary for the purpose of investigation. The petitioner is directed to cooperate with the investigation and respond to Section 41-A Cr.P.C. notice.

(41A CrPC notice served through Registered Post)

https://indiankanoon.org/doc/98871829/; Tharun vs The State Of Telangana, on 10 June, 2024; CRLP 4412/2024
As seen from the above said provisions, it is clear that for Section 188 of the IPC, the Court is prohibited from taking cognizance, except on a complaint made by the authorities under the above said provisions. Admittedly, it is for the Police to file a complaint for the said offence, but not the charge sheet.

Further, it is also clear that for Section 290 of IPC, no Police Officer shall investigate the non cognizable case without the order of a Magistrate having power to try such case or commit the case for trial. In the present case, the Police has not taken permission from the Magistrate under Section 155 (2) of Cr.P.C., to investigate into such alleged offence. Admittedly, there is no compliance of Section 155 (2) of Cr.P.C.

https://indiankanoon.org/doc/171572164/; Mogili Santhosh vs The State Of Telangana on 10 June, 2024; CRLP 7719/2023; and Manupathi Thirupathi vs The State Of Telangana; CRLP 7711/2013
In spite of the stringent provisions available, illegal mining activities increased. Section 21 (4A) of the Act, 1957 shows that the duty is cast upon the Investigating Officer or officers concerned who seized the vehicle to initiate the confiscation proceedings before the trial Court. If the confiscation proceedings are initiated, the petition under Section 451 Cr.P.C to seek interim custody is not maintainable. From the view law laid down in the case of State of Madhya Pradesh v. Uday Singh 2020 12 SCC 733, it is clear that in the absence of initiation of the confiscation proceedings, the petition under Section 451 Cr.P.C, to seek interim custody of the vehicle is maintainable.

https://indiankanoon.org/doc/167612435/; Canara Bank, vs The State Of Andhra Pradesh, on 18 June, 2024; WP No. 21029/2017
the SARFAESI Act has overriding affect over the Andhra Pradesh Protection of Depositors of Financial Establishments Act 1999 (Act 17/1999)

https://indiankanoon.org/doc/27642169/;N Nirupa Latha, vs The State Of Andhra Pradesh, on 19 June, 2024; CRLP No. 9597/2023
In instances where serious accusations of criminal breach of trust regarding the educational society are made, the ongoing proceedings before the civil Court should not obstruct the investigation officer from carrying out the necessary investigations.

https://indiankanoon.org/doc/161794482/; M.A. Hadi Shaheri vs The State Of Telangana on 19 June, 2024; CRLP No. 4686/2024
The veracity of the depositions made by the witnesses is a question of trial need not be determined at the time of framing of charges. When a petition is filed under Section 216 of Cr.P.C., the Court has the power to alter/modify/add for framing the charges at any stage, even after completion of the trial or even after reserving the judgment. Further, framing of charges itself does not cause any prejudice to the accused and they can agitate and cross examine the witnesses on that aspect. Therefore, there are no merits in the criminal petition and the same is liable to be dismissed.

https://indiankanoon.org/doc/101193258/; Atul Kumar Gundawar vs The State Of Telangana on 19 June, 2024;CRLP 6428/2024
Learned counsel for the petitioner submitted that though recalling of PW.1 for further examination, is crucial to prove his case, the trial Court did not recall the PW.1 for further examination. Hence, he prayed the Court to allow the Criminal Petition by setting aside the impugned order dated 28.05.2024.
Hence, considering the submission of the learned counsel for the petitioner, to give one more opportunity to the petitioner, this Court is inclined to allow the Criminal Petition.

https://indiankanoon.org/doc/124078283/; K. Yoga Narasimha Reddy Bujji, Nellore vs State Of A.P., on 19 June, 2024; CRLA 137/2015

Since perfection in this imperfect world is seldom to be found, and the evidence of a witness, more so of an interested witness, is generally fringed with embellishment and exaggerations, however true in the main, the court may look for some assurance, the nature and extent of which will vary according to the circumstances of the particular case, from independent evidence, circumstantial or direct, before finding the accused guilty on the basis of his interested testimony. We may again emphasise that these are only broad guidelines which may often be useful in assessing interested testimony, and are not iron-cased rules uniformly applicable in all situations.

https://indiankanoon.org/doc/92124439/; T.Bhaskar vs State Of AP on 19 June, 2024; CRLP No.457/2019

Since prosecution case mainly depends on the evidence of these two witnesses and as they turned hostile, it is germane for us to discuss the evidentiary value of a hostile witness. Law is no more res integra on this ::11::
station and informed the said fact. Police recorded his statement and conducted investigation. According to this witness, due to the disputes occurred between his son and accused, the accused killed his son. PWs.2 to 4 also deposed in similar lines regarding the incident proper and other associate facts. Needless to emphasize, PWs.1 to 4 depended on the information provided by PW.5 on the incident proper.
Then we carefully scrutinized the evidence of PW.5. His admissions are to the effect that he knows A1 & A2 and they are his friends. On 26.03.2016 at about 06:00 pm while he was returning from gym, he saw galata at the Banyan tree in Talpagiri colony and he went and informed to PW.1 & 2 about the said galata. He of course stated that he could not identify the persons involved in the galata. Be that as it may, PWs.1 to 4 in one voice stated that this witness went to their house and informed that the accused have beaten their son Bhoominathan and forcibly taken him in their auto. Whereas, PW.5 says that he only informed about the galata but he did not mention the persons who were involved in the said galata. This part of his evidence is undoubtedly a false statement, because unless this witness went and informed about the galata and persons involved in the said galata, PW.1 to 4 had no occasion to know the particulars of the persons involved in the galata. In our view, there was no necessity for PW.1 to 4 to falsely depose that on the information of PW.5 they came to know that Bhoominathan was beaten and kidnapped by the accused. Most importantly, PW.1 and his family members immediately rushed to the spot on the information of PW.5 and having not found their son but only his auto, they searched for him and gave Ex.P1-report on that night. In the said report they specifically mentioned about A1, A2 and the alias names of the A3 & A4. The FIR was lodged without any delay and in the FIR the name of the accused was also specifically mentioned. All these events would unerringly show that it was the PW.5 alone informed to PW.1 about accused beating and kidnapping Bhoominathan. Therefore, his version that he only informed about the galata but not about the persons involved is a fabrication. Since, A1 & A2 are his friends, PW.5 gave false evidence to save them. So, from the admissible portion of the evidence of PW.5 coupled with the unimpeachable evidence of PW.1 to 4, it is clear that the accused party have kidnapped the deceased. So far as the accused are concerned, A1 & A2 are mentioned in the FIR and there is no identity problem for PW.5 as they are his friends.

164 Cr.P.C statement is not a substantial piece of evidence so that a Court can place implicit reliance on it. Learned counsel relied on State of Karnataka v. P.Ravi Kumar Alias Ravi1 (2018) 9 SCC 614
He admitted that his statement under 164 Cr.P.C. was recorded by the Magistrate. However, according to him, police asked him to give statement as if Bhoominathan was in altercation with some persons. He was afraid of police when he gave the statement. However, he was able to give evidence without any fear in the Court.

https://indiankanoon.org/doc/95198293/;Mohammed Raheel Aamir vs The State Of Telangana on 18 June, 2024; CRLP No. 6252/2024
As per the prosecution the involvement of the petitioner came to light on his statement before the police in another crime. The further investigation has led to the direct witness and his statement has been recorded. Additionally the WhatsApp Chat is also pointing to the involvement of the petitioner. Having regard to the prima facie case and the prosecution's plea as to requirement of custodial interrogation and the depth of allegations, this Court is of the considered view that the prayer of the petitioner for grant of anticipatory bail is not acceptable.

https://indiankanoon.org/doc/127250122/; Bollineni Krishnaveni vs The State Of Telangana on 24 June, 2024; CRLP 616/2024 & WP 1875/2024
It is not in dispute that complaint is not an Encyclopaedia. It is only First Information Report. There is no need to the de-facto complainant to mention all the aspects in the complaint itself. Setting the criminal law into motion is enough. It is for the Investigating Officer to conduct investigation strictly in accordance with law. He shall record the statements of relevant witnesses and also collect documentary evidence. On consideration of the said statements and evidence, he will file a report under Section 173 Cr.P.C.
It is also not in dispute that during the course of investigation, the Investigating Officer is having power to add or delete any offences or alter Section of law. He is also having power to close the said complaint on the grounds of lack of evidence, civil in nature and mistake of fact.

https://indiankanoon.org/doc/27242129/; Tarala Vijaya Babu, vs The State Of Andhra Pradesh, on 25 June, 2024; CRLA 1299/2008
In N.P.Lotlikar V. C.B.I's case (1993 CRI.L.J.2051) cited by the appellant itself indicates that a sanctioning authority considering a draft sanction order produced by the prosecuting agency is always in accordance with law. In Prakash Dharu V. State of Rajasthan's case (Civil Writ Petition No.3055/2013 decided on 14.06.2016.), the Hon'ble Rajasthan High Court held that it is common knowledge that the sanction orders are drawn up after an active discussion is held between the sponsoring and the sanctioning authority. In its opinion, the draft sanction if prepared would virtually be an expression of the sanctioning authority. Even if it is accepted for arguments sake, that the draft sanction and the order according sanction are identical, then too, it hardly affects the merits of the order granting sanction because the narration of facts mentioned therein would not have been deviated in the slightest. In State V. S.N.Mehra's case (1953CRILJ1310). It held that if the sanctioning authority perused the papers placed before it, it must be deemed to have exercised its mind about it and therefore such a sanction order cannot be called defective. In Superintendent of Police (CBI) V. Deepak Chowdary's case (1995 SCC (6) 225, AIR 1996 SUPREME COURT 186), their Lordships of the Hon'ble Supreme Court of India held "the grant of

sanction is only an administrative function.....What is material at that time is that the necessary facts collected during investigation constituting the offence have to be placed before the sanctioning authority and it has to consider the material. Prima facie, the authority is required to reach the satisfaction that the relevant facts would constitute the offence and then either grant or refuse to grant sanction. The grant of sanction, therefore, being administrative act, the need to provide an opportunity of hearing to the accused before according sanction does not arise. In K.Srinivasulu V. The Government of A.P's case (2010 SCC Online AP 151), it was held that an order of sanction could not be considered in a pedantic manner. The order of granting sanction must be demonstrative of the fact that there had been proper application of mind on part of the sanctioning authority. It need not contain detailed reasons. It must clearly indicate the specific provision of a section for which sanction for prosecution is granted.

https://indiankanoon.org/doc/56940525/; Jangidi Sushila vs The State Of Telangana on 26 June, 2024; CRLP 6779/2024

the said vehicle is involved in mining and transporting the sand illegally. Registering the Criminal Case will make little impact. The alternative scheme of confiscation proceedings has been provided to over come the adverse consequences resulting in delay for disposal of the criminal prosecutions involving confiscation. The confiscation of the said vehicle is one of the effective tool for protecting the illegal mining and preserving the environment and under Section 3 of the Act, the Court taking cognizance of the offence can confiscate. The Criminal prosecution and confiscation proceedings are parallel proceedings and having distinct purpose and object. The same 4 SKS,J was dealt with by the Hon'ble Apex Court in the case of Divisional Forest Officer v. G.V.Sudhakar Rao1. The relevant portion of the said judgment is as follows:-

"Criminal prosecution is distinct from confiscation proceedings. The two proceedings are different and parallel, each having a distinct purpose. The object of confiscation proceeding is to enable speedy and effective adjudication with regard to confiscation of the produce and the means used for committing the offence while the object of the prosecution is to punish the offender. The scheme of the Adhiniyam prescribes an independent procedure for confiscation. The intention of prescribing separate proceedings is to provide a deterrent mechanism and to stop further misuse of the vehicle."

NOSTALGIA

FIR-ENCYCLOPEDIA

In a case of State of Uttar Pradesh versus Krishna Master and others, wherein it was held that: As far as this aspect is concerned, this Court notices that the FIR need not be an encyclopedia of all the facts and circumstances on which the prosecution relies. The main purpose of the FIR is to enable a police officer to satisfy himself as to whether commission of cognizable offences is indicated so that further investigation can be undertaken by him. The purpose of the FIR is to set the criminal law in motion and it is not customary to mention every minute detail of the prosecution case in the FIR. FIR is never treated as a substantive piece of evidence and has a limited use, i.e., it can be used for the corroborating or contradicting the maker of it. Law requires FIR to contain basic prosecution case and not minute details. The law developed on the subject is that even if an accused is not named in the FIR he can be held

guilty if prosecution leads reliable and satisfactory evidence which proves his participation in crime. Similarly, the witnesses whose names are not mentioned in the FIR but examined during the course of trial can be relied upon for the purpose of basing conviction against the accused. Non-mentioning of motive in the FIR cannot be regarded as omission to state important and material fact. As a principle, it has been ruled by this Court that omission to give details in the FIR as to manner in which weapon was used by accused is not material omission amounting to contradiction. Further, this is a case wherein FIR was filed by a rustic man and, therefore, non-mentioning of motive in the FIR cannot be attached much importance.

It is settled law that the FIR need not contain an exhaustive account of the incident. This Court in Om Prakash v. State of Uttaranchal, (2003) 1 SCC 648, observed as follows:

"10. …It is axiomatic that the FIR need not contain an exhaustive account of the incident. It is to be noted that the report was given to the police within one-and-a-half hours after the incident. PW 8, a known person, had drafted the report that she dictated. She had given all essential and relevant details of the incident naming the accused as culprit. We cannot expect a person injured and overtaken by grief to give better particulars. The possibility of PW 1 inventing a story at that juncture trying to implicate the accused is absolutely ruled out. The contents of the FIR, broadly and in material particulars, conform to the version given by PW 1 in her deposition..." A FIR is not an encyclopaedia of the case. This Court in Surjit Singh v. State of Punjab, 1993 Supp (1) SCC 208, observed as follows:

"8. …In this situation the aforesaid misdescriptions/omissions in the FIR about the number of shots fired and the absence of Taljit Singh's injuries or the appellant being not described as a military man become of lesser importance. First Information Report is not an encyclopaedia of the entire case and is even not a substantive piece of evidence. It has value, no doubt, but only for the purpose of corroborating or contradicting the maker. Here the maker was a young woman who had lost her husband before her very eyes. The omission or misdescription of these details in the FIR which was recorded most promptly, within three hours of the occurrence, would not tell on the prosecution case or the statements of the eyewitnesses with regard to the participation of the appellant in the crime. He had taken a leading and prominent part in spearheading and committing it. For these reasons, we are of the view that the High Court was right in convicting the appellant on giving cogent reasons to demolish the reasoning of the Trial Judge and adding thereto reasons of its own." (emphasis supplied) A witness' testimony need not be disbelieved only because it did not find mention in the FIR. In State of M.P. v. Dhirendra Kumar, (1997) 1 SCC 93, this Court discussed and applied the principle as follows:

"11. It was very emphatically contended by Shri Gambhir that as in the first information report (FIR) there is no mention about the dying declaration, we should discard the evidence of PW 1 and PW 2 regarding dying declaration, because of what has been pointed out by this Court in Ram Kumar Pandey v. State of M.P. [(1975) 3 SCC 815 : 1975 SCC (Cri) 225 : AIR 1975 SC 1026] We do not, however, agree with Shri Gambhir, for the reason that what was observed in Ram Kumar case [(1975) 3 SCC 815 : 1975 SCC (Cri) 225 : AIR 1975 SC 1026] after noting the broad facts, was that material omission in the FIR would cast doubt on the veracity of the prosecution case, despite the general law being that statements made in the FIR can be used to corroborate or contradict its maker. This view owes its origin to the thinking that if there be material departure in the prosecution case as unfolded in the FIR, which would be so if material facts not mentioned in the FIR are deposed to by prosecution witnesses in the court, the same would cause dent to the edifice on which the prosecution case is built, as the

substratum of the prosecution case then gets altered. It is apparent that prosecution cannot project two entirely different versions of a case. This is entirely different from thinking that some omission in the FIR would require disbelieving of the witnesses who depose about the fact not mentioned in the FIR. Evidence of witnesses has to be tested on its own strength or weakness. While doing so, if the fact deposed be a material part of prosecution case, about which, however, no mention was made in the FIR, the same would be borne in mind while deciding about the credibility of the evidence given by the witness in question." (emphasis supplied) Recently, in Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1, this Court observed as follows:

"57. As far as the argument that the FIR does not contain the names of all the accused persons is concerned, it has to be kept in mind that it is settled law that FIR is not an encyclopaedia of facts and it is not expected from a victim to give details of the incident either in the FIR or in the brief history given to the doctors. FIR is not an encyclopaedia which is expected to contain all the details of the prosecution case; it may be sufficient if the broad facts of the prosecution case alone appear. If any overt act is attributed to a particular accused among the assailants, it must be given greater assurance. In this context, reference to certain authorities would be fruitful."

SECONDARY EVIDENCE- WHEN NOT ADMISSIBLE

Secondary evidence, as a general rule is admissible only in the absence of primary evidence. **If the original itself is found to be inadmissible through failure of the party, who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.**

Essentially, secondary evidence is an evidence which may be given in the absence of that better evidence which law requires to be given first, when a proper explanation of its absence is given. The definition in Section 63 is exhaustive as the Section declares that secondary evidence "means and includes" and then follow the five kinds of secondary evidence.

The rule which is the most universal, namely that the best evidence the nature of the case will admit shall be produced, decides this objection that rule only means that, so long as the higher or superior evidence is within your possession or may be reached by you, you shall give no inferior proof in relation to it. Section 65 deals with the proof of the contents of the documents tendered in evidence. **In order to enable a party to produce secondary evidence it is necessary for the party to prove existence and execution of the original document.** Under Section 64, documents are to be provided by primary evidence. Section 65, however permits secondary evidence to be given of the existence, condition or contents of documents under the circumstances mentioned. The conditions laid down in the said Section must be fulfilled before secondary evidence can be admitted. **Secondary evidence of the contents of a document cannot be admitted without non-production of the original being first accounted for in such a manner as to bring it within one or other of the cases**

Evidence Act, 1872--Sections 63 and 65 (a)--Secondary evidence--Admissible only in absence of primary evidence--If original itself found to be inadmissible through failure of party--Same party not entitled to introduce secondary evidence of its contents--In order to enable party to produce secondary evidence--It is necessary for party to prove existence and execution of original document--Conditions laid down in Section 65 must be fulfilled before secondary evidence can be admitted.

Smt. J. Yashoda vs Smt. K. Shobha Rani on 19 April, 2007; AIR 2007 SC 1721,

SIGNATURE OF ACCUSED ON CONFESSION OR SEIZURE MEMO

The Supreme Court of India's decision, in the case of, *Dr. Sunil Clifford Daniel v. the State of Punjab* (2012) concerned about the inter-relation existing between Section 162 (1) of the Code of Criminal Procedure, 1973 and Section 27 of the Indian Evidence Act, 1872. Section 162(1) reads as, *"a statement made by any person to a police officer in the course of an investigation done, if reduced to writing, be not signed by the person making it"*, which by its very language makes it clear that law requires a statement that has been made before the investigating officer to not be signed by the witness giving it. To simplify, the witness will not be bound by his statements made before the concerned authority. But it is noteworthy to mention that the provision of Section 162(1) of C.r.P.c will not be applicable to the statements under Section 27 of the Evidence Act. While observing this, the Apex Court noted that there lies no obligation on the part of the investigating officer to obtain the initials of an accused in the statements that have been attributed to him while preparing seizure memo under Section 27 of the Act of 1872. But if such initials have been obtained then the same will not be considered unlawful.

CONTRADICTING MEDICAL CERTIFICATES

Where the opinion of one medical witness is contradicted by another and both experts are equally competent to form an opinion, the court will accept the opinion of that expert which supports the direct evidence in the case. [Piara Singh v. State of Punjab AIR 1977 SC 2274]

EXPERT OPINION NOT OBTAINED – NOT FATAL

State of Punjab v. Jugraj Singh, (2002) 3 SCC 234 "18. In the instant case the investigating officer has categorically stated that guns seized were not in a working condition and he, in his discretion, found that no purpose would be served by sending the same to the ballistic expert for his opinion. No further question was put to the investigating officer in cross-examination to find out whether despite the guns being defective the fire pin was in order or not. In the presence of convincing evidence of two eyewitnesses and other attending circumstances we do not find that the non-examination of the expert in this case has, in any way, affected the creditworthiness of the version put forth by the eyewitnesses." [Gulab v. State of Uttar Pradesh, 2021 SCC OnLine SC 1211, decided on 09.12.2021].

CATEGORIZATION OF INTERESTED WITNESSES

In Raju and Ors v. State of Tamil Nadu10 the Apex Court observed thus:

"33. For the time being, we are concerned with four categories of witnesses - a third party disinterested and unrelated witness (such as a bystander or passer-by); a third party interested witness (such as a trap witness); a related and therefore an interested witness (such as the wife of the victim) having an interest in seeing that the accused is punished; a related and therefore an interested witness (such as the wife or brother of the victim) having an interest in seeing the accused punished and also having some enmity with the accused. But, more than the categorization of a witness, the issue really is one of appreciation of the evidence of a witness. A court should examine the evidence of a related and interested witness having an interest in seeing the accused punished and also having some enmity with the accused with greater care and caution than the evidence of a third party disinterested and unrelated witness. This is all that is expected and required.

xxxx

38. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a (2012) 12 SCC 701 rule of prudence and not one of law, as held in Dalip Singh and pithily reiterated in Sarwan Singh in the following words:
The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinized with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration."

NEWS

- Final Rpwd (Amendment) Rules, 2023 Incorporating Accessibility Standards And Guidelines For Mha Specific Built Infrastructures And Associated Services For Police Stations, Prisons And Disaster Mitigation Centers
- Declaring Under Section 37 Of Bharatiya Nagarik Suraksha Sanhita, 2023 Police Control Rooms. [G.O.Ms.No.79, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Conferring Powers On All Police Officers And Police Men As Per Sub-Section (3) Of Section 218 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.77, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Notifying All The Police Officers And Police Men Of The Rank Of Head Constables And Above To Be Officers Specially Empowered Subsection (1) Of Section 194 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.76, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Directions To The Officer In Charge Of Every Police Station To Implement Provisions Of Sub-Section (3) Of Section 176 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.75, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Conferring Powers On All Police Officers And Police Men As Per Sub-Section (2) Of Section 42 Of Bharatiya Nagarik Suraksha Sanhita , 2023. [G.O.Ms.No.74, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Appointment Of Special Executive Magistrates In Police Commissionerate Areas Under Sections 126, 127 , 128 , 129 & 163 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.73, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Appointment Of Special Executive Magistrates Under Section 15 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.72, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- High Court For The State Of Andhra Pradesh Roc.No.155/E1/2024. Date: 21-06-2024. Notifications Issued By The Hon'ble High Court In Consonance With The Bharatiya Nagarik Suraksha Sanhita, 2023, Regarding Redesignation And Notification Of The Courts Presently Existing In The Metropolitan Areas Of Visakhapatnam And Vijayawada In All Cadres.

- Declaring Under Section 37 Of Bharatiya Nagarik Suraksha Sanhita, 2023 Police Control Rooms. [G.O.Ms.No.79, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- Notifying Video Conferencing Rooms At District And Mandal / Tehsil Levels For Examination Of Witnesses Under Sub-Section (3) Of Section 265 Of Bharatiya Nagarik Suraksha Sanhita, 2023. [G.O.Ms.No.78, Law (L And La & J - Home - Courts-B), 28th June, 2024.]
- TG DGP Notification dated 25.06.2024, regarding applicability of New Criminal Laws basing on the date of commission and reporting the same at P.S.
- AP DGP Notification dated 28.06.2024 regarding applicability of New Criminal Laws basing on the date of commission and reporting the same at P.S.

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ON A LIGHTER VEIN

A mother travelled 2000 miles across the World to be with her only son on the day he received his Air Force Wings (licence to fly), and also got married the same evening.

"Thanks for coming", he said later, "It meant so much to me".

_"I wouldn't have missed it", she said. "After all, it's not every day a mother can watch, her son get Wings in the morning and have them Clipped in the evening!"

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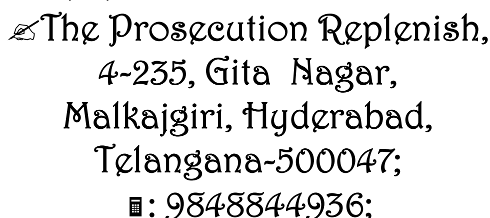
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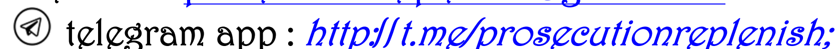
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Aano Bhadr Kratvo Yantu Viswatah
(Let Noble Thoughts Come To Me from All Directions)

यस्य कृत्यं न जानन्ति मन्त्रं वा मन्त्रितं परे।
कृतमेवास्य जानन्ति स वै पण्डित उच्यते ॥

That person is intelligent whose actions, behavior, confidentiality, and thoughts are revealed only after completion of the task.

CITATIONS

CITATIONS

2024 0 INSC 462; 2024 0 Supreme(SC) 524; Surender Singh Vs. State (NCT Of Delhi); Criminal Appeal No. 597 of 2012: 03-07-2024

As far as possible, the defence should be asked to cross examine the witness the same day or the following day. Only in very exceptional cases, and for reasons to be recorded, the cross examination should be deferred and a short adjournment can be given after taking precautions and care, for the witness, if it is required. We are constrained to make this observation as we have noticed in case after case that cross examinations are being adjourned routinely which can seriously prejudice a fair trial.

The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.] but even here the adjournment is not to be given as a matter of right and ultimately it is the discretion of the Court. In State of Kerala v. Rasheed (2019) 13 SCC 297, this Court has set certain guidelines under which such an adjournment can be given. The emphasis again is on the fact that a request for deferral must be premised on sufficient reasons, justifying the deferral of cross-examination of the witness.

This court has reiterated in more than one cases right from K.M. Nanavati v. State of Maharashtra AIR 1962 SC 605 onwards that provocation itself is not enough to reduce the crime from murder to culpable homicide not amounting to murder. In order to convert a case of murder to a case of culpable homicide not amounting to murder, provocation must me such that would temporarily deprive the power of self-control of a “reasonable person”. What has also to be seen is the time gap between this alleged provocation and the act of homicide; the kind of weapon used; the number of blows, etc. These are again all questions of facts. There is no standard or test as to what reasonableness should be in these circumstances as this would again be a question of fact to be determined by a Court.

2024 0 Supreme(SC) 526; Bhupatji Sartajji Jabraji Thakor Vs. The State of Gujarat; Special Leave Petition (Criminal) Diary No.27298 of 2024 (Arising out of impugned final judgment and order dated 06-12-2023 in CRLMA(SOS) No.1 of 2023 passed by the High Court of Gujarat at Ahmedabad); Decided On : 05-07-2024

There is a fine distinction between a sentence imposed by the trial court for a fixed term and sentence life imprisonment. If a sentence is for a fixed term, ordinarily, the appellate court may exercise its discretion to suspend the operation of the same liberally unless there are any exceptional circumstances emerging from the record to decline. However, when it is a case of life imprisonment, the only legal test which the Court should apply is to ascertain whether there is anything palpable or apparent on the face of the record on the basis of which the court can come to the conclusion that the conviction is not sustainable in law and that the convict has very fair chances of succeeding in his appeal. For applying such test, it is also not permissible for the court to undertake the exercise of re-appreciating the evidence. The emphasis is on the word “palpable” and the expression “apparent on the face of the record”.

2024 0 INSC 464; 2024 0 Supreme(SC) 529; Naresh Kumar Vs. State of Delhi; Criminal Appeal No.1751 of 2017; Decided on : 08-07-2024

Births of crimes and culprits concerned, occur together. Yet, under the criminal justice delivery system only on concluding findings on commission of the crime concerned in the affirmative, the question whether the accused is its culprit would arise. Culpability can be fixed, if at all it is to be fixed, on the accused upon conclusive proof of the same established by the prosecution only after following various procedural safeguards recognizing certain rights of an accused. Failure to comply with such mandatory procedures may even vitiate the very trial, subject to the satisfaction of conditions, therefor. Foremost among one such right is embedded in Section 313 of the Code of Criminal Procedure, 1973 (for short the ‘Cr.PC’). Though questioning under clause (a) of sub-Section (1) of Section 313, Cr.PC, is discretionary, the questioning under clause (b) thereof is mandatory. Needless to say, a fatal non-compliance in the matter of questioning under Clause (b) of sub-section (1) thereof, in case resulted in material prejudice to any convict in a criminal case the trial concerned, qua that convict should stand vitiated. This prelude becomes necessary as in the captioned appeal the main thrust of the argument advanced is founded on fatal, non-compliance in the matter of questioning under Section 313, Cr.PC, qua the appellant who is a life convict.

We have already held that whether non-questioning or inadequate questioning on incriminating circumstances to an accused by itself would not vitiate the trial qua the accused concerned and to hold the trial qua him is vitiated it is to be established further that it resulted in material prejudice to the accused. True that the onus to establish the prejudice or miscarriage on account of non-questioning or inadequate questioning on any incriminating circumstance(s), during the examination under Section 313, Cr.PC, is on the convict concerned. We say so, because if an accused is ultimately acquitted, he could not have a case that he

was prejudiced or miscarriage of justice had occurred owing to such non-questioning or inadequate questioning.

2024 0 INSC 468; 2024 0 Supreme(SC) 532; Suresh Dattu Bhojane & Anr. Vs. State Of Maharashtra; Criminal Appeal No.412 Of 2012; With Satish Rama Bhojane Vs. The State Of Maharashtra; Criminal Appeal No. 651 Of 2013; Decided On : 08-07-2024
their presence with the other co-accused amounted to an unlawful assembly which is sufficient for conviction, even if they may have not actively participated in the commission of the crime. It goes without saying that when the charge is under Section 149, the presence of the accused as part of the unlawful assembly itself is sufficient for conviction [Yunis alias Kariya vs. State of Madhya Pradesh, AIR 2003 SC 539].

2024 0 INSC 474; 2024 0 Supreme(SC) 538; P. Sasikumar Vs. The State Rep. By The Inspector of Police; Criminal Appeal No.1473 of 2024 (Arising Out of SLP (CRL.) No.2756 of 2019); Decided On : 08-07-2024
It is well settled that TIP is only a part of Police investigation. The identification in TIP of an accused is not a substantive piece of evidence. The substantive piece of evidence, or what can be called evidence is only dock identification that is identification made by witness in Court during trial. This identification has been made in Court by PW-1 and PW-5. The High Court rightly dismisses the identification made by PW-1 for the reason that the appellant i.e., accused no.2 was a stranger to PW-1 and PW-1 had seen the appellant for the first time when he was wearing a monkey cap, and in the absence of TIP to admit the identification by PW-1 made for the first time in the Court was not proper.

2024 0 INSC 480; 2024 0 Supreme(SC) 544; Dharmendra Kumar @ Dhamma Vs. State of Madhya Pradesh; Criminal Appeal No. 2806 of 2024 [Arising out of Special Leave to Appeal (Crl.) No. 11793 of 2022]; Decided on : 08-07-2024
It must also be borne in mind that FIR is not a substantive piece of evidence, and it can be used only to corroborate or contradict the version of an Informant. It is also not necessary that there should always be a written complaint to register the FIR. Even an oral communication to the Police disclosing the commission of a cognizable offence is sufficient to register the FIR.
The object of the FIR is three-fold: firstly, to inform the jurisdictional Magistrate and the Police Administration of the offence that has been reported to the Police Station; secondly, to acquaint the Judicial Officer before whom the case is ultimately tried as to what are the actual facts stated immediately after the occurrence and on what materials the investigation commenced; thirdly and most importantly, to safeguard the accused against subsequent variations, exaggerations or additions.
this Court in State v. N.S. Gnaneswaran, (2013) 3 SCC 594. has ruled that the stipulations outlined in Section 154 CrPC concerning the reading over of the information after it is written down, the signing of the said information by the

informant, and the entry of its substance in the prescribed manner are not obligatory. These requirements are procedural in nature, and the omission of any of them does not impact the legal consequences resulting from the information provided under the section.
it is manifest that the mere non-obtainment of a medical fitness certificate will not deter this Court from considering a properly recorded statement under Section 161 CrPC to be a dying declaration.
it is indubitably the responsibility of the court to ensure that the declarant was in a sound state of mind. This is because there are no rigid procedures mandated for recording a dying declaration. If an eyewitness asserts that the deceased was conscious and capable of making the declaration, the medical opinion cannot override such affirmation, nor can the dying declaration be disregarded solely for want of a doctor's fitness certification. The requirement for a dying declaration to be recorded in the presence of a doctor, following certification of the declarant's mental fitness, is merely a matter of prudence. [10][Koli Chunilal Savji v. State of Gujarat, (1999) 9 SCC 562.]

2024 0 INSC 483; 2024 0 Supreme(SC) 547; The State Of Punjab Vs, Partap Singh Verka; Criminal Appeal No. 1943 Of 2024 (Arising Out Of SLP (CRL) No. 6006 Of 2019); Decided On : 08-07-2024
It is a well settled position of law that courts cannot take cognizance against any public servant for offences committed under Sections 7, 11, 13 & 15 of the P.C. Act, even on an application under section 319 of the CrPC, without first following the requirements of Section 19 of the P.C Act. Here, the correct procedure should have been for the prosecution to obtain sanction under Section 19 of the P.C Act from the appropriate Government, before formally moving an application before the Court under Section 319 of CrPC. In fact, the Trial Court too should have insisted on the prior sanction, which it did not. In absence of the sanction the entire procedure remains flawed.

2024 0 INSC 487; 2024 0 Supreme(SC) 551; Ratnu Yadav Vs. The State of Chhattisgarh; Criminal Appeal No. 1635 of 2018; 09-07-2024
A Statement under Section 161 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') of the witness was recorded by the police. Obviously, as the said witness made a departure from what she had stated in the police statement, at the instance of the public prosecutor, the witness was declared hostile. The cross-examination of the witness by the public prosecutor shows that the witness was not confronted by showing the relevant part of her statement recorded under Section 161 of CrPC. The witness ought to have been confronted with her prior statement in accordance with Section 145 of the Indian Evidence Act.

2024 0 INSC 504; 2024 0 Supreme(SC) 568; Shanmugasekar Vs. The State of Tamil Nadu; Criminal Appeal No. 204 OF 2024; 10-07-2024.;
As the eyewitnesses are related to the deceased, we have closely scrutinised their evidence. We find no material contradictions and omissions brought on

record in their cross-examination. As the ocular evidence of the eyewitnesses inspires confidence, minor discrepancies in their evidence regarding the exact time of the incident are not sufficient to discard their testimony.
If there was no intention on the part of the appellant to cause bodily injury to the deceased and other injured witnesses, there was no reason for him to go back to his house and bring the weapon. He brought the billhook from his home, obviously to make an assault. It is not the defence of the appellant that the deceased was the aggressor. The deceased had come to the spot only to resolve the fight among the family members of the appellant. Hence, it cannot be said that there was a sudden and grave provocation due to any act on the part of the deceased. The appellant himself started the dispute by questioning the PW-4 on non-payment of the electricity bill. Therefore, the appellant's case will not fall under Exception 1 or Exception 4 of Section 300 of the IPC. We may also note here that the post-mortem notes show that there was a brain injury inflicted on the deceased. The medical opinion is that the deceased died due to shock and bleeding on account of the chest injury and head injury.

https://indiankanoon.org/doc/35027035/;**Jarpula Ramulu vs The State Of Telangana on 10 July, 2024; Crl.P.No.2787 OF 2024**
Having regard to the rival submissions made and on going through the material placed on record, it is noted that the question before this Court is whether the Court can take cognizance independently without considering the opinion of the Investigating Officer, opined in the charge sheet and considering averments averred in the Section 161 Cr.P.C., statements of witnesses.
In the case on hand, the statement of the witnesses would show that the accused persons came to the house of victim, created chaos and poured pesticide in the mouth of victim, whereas, according to the Police, accused No.2 confessed commission of offence and on basis of the said confession, the CCTV footages, photographs and CD were seized which shows that victim herself has consumed pesticide, as such, the Police deleted Sections 354 and 307 of IPC and filed alteration memo. However, this Court is of the opinion that the said CCTV footage requires proof and at this stage, basing on the said evidence, a conclusion cannot be arrived at that there is no attempt under Section 307 of IPC.
Mere deletion of Sections 354 and 307 of IPC by the Investigating Officer in the charge sheet is not a ground to find fault with the cognizance order of the trial Court. That being so, it can be concluded that the trial Court can independently form opinion deferring with the opinion formed by the Investigating Officer.

https://indiankanoon.org/doc/63070677/; **Asadi Prasanna Kumar, Ananthapur Dist. vs P.P., Hyd on 8 July, 2024; CRLA 1209/2014.**
it is clear that the test identification in respect of the properties are not conducted in accordance with the procedure prescribed in Criminal Rules of Practice. Therefore, much credence cannot be given to the alleged test identification of the properties

https://indiankanoon.org/doc/61533846/; **Gandikota Shekar vs The State Of Telangana on 5 July, 2024; CRLP 7121/2024.**
In spite of the stringent provisions available, illegal mining activities increased. Section 21 (4A) of the Act, 1957 shows that the duty is cast upon the Investigating Officer or officers concerned who seized the vehicle to initiate the confiscation proceedings before the trial Court. If the confiscation proceedings are initiated, the petition under Section 451 Cr.P.C to seek interim custody is not maintainable. From the view law laid down in the case of State of Madhya Pradesh v. Uday Singh, it is clear that in the absence of initiation of the confiscation proceedings, the petition under Section 451 Cr.P.C, to seek interim custody of the vehicle is maintainable.

https://indiankanoon.org/doc/38227532/; **M/S. Mallikarjun Infrastructures vs The State Of Telangana on 5 July, 2024; CRLP 7281/2024**
As seen from the record, the petitioner filed Crl.M.P.No.486 of 2023 and the same was allowed on 13.10.2023 sending the specimen signatures of the petitioner sent to Forensic Science Laboratory for comparison with the signature on the disputed cheque. Thereafter, the Forensic Science Laboratory vide letter dated 23.02.2024 requested the Court to send cheques, account opening forms, sale deeds, will deeds, agreement, withdrawal forms of the petitioner for the purpose of comparison. Hence, in view of the submission made by the learned counsel for the petitioner and circumstances of the case, to give fair opportunity, this Court is inclined to direct the trial Court to recall the records of specimen signature, account opening form and other documents containing the signature of the petitioner/accused which are in possession of the Bank and send the same to the handwriting expert for comparing the same with the signature on the disputed Cheque.

2024 0 INSC 504; 2024 0 Supreme(SC) 568; Shanmugasekar The State of Tamil Nadu; Criminal Appeal No. 204 OF 2024; 10-07-2024.
If there was no intention on the part of the appellant to cause bodily injury to the deceased and other injured witnesses, there was no reason for him to go back to his house and bring the weapon. He brought the billhook from his home, obviously to make an assault. It is not the defence of the appellant that the deceased was the aggressor. The deceased had come to the spot only to resolve the fight among the family members of the appellant. Hence, it cannot be said that there was a sudden and grave provocation due to any act on the part of the deceased. The appellant himself started the dispute by questioning the PW-4 on non-payment of the electricity bill. Therefore, the appellant's case will not fall under Exception 1 or Exception 4 of Section 300 of the IPC.

2024 0 INSC 512; 2024 0 Supreme(SC) 576; Arvind Kejriwal Vs Directorate Of Enforcement; Criminal Appeal No. 2493 of 2024; 12-07-2024
At this stage, we must consider the arguments presented by the DoE, which rely on judgments regarding the scope of judicial interference in investigations, including the power of arrest. Reference in this regard was made to The King

Emperor v. Khawaja Nazir Ahmad, AIR 1945 PC 18, Dukhishyam Benupani, Asst. Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria, (1998) 1 SCC 52 State of Bihar and another v. J.A.C. Saldanha and others, (1980) 1 SCC 554. and M.C. Abraham and another v. State of Maharashtra and others, (2003) 2 SCC 649. In our opinion, these decisions do not apply to the present controversy, as the power of arrest in this case is governed by Section 19(1) of the PML Act. These decisions restrict the courts from interfering with the statutory right of the police to investigate, provided that no legal provisions are violated. Investigation and crime detection vests in the authorities by statute, albeit, these powers differ from the Court's authority to adjudicate and determine whether an arrest complies with constitutional and statutory provisions. As indicated above, the power to arrest without a warrant for cognizable offences is exercised by the police officer in terms of Section 41 of the Code. [38][Refer footnote 18 above.] Arrest under Section 41 can be made on the grounds mentioned in clauses (a) to (i) of Section 41(1) of the Code, which include a reasonable complaint, credible information or reasonable suspicion that a person has committed an offence, or the arrest is necessary for proper investigation of the offence, etc.
Drawing a distinction between "reasons to arrest" and "grounds for arrest", it held that while the former refers to the formal parameters, the latter would require all such details in the hands of the investigating officer necessitating the arrest. Thus, the grounds of arrest would be personal to the accused.

2024 0 INSC 534; 2024 0 Supreme(SC) 600; Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State Of Uttar Pradesh; Criminal Appeal No. 2790 of 2024; Decided on : 18-07-2024
In so far the condition that the accused should drop a pin on the google map, this Court referred to the affidavit filed Google LLC wherein it was stated that the user has full control over sharing of pin with other users; pin location does not enable real time tracking of the user or a user's device. Therefore, this Court found that such a condition was completely redundant. Thereafter, this Court held that imposing any bail condition which enables the police/investigating agency to track every movement of the accused released on bail by use of technology or otherwise would undoubtedly violate the right to privacy of the accused guaranteed under Article 21.

https://indiankanoon.org/doc/131064898/; Mr. Mannava Ravichandra vs The State Of Andhra Pradesh, on 18 July, 2024; CRLP 1760/2021
In the light of the language employed in the legal provisions referred supra, it is vivid that there is a clear bar under Section 195 (1) (a) (1) of Cr.P.C. for taking cognizance of any offences punishable under Sections 172 to 188 of IPC, except on the complaint, in writing, of the Public Servant concerned or of some other Public Servant to whom he is administratively subordinate.
Admittedly, in the present case, without there being a complaint by the authority concerned, the learned Magistrate has taken cognizance of the offence

punishable under Section 188 of IPC basing on a charge sheet filed by the police, which is in utter violation of Section 195 1 (a) (1) of Cr.P.C.
In the case on hand, since the Court has taken cognizance of the offence based on the charge sheet filed by the Police, the procedure adopted is not in accordance with law, continuation of the proceedings against the petitioner for the offence under Section 188 of IPC would amount of abuse of process of the Court.
It is settled law that the offence under Section 188 of IPC has to be taken cognizance upon a complaint in writing by the concerned Public Servant, but, in the instant case, the complainant is the Sub-Inspector of Police, Kavali II Town Police Station, Kavali, who cannot be said to be a 'public servant' within the meaning of Section 195(1) Cr.P.C. Therefore, in view of the bar under Section 195 Cr.P.C., the offence under Section 188 of IPC would not attract to the case on hand and the prosecution for the same cannot be sustained against the Petitioners.

https://indiankanoon.org/doc/100613474/; Smt Tangella Rama Devi, vs The State Of Andhra Pradesh, on 18 July, 2024; CRLA 150/2013
Once, the prosecution established that gratification in any form cash or kind had been paid or accepted by a public servant, the Court is under legal compulsion to presume that the said gratification was paid or accepted as a motive or reward to do any official act.

https://indiankanoon.org/doc/55257188/; Shwetha R.Saraswathi, vs The State Of Telangana on 18 July, 2024; CRLP 6682/2024
Learned counsel further submitted that a perusal of the statement of witnesses also shows that the role of the petitioner in respect of brothel organizer was not disclosed. Therefore, he prayed the Court to quash the proceedings against the petitioner.
In the light of the submissions made by both the learned counsel and a perusal of the material available on record, the main contention of the learned counsel for the petitioner is that the petitioner is not the owner of the spa and she has already given the spa to accused No.2. The statements of the witnesses show that the petitioner is the owner of the spa and she is running prostitution under the guise of spa by giving salary of Rs.20,000/- per month to the sex workers, the said allegations requires trial. Therefore, at this stage, it cannot be said that the allegations levelled against the petitioner are vague and baseless and the same requires trial. Hence, this Court does not find any merit in the criminal petition to quash the proceedings against the petitioner an the same is liable to be dismissed.

2024 0 INSC 546; Parvinder Singh Khurana Vs Directorate of Enforcement; CRIMINAL APPEAL NOS. 30593062 of 2024 (@ Special Leave Petition (Crl.) Nos. 80078010 of 2024) Decided On : 23-07-2024
While issuing notice on an application for cancellation of bail, without passing a drastic order of stay, if the facts so warrant, the High Court can, by way of an

interim order, impose additional bail conditions on the accused, which will ensure that the accused does not flee. However, an order granting a stay to the operation of the order granting bail during the pendency of the application for cancellation of bail should be passed in very rare cases. The reason is that when an undertrial is ordered to be released on bail, his liberty is restored, which cannot be easily taken away for the asking. The undertrial is not a convict. An interim relief can be granted in the aid of the final relief, which could be finally granted in proceedings. After cancellation of bail, the accused has to be taken into custody. Hence, it cannot be said that if the stay is not granted, the final order of cancellation of bail, if passed, cannot be implemented. If the accused is released on bail before the application for stay is heard, the application/proceedings filed for cancellation of bail do not become infructuous. The interim relief of the stay of the order granting bail is not necessarily in the aid of final relief.

The Court dealing with the application for cancellation of bail can always ensure that notice is served on the accused as soon as possible and that the application is heard expeditiously. An order granting bail can be stayed by the Court only in exceptional cases when a very strong prima facie case of the existence of the grounds for cancellation of bail is made out. The prima facie case must be of a very high standard. By way of illustration, we can point out a case where the bail is granted by a very cryptic order without recording any reasons or application of mind. One more illustration can be of a case where material is available on record to prove serious misuse of the liberty made by the accused by tampering with the evidence, such as threatening the prosecution witnesses. If the High Court or Sessions Court concludes that an exceptional case is made out for the grant of stay, the Court must record brief reasons and set out the grounds for coming to such a conclusion.

An exparte stay of the order granting bail, as a standard rule, should not be granted. The power to grant an exparte interim stay of an order granting bail has to be exercised in very rare and exceptional cases where the situation demands the passing of such an order. While considering the prayer for granting an exparte stay, the concerned Court must apply its mind and decide whether the case is very exceptional, warranting the exercise of drastic power to grant an exparte stay of the order granting bail. Liberty granted to an accused under the order granting bail cannot be lightly and causally interfered with by mechanically granting an exparte order of stay of the bail order. Moreover, the Court must record specific reasons why it concluded that it was a very rare and exceptional case where a very drastic order of exparte interim stay was warranted. Moreover, since the issue involved is of the accused's right to liberty guaranteed by Article 21 of the Constitution, if an exparte stay is granted, by issuing a short notice to the accused, the Court must immediately hear him on the continuation of the stay.

2024 0 INSC 543; Amit Rana @ Koka & Anr. Vs. State of Haryana; Criminal Appeal No. of 2024 (Arising out of SLP (Crl.) No.14705 of 2023) Decided on : 22-07-2024

Section 307, IPC, makes it clear that to attract the said offence the victim need not suffer any kind of bodily injury. The offence to commit murder punishable under Section 307, IPC is constituted by the concurrence of mens rea followed by actus reus, to commit an attempt to murder though its accomplishment or sufferance of any kind of bodily injury to the victim is not a 'sine qua non'. In other words, if a man commits an act with such intention or knowledge and under such circumstances that if death had been caused, the offence would have amounted to murder or the act itself is of such a nature as would have caused death in the usual course of an event, but something beyond his control prevented that result, his act would constitute the offence punishable as an attempt to murder under Section 307, IPC.

https://indiankanoon.org/doc/14569715/; Devabhaktuni Subbarao, vs The State Of A.P., on 23 July, 2024; High Court Dated: 13/02/2024 23/07/2024 Amended Common Judgment Crl.A.Nos: 575, 585, 624 & 625 Of 2008 Partly Allowing The Criminal Appeals
In order to base a conviction in Criminal Cases, the case has to be proved beyond all reasonable doubt. Except alleging that there is deficiency in the stock on one hand and on the other hand alleging that AO-1 has violated the norms in purchasing the material in excess, there is no other material to prove the deficiency of stock and thereby the accused have misappropriated the funds.
In order to prove the case, the burden lies on the prosecution to show that there is deficiency in stock and because of that the amounts have been misappropriated by the accused. Once the burden is proved. thereafter the onus shifts on the accused to show that whether there is deficiency in the stock or not. Primarily, it is the burden of the prosecution to prove the case.

https://indiankanoon.org/doc/122937511/; Vemula Ramesh vs The State Of AP; CRIMINAL REVISION CASE No.506 of 2024 Date: 26.07.2024
In Gajendra Singh v. State of Rajasthan (1998) 8 SCC 612, interpreting Section 315 Cr.P.C., their Lordships stated that an accused cannot be denied the opportunity to produce the documents on which he relies merely because he did not produce them before his evidence was recorded.
The other reason given by the trial Court that in a case of child abuse her consent is of no relevance is a matter that should be eligible to be stated while judging the whole case. It was never expected on part of the Court to disallow a defence in such serious offences especially where the reverse onus is on the accused. The view taken by the trial Court may amount to prejudging the facts.

https://indiankanoon.org/doc/89327587/; Jatoth Laxmi vs The State Of Telangana on 25 July, 2024; CRLP 7661/2024
The Station House Officer, Mahabubabad Town filed Crl.M.P.No.277 of 2024 in S.C (NDPS) No.17 of 2022 before the learned Principal Sessions Judge, Mahabubabad under Section 311 Cr.P.C. to issue summons to proposed witness i.e., Circle Inspector of Police, Mahabubabad Town Police Station to mark inventory report.

As seen from the record, it is revealed that the Investigating Officer prepared the inventory report and informed the entire process to his superior officers in the year 2021 itself. Further, the samples were sent to Forensic Science Laboratory for analysis. Now the grievance of the petitioners is that after lapse of four (4) years, the prosecution has come up with an application to recall the witness for the purpose of marking inventory report, which is nothing but abuse of process of law. Therefore, the impugned order is liable to be set aside.
the Criminal Petition is allowed setting aside the docket order, dated 02.07.2024, in Crl.M.P.No.277 of 2024 in SC (NDPS) No.17 of 2022 passed by the learned Principal Sessions Judge, Mahabubabad.

https://indiankanoon.org/doc/183521614/; Peddagundelli Peddagundela vs P.P., Hyd on 25 July, 2024; CrlA 586/2015
Section 161 Cr.P.C statements recorded by police can only be used for the purpose of contradicting a witness during trial. Confession to police is hit by Section 25 of the Indian Evidence Act. Any seizure pursuant to confession would only be admissible under Section 27 of the Evidence Act, for the purpose of corroboration.

https://indiankanoon.org/doc/161303718/; Chinna Narsimulu Koneru Chinna vs The State Of Telangana on 23 July, 2024; CRLP 8161/2024
41A CrPC notice directed to be served in case registered under section 195-A IPC and 506 IPC

https://indiankanoon.org/doc/3812568/; Surender Reddy Bayyapu vs The State Of Telangana on 23 July, 2024; CRLP 8169/2024
41A CrPC notice directed to be served in case registered under section 506 IPC.
{ It appears it was not brought to the notice of the Hon'ble Court that Sec 41A CrPC is applicable to Cognizable cases only}

NOSTALGIA

Culpable Homicide & Murder
In Pulicherla Nagaraju @ Nagaraja Reddy v. State of Andhra Pradesh, (2006) 11 SCC 444 wherein certain factors have been listed to glean if the aggressor had an intention to cause death:

> "29... It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under section 304 Part I/II, or cases of culpable homicide not amounting to murder are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances; (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force

employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention."

Marking of Document- Proof

In the case of Narbada Devi Gupta v. Birendra Kumar Jaiswal and Another, (2003) 8 SCC 745, it was held as follows:

"16...The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the "evidence of those persons who can vouchsafe for the truth of the facts in issue"......"

BAIL AFTER CONVICTION

in Batchu Rangarao and others Vs The State of Andhra Pradesh; https://csis.tshc.gov.in/hcorders/2016/crlamp/crlamp_1687_2016.pdf; CRLAMP. NO: 1687 of 2016 IN CRLA.NO:607 of 2011;

On considering their valuable suggestions and after a thorough evaluation of the relevant factors, we are inclined to indicate broad criteria on which the applications for grant of bail pending the Criminal Appeals filed against the conviction for the offences, including the one under Section-302 IPC, and sentencing of the appellants to life among other allied sentences, are to be considered. Accordingly, we evolve the following criteria:

(1) A person who is convicted for life and whose appeal is pending before this Court is entitled to apply for bail after he has undergone a minimum of five years imprisonment following his conviction;

(2) Grant of bail in favour of persons falling in (1) supra shall be subject to his good conduct in the jail, as reported by the respective Jail Superintendents;

(3) In the following categories of cases, the convicts will not be entitled to be released on bail, despite their satisfying the criteria in (1) and (2) supra:

The offences relating to rape coupled with murder of minor children dacoity, murder for gain, kidnapping for ransom, killing of the public servants, the offences falling under the National Security Act and the offences pertaining to narcotic drugs.

(4) While granting bail, the two following conditions apart from usual conditions have to be imposed, viz., (1) the appellants on bail must be present before the

Court at the time of hearing of the Criminal Appeals; and (2) they must report in the respective Police Stations once in a month during the bail period.

This broad criteria cannot be understood as invariable principles and the Bench hearing the bail applications may exercise its discretion either for granting or rejecting the bail based on the facts of each case. Needless to observe that grant of bail based on these principles shall, however, be subject to the provisions of Section-389 of the Code of Criminal Procedure.

NEWS

- Notification under section 8 of the General Clause Act, 1897 dt. 16.7.2024 published
- Amendment to Arms Act dated 26.7.2024 published
- the Drugs and Cosmetics (Compounding of Offences) Rules, 2023 published
- the Public Examinations (Prevention of Unfair Means) Act, 2024 came into force from 21st June- notification
- APHC- ROC. No.638/ 2024-Estt.. Dated:16.07.2024. Amendment to the incorporate new proviso to rule 15(2) of the service rules of the High Court Of Andhra Pradesh, 2019.
- APHC -ROC.No.155/E1/2024 Date : 08.07.2024 notifying further Addl CMM Courts As Addl Chief Judicial Magistrates
- APHC -ROC.No.155/E1/2024 Date : 08.07.2024 notifying Special Metropolitan Magistrate of II Class as Special Judicial Magistrates of II Class
- APHC - ROC.No.155/E1/2024 Date : 08.07.2024 – Corrigendum in designation of Courts as per BNSS
- TSHC - ROC No. 1447 /S0/2024 Date:18.07.2024 CIRCULAR No.11/2024 Sub: High Court for the State of Telangana - Furnishing of cctv Footage under Right to Information Act - Certain instructions issued - Regarding.
- TSHC - Standard Operating Procedure (SOP) to be adopted with regard to Personal Appearance of Government Officials in Court Proceedings, in the High Court and all Courts under the jurisdiction of High Court. Roc.No.197 /S0/2024 Date: tS--.07.2024 Notification No. ·-; 28 / 2024
- APHC - High Court of Andhra Pradesh - Instructions to all the Judicial Officers in Andhra Pradesh to refer more number of suitable cases to the respective Mediation Centers - Issued - Reg.
- Notifying the metropolitan area of ranga reddy district is ceased and is included in sessions division of ranga reddy district, with effect from 01-07-2024. **[G.O.Ms.No.33, Law (LA, LA&J-Home-Courts.B), 1st July, 2024]**

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ON A LIGHTER VEIN

Before Justice Darling, a witness, when confronted with inconsistences in his testimony, swore that "he was wedded to Truth".
The judge asked him: "So how long have you been a widower?"

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Notes

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

सज्जनश्च गुणग्राही हंसः
क्षीरमिवाम्भसः ॥

Like a swan takes milk from water, in the same way a noble person takes on from other's good qualities.

CITATIONS

2024 0 INSC 583; 2024 0 Supreme(SC) 642; Dharambeer Kumar Singh Vs. The State of Jharkhand and Another; Criminal Appeal No. 3239 of 2024, SLP (Crl.) Nos. 1500, 1660 of 2024; Decided On : 06-08-2024
In our opinion, the High Court failed to appreciate the aspect that admittedly at the relevant time, the appellant was an employee and working for Respondent No. 2 - Santosh Kumar Choudha. The High Court also failed to appreciate the fact that Respondent No. 2 - Santosh Kumar Choudha, was successful in obtaining the tender on the basis of fabricated documents. Though Respondent No. 2 - Santosh Kumar Choudha, was not fulfilling the requisite condition of the experience but by using forged and fabricated documents, he has shown himself before the competent authority to be fulfilling the pre-requisite condition of experience. Thus, Respondent No. 2 - Santosh Kumar Choudha was the ultimate beneficiary of the allotment of the said tender.
At the cost of repetition, we state that admittedly respondents are the beneficiaries and merely because the appellant was an equal mischief player and/or a person having criminal antecedents at his credit by itself will not absolve respondents from the criminal liability as alleged against them. Least to say **“Two wrongs do not make a right.”**

https://indiankanoon.org/doc/58451959/; **K.Rama Subbaiah vs The State Of Andhra Pradesh And Another on 5 August, 2024; CRLP 7345/2018**
the arrested person should be produced within twenty-four hours exclusive of the time taken for journey before the Court which issued the warrant. When such is the law, petitioner should not have detained the complainant/respondent No.2 beyond twenty-four hours in any case. In the present case, the petitioner detained respondent No.2 illegally for three days and produced him before the Magistrate on search warrant issued by the Magistrate, which cannot be treated

as a part of the discharge of his official duty. It is clearly a violation of mandatory provisions provided under law. So also it was not the duty of the petitioner to beat the complainant. Thus, this Court is of the opinion that, there was no nexus between the discharge of the duty by the petitioner and the acts complained against him. Therefore, the law laid down in the said judgments, relied on by the learned counsel for the petitioner, is not in dispute, but the same is not applicable to the present facts of the case.
The law laid down in the said case is not applicable to the present case as the State of Andhra Pradesh through G.O.Ms.No.406, Home (Courts-B) dated 30.04.1974 has extended the application of Section 197 of Cr.P.C. to all the Police Officers including Sub-Inspectors, Head-Constables and Constables by virtue of the powers conferred by Sub-Section (3) of Section 197 of Code of Criminal Procedure.
this Court cannot quash the proceedings by exercising power under Section 482 Cr.P.C due to lack of sanction, as required under Section 197 Cr.P.C. since the law permits the petitioner to raise such contention at any stage and the Court has to decide whether the act done by the petitioner is in relation to his official duties or purported to have been done in relation to official duties only after adducing evidence in the trial. In the present case, the trial is not yet commenced, therefore, at this stage, this Court cannot conclude that the act done by the petitioner was in relation to or purported to have been done in discharge of official duty.

https://indiankanoon.org/doc/14392843/; Sri. Atchala Venkata Reddy vs The State of Andhra Pradesh on 5 August, 2024; CRLP No.4895/2024
When these facts were available in the FIR itself, the failure to incorporate appropriate penal provisions in the FIR can be viewed only as an inefficient way of handling crimes by the investigating police. Failure at one stage can certainly be rectified at a different stage. An investigating officer, finding from facts coming to thinking that certain more penal provisions are available for investigation, he is doing his duty and law has never commanded any procedure for intimation of the same to the learned Magistrate in any advance. The alteration memo is a popular way of seeing the facts but law never permits any change in the FIR itself. What is altered is the application of some more penal provisions to some of the existing penal provisions. They depend on what is gathered during investigation. FIR registered once is registered forever. Therefore, the objection taken by the learned counsel for petitioners that an alteration memo should precede the arrest of these petitioners is one that has to be rejected as such contention has no legal basis.

https://indiankanoon.org/doc/16546116/; Shri Vineet Singh vs The State CBI on 2 August, 2024; I.A.No. 1/2024 in CRLRC no. 620/2024.
Bail is limited liberty. A free citizen loses his full liberty when he is detained and kept in the custody of the court. When he is released on bail, he is kept in the custody by sureties. Thus, in essence, persons on bail are still under the custody of the court.

https://indiankanoon.org/doc/123137747/; Crl.P.8581 of 2022; Syed Maqdoom vs The State Of Telangana And Another on 1 August, 2024;
Having regard to the rival submissions made by both the learned counsel and having gone through the material available on record, it is noticed that the complaint given by respondent No.2 on 03.10.2021 shows that Accused Nos.1 to 3 created fake documents to grab the schedule property and it is also mentioned about the role of Accused No.4 stating that he is also involved in forging the documents.
It is pertinent to note that Section 420 of IPC is applicable when property is delivered by deceived person due to inducement. In the present case the only allegation against the petitioner is that he is a document writer and he also involved in conspiracy along with Accused Nos.1 to 3. But, there is no creation of document by the petitioner. Prima facie, there must be intention on the part of petitioner to cheat respondent No.2 right from the inception and due to such alleged act of cheating, respondent No.2 suffered a lot. In the present case, there are no such allegations against the petitioner. Merely stating that this petitioner also involved in the offence of cheating is not sufficient to constitute offence against him. There are no specific allegations against the petitioner to implicate him in this offence.
Case quashed.

https://indiankanoon.org/doc/176855618/; Nanumasa Veera Bhaskar, vs The State Of Telangana, on 2 August, 2024; CRLP 8489/2024
petitioners being the accused, the Police cannot serve notice under Section 91 Cr.P.C.

https://indiankanoon.org/doc/153373215/; Naveen Kumar Vemula vs The State Of Telangana on 2 August, 2024; CRLP 9862/2023
it is pertinent to note that as per Sections 177 and 188 of Cr.P.C., sanction is necessary only when the case is at the stage of trial. However, the present case is at the stage of investigation, as such, no sanction is required.
Moreover, the daughter of defacto complainant in U.S. Court stated that she has not given any authority to her father to file a complaint, which clearly shows that the defacto complainant filed this complaint without the knowledge of his daughter. That apart, daughter of defacto complainant attended the Court in U.S for divorce proceedings on 27.10.2023 and where she clearly stated that she has not filed any suit in Indian and not authorized her father to file a case in India. Whereas in the 161 Cr.P.C statement recorded by the Police recorded on 27.09.2023, she stated against her husband. From which it is evident that the statement she gave in U.S Court and her 161 Cr.P.C statement are contradictory to each other. When there is no authorisation from his daughter, registering the case against the petitioner is nothing but abuse of process of law. Hence, considering the facts and circumstances of the case, this Court is of the considered opinion that the proceedings against the petitioner are liable to be quashed.

https://indiankanoon.org/doc/88979844/; N.Ravinder vs The State Of Telangana on 2 August, 2024; CRLP No. 4905/2024

Due to revocation of the proceedings under Section 145 of Cr.P.C, the owners and others repeatedly quarreling and threatening the petitioner with dire consequences. Therefore, there is a law and order problem between the landlords and the elder brother as they are quarreling with each other, as such, respondent No.2 again issued the proceedings. Therefore, while issuing the proceedings under Section 145 of Cr.P.C., respondent No.2 considered that the petitioner is a tenant.

https://indiankanoon.org/doc/85641866/; Puram Nagaraju vs The State Of Telangana on 5 August, 2024; CRLA 915/2015, 169/2016 & 356/2017.

this Court finds that the offence clearly falls under culpable offence not under murder i.e., Part 4 of Section 300 I.P.C shall be punished If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. In other words, that the injury found to be present was the injury that was intended to be inflicted.

https://indiankanoon.org/doc/118040258/; Aregalla Rajashekher vs The State Of Telangana on 5 August, 2024; CRLP 8779/2024

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner, who are arrayed as accused No.3, seeking to quash the proceedings against him in Crime No.450 of 2024 on the file of Neredmet Police Station, Medchal Malkajgiri District, registered for the alleged offences punishable under Sections 417, 420 and 376(2)(n) of the Indian Penal Code, 1860 and Sections 3(2)(v) of SC/ST (POA) Act, 2015.

Heard Sri Thanneeru Venkat Ratnam, learned counsel for the petitioner and Dr. Surepalli Prashanth, learned Assistant Public Prosecutor for respondent No.1 - State.

As seen from the record, the averments of the petition do not constitute offences under Section 376(2)(n) of IPC. Hence, this Court deems it appropriate to direct the petitioner to appear before the Investigating Officer on or before 19.08.2024 between 11:00 a.m. and 05:00 p.m. and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 41-A Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court of India in Arnesh Kumar v. State of Bihar 1 scrupulously. However, the petitioner shall co-operate with the Investigating Officer as and when required by furnishing information and the petitioner shall submit his defense and produce all relevant documents/material required for the purpose of the investigation and the Investigating Officer shall consider the same before filing appropriate report before the learned Magistrate concerned.

https://indiankanoon.org/doc/8543992/; Sunkati Mamatha vs The State Of Telangana on 1 August, 2024;
the Investigating Officer is directed to follow the procedure laid down under Section 41-A Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court of India in Arnesh Kumar v. State of Bihar, in a case registered for offences U/s. Sections 386, 420, 468, 471 read with 34 of IPC.
{ Sec 386 IPC is punishable with imprisonment for 10 years}

https://indiankanoon.org/doc/55288478/; Mr. Vasu Deva Reddy, vs The State Of Andhra Pradesh on 1 August, 2024; Criminal Petition No.5026 of 2024
41A CrPC notice directed to be followed in the petition seeking anticipatory bail.

https://indiankanoon.org/doc/71238056/; Mallikarjun , Mallappa, Karnataka vs State Of Telangana, on 5 August, 2024; CRLA 648/2015
Admittedly, father of the child was in the house and it is not the case that somebody else entered into the house and assaulted his daughter. He is physically handicapped. It is stated in the charge sheet that the wife of the accused is not cooperating with him for marital life. As he was physically handicapped, he could not approach prostitute, as such he assaulted his child. At the time of commission of offence, he along with his child was present in the house. It is for him to explain, how she sustained injuries to her private parts, but he failed to do so. Prosecution also examined two more witnesses to connect the accused with the offence. P.Ws.4 & 5 stated that they have seen the accused washing underwear of the child, which contains blood stains, but he stated that she passed stools, as such he washed the same. Even as per the confessional statement made by him under Ex.P4, M.Os.1 to 3 were recovered from him. The trial Court considering the entire evidence on record, arrived to the conclusion that charges framed against the accused were proved beyond reasonable doubt and also convicted him for the offence punishable under Section 376(f)(i)(j)(k) of IPC and Section 6 R/w.5(i)(m)(n) of Protection of Children from Sexual Offences Act. It is no doubt true that a father who is in a dominant position and who has to take care of his minor child, committed sexual assault on the child and thus he was already convicted and is in jail for more than 9 years. Court has to look into other relevant aspects which are necessary for modification of offence. Admittedly, accused is disabled and suffering from Polio. His wife was not co-operating with him for leading sexual life. He cannot approach prostitutes to satisfy his lust in view of his disability. Daughter/victim died subsequently. Wife deserted him and left to her parent's house at another state. The object of POCSO is to protect minor children from sexual assault either at home or outside and hence stringent punishments are provided in it. No one is born as a criminal, surrounding circumstances make him a criminal and Courts should not shut its eyes on other sociological surrounding circumstances lead to the cause of crime.
Punishment reduced to imprisonment already undergone.

https://indiankanoon.org/doc/120410278/; Bysani Nanda Kiran, Kadapa Dt. vs State Of A.P., Rep. By P.P., Hyd Anr on 5 August, 2024; CRLP 16313/2014

when respondent No. 2 was in need of money for family necessities, she wanted to dispose of the two house plots and she approached brokers who advised her to obtain encumbrance certificates. When respondent No. 2 obtained encumbrance certificates, it came to light that both the house plots were sold by husband of accused No. 1 by name Bysani Krishna Murthy during his lifetime on 16-05-1988 vide document No. 1283 of 1988 of S.R.O., Proddatur. It is also alleged that accused No. 1, being fully aware of the above sale by her husband during his lifetime, deceitfully sold the house plots to respondent No. 2. After completion of investigation, the police filed charge sheet against accused No. 1 as well as accused No. 2 who is the petitioner herein.

A perusal of the material available on record would show that even in the charge sheet also, the police have clearly stated that respondent No. 2 paid entire sale consideration to accused No. 1 who executed registered sale deeds in her favour. The only allegation made against the petitioner-accused No. 2 is that on 24-10-2009, both accused Nos. 1 and 2 approached respondent No. 2 offering to sell the house plots. The said allegation is absent in the complaint filed by respondent No. 2. As seen from the complaint of respondent No. 2, nothing has been attributed to the petitioner-accused No. 2. In view of the above facts and circumstances, continuation of proceedings against the petitioner-accused No. 2 is nothing but abuse of process of law.

2024 0 INSC 600; 2024 0 Supreme(SC) 656; Mahendra Kumar Sonker Vs. The State of Madhya Pradesh; Criminal Appeal No. 520 of 2012; 12-08-2024 (Three Judge Bench)

To take cognizance of Section 186, the procedure under Section 195(1)(a)(i) of the Cr.P.C. ought to have been followed. There is not even a complaint by the officer against the appellant for any offence having been committed under Section 186 of the IPC.

there is no evidence to indicate that the accused assaulted or used criminal force on the trap party in execution of their duties or for the purpose of preventing or deterring them in discharging their duties. In short, none of the ingredients of Section 353 are attracted. The jostling and pushing by the accused with an attempt to wriggle out, as is clear from the evidence, was not with any intention to assault or use criminal force.

2024 0 INSC 604; 2024 0 Supreme(SC) 660; Jalaluddin Khan Vs. Union of India; Criminal Appeal No. 3173 of 2024; Decided On : 13-08-2024

When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. “Bail is the rule and jail is an exception” is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only

modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Article 21 of our Constitution.

2024 0 INSC 601; 2024 0 Supreme(SC) 663; James Kunjwal vs. State Of Uttarakhand & Anr.; Criminal Appeal No. 3350 of 2024 (Arising out of SLP(Crl.) No.9783 of 2023); Decided On : 13-08-2024 (THREE JUDGE BENCH)

The three essential factors which can be said to be sine qua non for the application of Section 193 IPC as held in Bhima Razu Prasad v. State Rep. by Deputy Supdt. of Police, CBI/SPE/ACU-II, (2021) 19 SCC 25 are :-

(1) false statement made on oath or in affidavits;

(2) that such statements be made in a judicial proceeding; or

(3) such statement be made before an authority that has been expressly deemed to be a ‘Court’.

16. What we may conclude from a perusal of the above-noticed judicial pronouncements is that:-

(i) The Court should be of the prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);

(ii) Such proceedings should be initiated when doing the same is “expedient in the interests of justice to punish the delinquent” and not merely because of inaccuracy in statements that may be innocent/immaterial;

(iii) There should be “deliberate falsehood on a matter of substance”;

(iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;

(v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court.

https://indiankanoon.org/doc/126544114/; Pinnelli Rama Krishna Reddy vs The State Of Andhra Pradesh on 14 August, 2024; CRLP 5388 & 5389/2024

In the matters of bail hearing, the question that has now arisen is whether it is offence centric or offender centric that has to be followed. With a view to maintain consistency in the orders pertaining to bail, it has been consistently ruled by the Hon'ble Supreme Court of India that all bail applications arising out of the same FIR have to be listed before the same Judge. The need, necessity and the practice to be adopted have been dealt with and principles have been laid down in

1. Kusha Duraka V. The State of Odisha
2. Rajapaul V. State of Rajasthan
3. Pradhyani V. State of Odisha (2024) 1 SCC 185
4. Himanshu Sharma V. State of Madhya Pradesh

https://indiankanoon.org/doc/64396642/; Tripurana Venkata Hemanth Kumar vs The State Of Telangana on 13 August, 2024;CRLP 6897/2024

Having regard to the rival submissions and the material placed on record, the alleged offences leveled against the petitioner are under Sections 353, 188, 290 and 269 of I.P.C, Section 3 of the Act, 1897, and Section 51 (B) of the Act, 2005. There is no dispute that for registering the case under Section 188 of I.P.C, there is bar under Section 195 (2) (d) of Cr.P.C. Further, there is no dispute that for registering the case under Section 51 (B) of the Act, 2005, there is bar under Section 60 of the Act, 2005, whereas the contention of learned counsel for the petitioner is that when there is bar under Section 195 (1) (a) (i) of Cr.P.C, the other offences alleged are also not maintainable and relied on the judgment in Bandekar's case supra, wherein in para 44 it was observed as follows :

"Equally important to remember that if in the course of the same transaction two separate offences are made out, for one of which section 195 of Cr.P.C, is not attracted and it is not possible to split them up, the drill of section 195 (1) (b) Cr.P.C, must be followed."

8. In the present case, the offences alleged arise out of the same incident as the petitioner violated the restrictions imposed by the Government during the pandemic period i.e., lockdown in the State, wherein, the people should cooperate with the police and shall not obstruct the duties of police. In view of the observations made in the above judgment, as the offences alleged arise out of the same incident, the other offences cannot be spilt up, as the bar applies to Section 353 of I.P.C also. As such, in view of the bar under Section 195 (1) (a) (i) of Cr.P.C, the proceedings initiated against the petitioner in C.C.No.1616 of 2020 are liable to be quashed.

https://indiankanoon.org/doc/38004785/; Makkena Sagar, vs The State Of Andhra Pradesh, on 12 August, 2024; CRLP 5021/2024 & CRLP 4961/2024

S.C(SPL) No.167 of 2023 on the file of the court of IV Additional District & Sessions Judge-cum-SC ST Court, Guntur, against the petitioners herein/ Accused Nos.1 to 5 are hereby quashed, basing on the compromise between the parties.

https://indiankanoon.org/doc/100976115/; Muniyandi Ajith vs The State Of Andhra Pradesh on 14 August, 2024; CRIMINAL PETITION No.5067 of 2024 Date: 14.08.2024;

A learned Judge of this Court in Bodnayak Ravi v. State of Andhra Pradesh2 held that where the contraband is less than 20 kgs., it is more than small quantity and less than commercial quantity and in terms of Section 36A of the NDPS Act read with Section 167 of Cr.P.C., if the investigation is not completed within 60 days, the accused shall be released on bail. The said ruling squarely applies to the present facts. In these circumstances, prayer is granted.

https://indiankanoon.org/doc/43830475/; Gadi Santosh vs The State Of Andhra Pradesh on 13 August, 2024; CRIMINAL PETITION No.5000 of 2024 Date: 13.08.2024

This petitioner was caught driving a car having 30 Kgs of Ganja. At the same time, the other petitioners who were granted bail by this court were not found with any contraband and the allegations against them was that they were only pilots. As the record indicates, there are several other accused who are engaged in this nefarious trade and the investigation is still under progress, the innocence claimed by the petitioner does not stand to scrutiny when the court has seen through section 37 of the NDPS Act. Therefore, there is no merit in this petition.

2024 0 INSC 625; 2024 0 Supreme(SC) 688; Shajan Skaria Vs. The State of Kerala & Anr.; Criminal Appeal No. 2622 OF 2024 (Arising Out Of SLP (Crl.) No. 8081 of 2023); Decided On : 23-08-2024

A penal statute must receive strict construction. A principle of statutory interpretation embodies the policy of the law, which is in turn based on public policy. The court presumes, unless the contrary intention appears, that the legislator intended to conform to this legal policy. A principle of statutory interpretation can, therefore, be described as a principle of legal policy formulated as a guide to the legislative intention.

83. Maxwell in The Interpretation of Statutes (12th Edn.) has observed that “the strict construction of penal statutes seems to manifest itself in four ways: in the requirement of express language for the creation of an offence; in interpreting strictly words setting out the elements of an offence; in requiring the fulfilment to the letter of statutory conditions precedent to the infliction of punishment; and in insisting on the strict observance of technical provisions concerning criminal procedure and jurisdiction.”

84. William F. Craies in Statute Law (7th Edn. at p. 530) while referring to U.S. v. Wiltberger [5 L Ed 37 : 18 US (5 Wheat.) 76 (1820)] observes thus:

> “The distinction between a strict construction and a more free one has, no doubt, in modern times almost disappeared, and the question now is, what is the true construction of the statute? I should say that in a criminal statute you must be quite sure that the offence charged is within the letter of the law. This rule is said to be founded on the tenderness of the law for the rights of individuals, and on the plain principle that the power of punishment is vested in the legislature, and not in the judicial department, for it is the legislature, not the court, which is to define a crime and ordain its punishment.”
>
> (Emphasis supplied)

85. In Tuck & Sons v. Priester reported in (1887) 19 QBD 629 (CA), which was followed in London and Country Commercial Properties Investments Ltd. v. Attorney General reported in (1953) 1 WLR 312 : (1953) 1 All ER 436, it was observed thus:

> “We must be very careful in construing that section, because it imposes a penalty. If there is a reasonable interpretation, which will avoid the penalty

<u>in any particular case, we must adopt that construction. Unless penalties are imposed in clear terms, they are not enforceable. Also, where various interpretations of a section are admissible it is a strong reason against adopting a particular interpretation if it shall appear that the result would be unreasonable or oppressive."</u>
(Emphasis supplied)

86. Blackburn, J. in Willis v. Thorp reported in (1875) LR 10 QB 383 observed that "when the legislature imposes a penalty, the words imposing it must be clear and distinct."

2024 0 INSC 626; 2024 0 Supreme(SC) 689; Delhi Race Club (1940) Ltd. & Ors. Vs. State of Uttar Pradesh & Anr.; Criminal Appeal No. 3114 of 2024; Decided On : 23-08-2024

there is no manner of any doubt whatsoever that in case of sale of goods, the property passes to the purchaser from the seller when the goods are delivered. Once the property in the goods passes to the purchaser, it cannot be said that the purchaser was entrusted with the property of the seller. Without entrustment of property, there cannot be any criminal breach of trust. Thus, prosecution of cases on charge of criminal breach of trust, for failure to pay the consideration amount in case of sale of goods is flawed to the core. There can be civil remedy for the non-payment of the consideration amount, but no criminal case will be maintainable

It is indeed very sad to note that even after these many years, the courts have not been able to understand the fine distinction between criminal breach of trust and cheating.

42. When dealing with a private complaint, the law enjoins upon the magistrate a duty to meticulously examine the contents of the complaint so as to determine whether the offence of cheating or criminal breach of trust as the case may be is made out from the averments made in the complaint. The magistrate must carefully apply its mind to ascertain whether the allegations, as stated, genuinely constitute these specific offences. In contrast, when a case arises from a FIR, this responsibility is of the police – to thoroughly ascertain whether the allegations levelled by the informant indeed falls under the category of cheating or criminal breach of trust. Unfortunately, it has become a common practice for the police officers to routinely and mechanically proceed to register an FIR for both the offences i.e. criminal breach of trust and cheating on a mere allegation of some dishonesty or fraud, without any proper application of mind.

43. It is high time that the police officers across the country are imparted proper training in law so as to understand the fine distinction between the offence of cheating viz-a-viz criminal breach of trust. Both offences are independent and distinct. The two offences cannot coexist simultaneously in the same set of facts. They are antithetical to each other. The two provisions of the IPC (now BNS, 2023) are not twins that they cannot survive without each other.

2024 0 INSC 637; 2024 0 Supreme(SC) 710; Prem Prakash Vs. Union of India Through The Directorate of Enforcement; Criminal Appeal No. 3572 of 2024 (@ SLP (Crl.) No. 5416/2024); Decided on : 28-08-2024

We have no hesitation in holding that when an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same Investigating Agency is inadmissible against the maker. The reason being that the person in custody pursuant to the proceeding investigated by the same Investigating Agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice.

Being a co-accused with the appellant, his statement against the appellant assuming there is anything incriminating against the present appellant will not have the character of substantive evidence. The prosecution cannot start with such a statement to establish its case. We hold that, in such a situation, the law laid down under Section 30 of the Evidence Act by this Court while dealing with the confession of the co-accused will continue to apply. In Kashmira Singh vs. State of Madhya Pradesh, [1952] SCR 526, this Court neatly summarized the principle as under:-

> "…. The proper way to approach a case of this kind is, first, to marshal the evidence against the accused excluding the confession altogether from consideration and see whether, if it is believed, a conviction could safely be based on it. If it is capable of belief independently of the confession, then of course it is not necessary to call the confession in aid. But cases may arise where the judge is not prepared to act on the other evidence as it stands even though, if believed, it would be sufficient to sustain a conviction. In such an event the judge may call in aid the confession and use it to lend assurance to the other evidence and thus fortify himself in believing what without the aid of the confession he would not be prepared to accept."

2024 0 INSC 639; 2024 0 Supreme(SC) 712; Mulakala Malleshwara Rao and Another Vs. State of Telangana and Another; Criminal Appeal No. 3599 of 2024, Arising Out of Special Leave Petition (Crl.) No. 3981 of 2023; Decided On : 29-08-2024

Another ground on which the charge fails is that, apart from a statement of the complainant that the 'stridhan' is with the former in-laws of his daughter, there is nothing on record to substantiate the factum of possession actually being with the appellants. In Bobbili Ramakrishna Raja Yadad and Others vs. State of Andhra Pradesh, (2016) 3 SCC 309 this Court has held that giving dowry and traditional presents at the time of the wedding does not raise a presumption that such articles are thereby entrusted to the parents-in-law so as to attract the ingredients of Section 6 of the Dowry Prohibition Act, 1961.

We may further observe that the object of criminal proceedings is to bring a wrongdoer to justice, and it is not a means to get revenge or seek a vendetta

against persons with whom the complainant may have a grudge. The principle in law that delay in filing the FIR has to be satisfactorily explained and does not need any reiteration

2024 0 INSC 642; 2024 0 Supreme(SC) 715; K. Ravi Vs. State Of Tamil Nadu & Anr.; Criminal Appeal No. 3598 of 2024 (@ Special Leave Petition (Crl.) No.2029 of 2018; Decided on : 29-08-2024

It is trite to say that Section 216 is an enabling provision which enables the court to alter or add to any charge at any time before judgment is pronounced, and if any alternation or addition to a charge is made, the court has to follow the procedure as contained therein. Section 216 does not give any right to the accused to file a fresh application seeking his discharge after the charge is framed by the court, more particularly when his application seeking discharge under Section 227 has already been dismissed. Unfortunately, such applications are being filed in the trial courts sometimes in ignorance of law and sometimes deliberately to delay the proceedings. Once such applications though untenable are filed, the trial courts have no alternative but to decide them, and then again such orders would be challenged before the higher courts, and the whole criminal trial would get derailed. Suffice it to say that such practice is highly deplorable, and if followed, should be dealt with sternly by the courts.

https://indiankanoon.org/doc/13387660/; Shiva Keshava Babu Shivakeshavulu vs The State Of Telangana And Another on 28 August, 2024; CRLP 87 & 94 of 2021

Merely because there is land dispute between the parties, the criminal acts alleged to have been committed by the petitioners cannot be ignored, as there is scope for committing criminal offences relating to the properties also and the persons accused of criminal acts relating to the properties cannot take shelter on the ground that it is a civil dispute.

https://indiankanoon.org/doc/11491590/; Mohd. Sanabir Alias Shah Khan vs The State Of Telangana, on 27 August, 2024; CRC 899/2024

Learned counsel for the petitioner submitted that the petitioner was charged for the offences punishable under Sections 189, 196(1), 132, 333, 352, 351(2) read with 190 of BNS and all the offences are below seven (7) years. He further submitted that instead of issuing of notice under Section 35 (3) of BNSS, the Investigating Officer produced the petitioner before the trial Court for remand and the trial Court accepted the reasons stated by the Investigating Officer and remanded the petitioner to judicial custody, which is not in accordance with law.

Per contra, learned Assistant Public Prosecutor submitted that though the alleged offences against the petitioner are below seven years and the same are serious in nature. She further submitted that the petitioner is a habitual offender, as such, Police custody is required for further investigation and that the interrogation was not done by the Police before arrest. Further there is a clear allegation that petitioner threatened the apartment people by giving religious slogans. Further, accused No.2 is absconding. Therefore, there is no illegality

in the order of the trial Court and she prayed the Court to dismiss the criminal petition.
In the result, the Criminal Revision Case is allowed setting aside the order dated 24.08.2024 passed in Crl.M.P.No.3486 of 2024 in Crime No.282 of 2024 by the learned XII Additional Chief Judicial Magistrate, Hyderabad. However, the Police are directed to produce the petitioner/accused before the concerned Court. Further, the concerned Court shall remand the Petitioner/accused to Judicial Custody.

https://indiankanoon.org/doc/9745316/; Anthati Paramesh, vs The State Of Ap Rep By Its Pp Hyd., on 30 August, 2024; CRC 1981/2009
Though, there cannot be any direct formula or set standards to determine whether the consent given by victim was voluntary or under mis-conception of fact, however it differs from case to case. It is apparent that the physical relation prior to pregnancy and during pregnancy was with the consent of the victim girl and the complaint was filed only for the reason of accused refusing marriage with PW.2. It cannot be said that the sexual intercourse in between accused and victim girl constitutes offence of rape. There may be several reasons for which the marriage with the victim was refused though it was initially accepted. According to the witnesses, when she was pregnant, there was acceptance of marriage, however, after delivering the boy, the boy died and the marriage proposal was refused. It cannot be said that the accused had any fraudulent intention from the inception of the relationship to attract the ingredients of cheating.

NOSTALGIA

Stolen Property
the Hon'ble Supreme Court, to decide the matter in issue, in Shiv Kumar v. State of Madhya Pradesh {(2022) 9 SCC 676}, wherein it was held that "for successful prosecution under Section 411, it is not enough to prove that the accused was either negligent or that he had a cause to think that property was stolen, or that he failed to make enough inquiries to comprehend nature of goods procured by him and further initial possession of goods in question may not be illegal but retaining those with knowledge that it was stolen property, makes it culpable."

498A Case- family members of husband
in view of the judgment in Preethi Gupta Vs State of Jharkand {(2010) 7 SCC 667} and Kahkashan Kausar @ Sonam and others Vs State of Bihar and others { (2022) 6 Supreme Court Cases 599} the relatives of the husband/accused who are not residing in the house of A.1 cannot be roped into only on omnibus allegations.

304 or 302 IPC
The Apex Court in Pulicherla Nagaraju @ Nagaraja Reddy vs State of Andhra Pradesh AIR 2006 SC 3010, held as under:

"Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part ll. Many petty or insignificant matters - plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death.

It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302.

The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances:

- (i) nature of the weapon used;
- (ii) whether the weapon was carried by the accused or was picked up from the spot;
- (iii) whether the blow is aimed at a vital part of the body;
- (iv) the amount of force employed in causing injury;
- (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;
- (vi) whether the incident occurs by chance or whether there was any premeditation;
- (vii) whether there was any prior enmity or whether the deceased was a stranger;
- (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation;
- (ix) whether it was in the heat of passion;
- (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;
- (xi) whether the accused dealt a single blow or several blows.

The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances reference to individual cases which may throw light on the question of intention. Be that as it may."

<u>43D(5) UAPA- Considerations for Bail</u>

in the case of Gurwinder Singh vs. State of Punjab and Another, (2024) 5 SCC 403. This Court extensively considered its earlier decision in the case of National Investigation Agency vs. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 which deals with interpretation of Section 43D(5). Paragraph 32 of the said decision reads thus:

> "32. In this regard, we need to look no further than [NIA vs. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 : (2019) 2 SCC (Cri) 383] which has laid down elaborate

guidelines on the approach that courts must partake in, in their application of the bail limitations under the UAP Act. On a perusal of Paras 23 to 24 and 26 to 27, the following 8-point propositions emerge and they are summarised as follows:

32.1. Meaning of "prima facie true."

On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence.

32.2. Degree of satisfaction at pre chargesheet, post charge-sheet and post-charges: compared:

"26..........once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that despite the framing of charge, the materials presented along with the charge-sheet (report under Section 173 of Cr.P.C.) do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case."

32.3. Reasoning, necessary but no detailed evaluation of evidence:

"24.......the exercise to be undertaken by the Court at this stage-of giving reasons for grant or non-grant of bail-is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage."

32.4. Record a finding on broad probabilities, not based on proof beyond doubt:

"The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise."

32.5. Duration of the limitation under Section 43-D(5):

"26.......the special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof."

32.6. Material on record must be analysed as a "whole" no piecemeal analysis

"27.......the totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance."

32.7. Contents of documents to be presumed as true:

"27.......The Court must look at the contents of the document and take such document into account as it is."

32.8. Admissibility of documents relied upon by prosecution cannot be questioned:

> The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail until contradicted and overcome or disproved by other evidence.... In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible."

There is one more decision of this Court in the case of Thwaha Fasal vs. Union of India, (2022) 14 SCC 766 which again deals with the scope of Section 43D(5) of UAPA. After considering the decision in the case of Zahoor Ahmad Shah Watali3, in fact, in paragraph 24, the case has been extensively reproduced. Thereafter, in paragraph 26, this Court held thus:

> "26. Therefore, while deciding a bail petition filed by an accused against whom offences under Chapters IV and VI of the 1967 Act have been alleged, the court has to consider whether there are reasonable grounds for believing that the accusation against the accused is prima facie true. If the court is satisfied after examining the material on record that there are no reasonable grounds for believing that the accusation against the accused is prima facie true, then the accused is entitled to bail. Thus, the scope of inquiry is to decide whether prima facie material is available against the accused of commission of the offences alleged under Chapters IV and VI. The grounds for believing that the accusation against the accused is prima facie true must be reasonable grounds. However, the court while examining the issue of prima facie case as required by subsection (5) of Section 43-D is not expected to hold a mini trial. The court is not supposed to examine the merits and demerits of the evidence. If a charge-sheet is already filed, the court has to examine the material forming a part of charge-sheet for deciding the issue whether there are reasonable grounds for believing that the accusation against such a person is prima facie true. While doing so, the court has to take the material in the charge-sheet as it is."

Use of Case Diary

In Md. Ankoos & Ors. Vs. The Public Prosecutor, High Court of A.P. 2009(7) Supreme 231;

A criminal court can use the case diary in the aid of any inquiry or trial but not as an evidence. This position is made clear by Section 172(2) of the Code. Section 172(3) places restrictions upon the use of case diary by providing that accused has no right to call for the case diary but if it is used by the police officer who made the entries for refreshing his memory or if the Court uses it for the purpose of contradicting such police officer, it will be so done in the manner provided in ection 161 of the Code and Section 145 of the Evidence Act. Court's power to consider the case diary is not unfettered. In light of the inhibitions contained in Section 172(2), it is not open to the Court to place reliance on the case diary as a piece of evidence directly or indirectly. This Court had an occasion to consider Section 172 of the Code vis-'-vis Section145 of the Evidence Act and Section 162 of the Code in the case of Mahabir Singh v. State of Haryana,2 (2001) 7 SCC 148. and it was stated as follows:

"14. A reading of the said sub-sections makes the position clear that the discretion given to the court to use such diaries is only for aiding the court to decide on a point. It is made abundantly clear in sub-section (2) itself that the court is forbidden from using the entries of such diaries as evidence. What cannot be used as evidence against the accused cannot be used in any other manner against him. If the court uses the entries in a case diary for contradicting a police officer it should be done only in the manner provided in Section 145 of the Evidence Act i.e. by giving the author of the statement an opportunity to explain the contradiction, after his attention is called to that part of the statement which is intended to be so used for contradiction. In other words, the power conferred on the court for perusal of the diary under Section 172 of the Code is not intended for explaining a contradiction which the defence has winched to the fore through the channel permitted by law. The interdict contained in Section 162 of the Code, debars the court from using the power under Section 172 of the Code for the purpose of explaining the contradiction."

BAIL

Courts while granting bail are required to consider relevant factors such as nature of the accusation, role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk et al. Speaking through Hima Kohli, J., the present coram in Ajwar v Waseem, 2024 SCC OnLine SC 974, apropos relevant parameters for granting bail, observed:

> "26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. (Refer: Chaman Lal v. State of U.P., (2004) 7 SCC 525; Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav (supra), (2004) 7 SCC 528; Masroor v. State of Uttar Pradesh, (2009) 14 SCC 286; Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496; Neeru Yadav v. State of Uttar Pradesh, (2014) 16 SCC 508.; Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129; Mahipal v. Rajesh Kumar @ Polia (supra), (2020) 2 SCC 118.
>
> 27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior Court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the

impact on the society resulting in such an order. In P v. State of Madhya Pradesh (supra) (2022) 15 SCR 211 decided by a three judges bench of this Court [authored by one of us (Hima Kohli, J)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1)of the CrPC in the following words:

"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."" (emphasis supplied)

20. In State of Haryana v Dharamraj, 2023 SCC OnLine 1085, speaking through one of us (Ahsanuddin Amanullah, J.), the Court, while setting aside an order of the Punjab and Haryana High Court granting (anticipatory) bail, discussed and reasoned:

"7. A foray, albeit brief, into relevant precedents is warranted. This Court considered the factors to guide grant of bail in Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 and Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the relevant principles were restated thus:

'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.'

8. In Mahipal v. Rajesh Kumar alias Polia, (2020) 2 SCC 118, this Court opined as under:

:

'16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an

assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted.

…'

9. In Bhagwan Singh v. Dilip Kumar @ Deepu @ Depak, 2023 INSC 761, this Court, in view of Dolat Ram v. State of Haryana, (1995) 1 SCC 349; Kashmira Singh v. Duman Singh, (1996) 4 SCC 693 and X v. State of Telangana, (2018) 16 SCC 511, held as follows:

'13. It is also required to be borne in mind that when a prayer is made for the cancellation of grant of bail cogent and overwhelming circumstances must be present and bail once granted cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it in conducing to allow fair trial. This proposition draws support from the Judgment of this Court in Daulat Ram v. State of Haryana, (1995) 1 SCC 349, Kashmira Singh v. Duman Singh (1996) 4 SCC 693 and XXX v. State of Telangana (2018) 16 SCC 511.'

10. In XXX v. Union Territory of Andaman & Nicobar Islands, 2023 INSC 767, this Court noted that the principles in Prasanta Kumar Sarkar (supra) stood reiterated in Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321.

11. The contours of anticipatory bail have been elaborately dealt with by 5-Judge Benches in Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 and Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1. Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 is worthy of mention in this context, despite its partial overruling in Sushila Aggarwal (supra). We are cognizant that liberty is not to be interfered with easily. More so, when an order of pre-arrest bail already stands granted by the High Court.

12. Yet, much like bail, the grant of anticipatory bail is to be exercised with judicial discretion. The factors illustrated by this Court through its pronouncements are illustrative, and not exhaustive. Undoubtedly, the fate of each case turns on its own facts and merits." (emphasis supplied)

21. In Ajwar (supra), this Court also examined the considerations for setting aside bail orders in terms below:

"28. The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of

granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In Jagjeet Singh (supra), (2022) 9 SCC 321, a three-Judges bench of this Court, has observed that the power to grant bail under Section 439 Cr. P.C. is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate Court would be well within its power to set aside and cancel the bail. (Also refer: Puran v. Ram Bilas, (2001) 9 SCC 338 ; Narendra K. Amin (Dr.) v. State of Gujarat, (2008) 13 SCC 584)" (emphasis supplied)

Overtaking- Rashness or negligence

Merely the offending vehicle was overtaking another vehicle that itself would not mean that the driver of the vehicle was driving it rashly. He relied on the judgment of Hon'ble Supreme Court in the case of Prem Lal Anand and others v. Narendra Kumar and others (2024) 9 Supreme (SC) 644). The Hon'ble Supreme Court was dealing with the case where the driver of the vehicle while overtaking the vehicle was involved in the accident. In the said circumstances, the Hon'ble Supreme Court found that when there was no proof that the vehicle was driven rash and negligently apart from the fact that the vehicle was overtaking another vehicle that in itself would not amount to rash and negligent driving.

NEWS

- High Court Of Andhra Pradesh - Addition Of New Rule I.E., 35-E (I) To (V) In The Criminal Rules Of Practice And Circular Orders. 1990 - Amendment. [G.O.Rt.No.687, Law (L,La. & J - Home -Courts-B), 16th August, 2024.]
- Amendments To The Criminal Rules Of Practice And Circular Orders, 1990 In Terms Of Orders Dated: 20.04.2021 Passed By The Hon'ble Supreme Court Of India In S.M.W.P.(Crl .) No.1/2017. [G.O.Rt.No.637, Law (L, L.A & J - Home (Courts.B), 5th August, 2024.]

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ON A LIGHTER VEIN

An IT expert asked a user to choose a password of 8 characters.

The user replied: “Snow White and the Seven Dwarves”.

“I can see that you are an Solicitor.”

“Yes, you’re right. But how did you know?”

“The answer you gave is 100% accurate and 100% useless

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Notes

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

य ईर्षुः परवित्तेषु रुपे वीर्ये कुलान्वये। सुखसौभाग्यसत्कारे तस्य व्याधिरनन्तकः ॥

The person who is jealous and envious of others' wealth, beauty, bravery, high family, happiness, good fortune and honor is incurably ill. His disease never gets cured

CITATIONS

2024 0 INSC 655; 2024 0 Supreme(SC) 727; Nitya Nand Vs. State of U.P. & Anr.; Criminal Appeal No. 1348 of 2014; Decided On : 04-09-2024

The factum of causing injury or not causing injury would not be relevant when an accused is roped in with the aid of Section 149 IPC. The question which is relevant and which is required to be answered by the court is whether the accused was a member of an unlawful assembly and not whether he actually took part in the crime or not.

It is true that there are certain lacunae in the prosecution. The scribe Kuldeep was not examined. Similarly, the younger brother Laxmi Narain was not examined though it has come on record that Laxmi Narain was killed in the year 1993 and in that case one of the accused is the appellant himself. It is also true that neither any country-made pistol was recovered nor any cartridge, empty or otherwise, recovered. However, the appellant has been roped in with the aid of Section 149 IPC. Therefore, as held by this Court in Yunis alias Kariya Vs. State of M.P., (2003) 1 SCC 425 no overt act is required to be imputed to a particular person when the charge is under Section 149 IPC; the presence of the accused as part of the unlawful assembly is sufficient for conviction. It is clear from the evidence of PW-1 and PW-2 that the appellant was part of the unlawful assembly which committed the murder. Though they were extensively cross-examined, their testimony in this regard could not be shaken.

2024 0 Supreme(SC) 728; Vijay Nair vs Directorate of Enforcement; SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 22137 of 2024 (Arising out of impugned judgment and order dated 03-07-2023 in BA No. 1178/2023 passed by the High Court of Delhi at New Delhi) Decided On : 02-09-2024

he accused is lodged in jail for a considerable period and there is little possibility of trial reaching finality in the near future. The liberty guaranteed under Article 21 of the Constitution does not get abrogated even for special statutes where the threshold twin bar is provided and such statutes, in our opinion, cannot carve out an exception to the principle of bail being the rule and jail being the exception. The cardinal principle of

bail being the rule and jail being the exception will be entirely defeated if the petitioner is kept in custody as an under-trial for such a long duration. This is particularly glaring since in the event of conviction, the maximum sentence prescribed is only 7 years for the offence of money laundering.

2024 0 Supreme(SC) 745; Rup Bahadur Magar @ Sanki @ Rabin Vs. The State of West Bengal; Petition for Special Leave to Appeal (Crl.) No. 11589 of 2024; Decided On : 02-09-2024
In the case of High Court Bar Association, Allahabad vs. State of U.P. and Others, (2024) 6 SCC 267 a Constitution Bench of this Court has taken a view that as a matter of rule, the Constitutional Courts should not fix a time-bound schedule for conduct of cases before the Trial and other Courts and the said approach can be adopted only in very exceptional cases. Notwithstanding the pronouncement of law by the Constitution Bench of this Court, we have noticed that several High Courts while rejecting the bail applications, are fixing time-bound schedule for the conduct of trials. It cannot be that the bail is denied on the ground that the trial will be disposed of in a time-bound schedule.

2024 0 Supreme(SC) 746; Neha Begum and Others Vs. The State of Assam and Another; Petition for Special Leave to Appeal (Crl.) No. 3910 of 2024; 02-09-2024
On a perusal of the subject application filed by the petitioners in the trial Court by invoking the provisions under Section 231(2) read with Section 311 CrPC, we find that other than a vague aspersion that the erstwhile lawyer engaged by the petitioners did not conduct proper cross-examination of the witnesses, no such specific ground was alluded on behalf of the accused petitioners which could be considered to be a valid ground for the trial Court to invoke the power under Section 311 CrPC.

2024 0 Supreme(SC) 747; George Vs. State of Kerala; Criminal Appeal No. 3712 of 2024 (Arising Out of SLP (Criminal) No. 11041 of 2024); 03-09-2024
For conviction under Section 304(A) and Section 338 of the IPC, there is no minimum sentence prescribed but the term of sentence may extend to 2 years. The sentence can also be limited to fine without any term of imprisonment. For the offence under Sections 279 and 337 of the IPC, the maximum punishment prescribed is 6 months and punishment can also be fine only.

2024 0 INSC 666; 2024 0 Supreme(SC) 756; Mandakini Diwan And Anr. Vs. The High Court Of Chhattisgarh & Ors.; Criminal Appeal No. 3738 of 2024 (Arising Out of SLP(Crl.) No. 12649 of 2023); Decided On : 06-09-2024
The post-mortem report further indicated that the deceased had six ante-mortem injuries on her body. The information of suicide was given to the Dantewada Police Station, a Merg was registered under section 174 of Code of Criminal Procedure, 1973. the Police filed the closure report treating it to be a case of suicide. The appellants repeatedly continued to represent to the authorities for a fair investigation after registering First Information Report. All the complaints made by the appellants to the authorities did not result in the registering of FIR against respondent no.7. All the complaints though were inquired into but were ultimately closed as a result of the influence exerted by the respondent no.7. Till date, neither FIR has been registered on the several complaints made by the appellants nor a fair investigation has been carried out in order to find out the truth.

High court dismissed petition on ground that appellants have 156(3) CrPC at their disposal.
CBI directed to register and investigate the case.

2024 0 INSC 669; 2024 0 Supreme(SC) 759; Dhanraj Aswani Vs. Amar S. Mulchandani & Anr.; Criminal Appeal No. 2501 Of 2024 (arising out of SLP (Crl.) No. 6942 of 2024); Decided On : 09-09-2024
a police officer can formally arrest a person in relation to an offence while he is already in custody in a different offence. However, such formal arrest doesn't bring the accused in the custody of the police officer as the accused continues to remain in the custody of the Magistrate who remanded him to judicial custody in the first offence. Once such formal arrest has been made, the police officer has to make an application under Section 267 of the CrPC before the Jurisdictional Magistrate for the issuance of a P.T. Warrant without delay. If, based on the requirements prescribed under Section 267 of the CrPC, a P.T. Warrant is issued by the jurisdictional Magistrate, then the accused has to be produced before such Magistrate on the date and time mentioned in the warrant, subject to Sections 268 and 269 respectively of the CrPC. Upon production before the jurisdictional Magistrate, the accused can be remanded to police or judicial custody or be enlarged on bail, if applied for and allowed. The only reason why we have delineated the procedure followed in cases where a person already in custody is required to be arrested in relation to a different offence is to negate the reasoning of the Rajasthan, Delhi and Allahabad High Courts that once in custody, it is not possible to re-arrest a person in relation to a different offence. When a person in custody is confronted with a P.T. Warrant obtained in relation to a different offence, such a person has no choice but to submit to the custody of the police officer who has obtained the P.T. Warrant. Thus, in such a scenario, although there is no confinement to custody by touch, yet there is submission to the custody by the accused based on the action of the police officer in showing the P.T. Warrant to the accused. Thereafter, on production of the accused before the jurisdictional Magistrate, like in the case of arrest of a free person who is not in custody, the accused can either be remanded to police or judicial custody, or he may be enlarged on bail and sent back to the custody in the first offence. A number of decisions have held that although Section 267 of the CrPC cannot be invoked to enable production of the accused before the investigating agency, yet it can undoubtedly be invoked to require production of the accused before the jurisdictional Magistrate, who can thereafter remand him to the custody of the investigating agency. Such an interpretation of the provision would give true effect to the words "other proceedings" as they appear in the text of Section 267 of the CrPC, which cannot be construed to exclude proceedings at the stage of investigation.
Thus, contrary to the view taken by the Rajasthan, Allahabad and Delhi High Courts, a person, while in custody in relation to an offence, can be arrested in relation to a different offence, either after getting released from custody in the first offence, or even while remaining in custody in the first offence.
The option of applying for anticipatory bail in relation to an offence, while being in custody in relation to a different offence, will only be available to the accused till he is arrested by the police officer on the strength of the P.T. Warrant obtained by him from the court concerned. We must clarify that mere formal arrest (on-paper arrest) would not extinguish the right of the accused to apply for anticipatory bail. We say so because a formal arrest would not result in the submission of the accused, who is already in custody, to the custody of the police officer effecting a formal arrest in the subsequent case. However, if after effecting a formal arrest, the police officer on the strength of

the same procures a P.T. Warrant from the jurisdictional Magistrate, the accused would have no other choice but to submit to that compulsion and the right of the accused to apply for anticipatory bail would thereafter get extinguished.
If an accused is granted anticipatory bail in relation to an offence, while being in custody in a different offence, then it shall no longer be open to the police officer in the first case to apply under Section 267 of the CrPC for the production of the accused before the jurisdictional Magistrate for the purpose of remanding him to police or judicial custody. However, it shall be open to the jurisdictional Magistrate to require the production of accused under Section 267(1) for any other purpose mentioned under the said section except for the purpose of remanding him to police or judicial custody.
we have decided the issue of maintainability of an anticipatory bail application filed at the instance of an accused who is already in judicial custody in a different offence and have reached the conclusion that such an application is maintainable under the scheme of the CrPC. However, it is clarified that each of such applications will have to be decided by the competent courts on their own merits.

2024 0 INSC 679; 2024 0 Supreme(SC) 771; Devendra Kumar Pal Vs. State Of U.P. And Another; Criminal Appeal No. of 2024 (Arising out of SLP(Crl.) No. 6960 of 2021); Decided on : 06-09-2024
The Constitution Bench has clearly held that if such a summoning order(319 CrPC) is passed, either after the order of acquittal or imposing of sentence in the conviction, the same may not be sustainable.

2024 0 INSC 681; 2024 0 Supreme(SC) 772; Raghuveer Sharan Vs. District Sahakari Krishi Gramin Vikas Bank & Anr.; Criminal Appeal No(s). 2764 of 2024 (Arising out of Special Leave Petition (Crl.) No. 3419 OF 2024) WITH Contempt Petition (C) No. 508 Of 2024 In Criminal Appeal No(S). 2764 Of 2024 @ Special Leave Petition (Crl.) No. 3419 OF 2024.; Decided On : 10-09-2024
There cannot be an absolute embargo on the Trial Court to initiate process under Section 319 Cr.P.C., merely because a person, who though appears to be complicit has deposed as a witness. The finding to invoke Section 319 Cr.P.C., must be based on the evidence that has come up during the course of Trial. There must be additional, cogent material before the Trial Court apart from the statement of the witness.
An order for initiation of process under Section 319 Cr.P.C against a witness, who has deposed in the trial and has tendered evidence incriminating himself, would be tested on the anvil that whether only such incriminating statement has formed the basis of the order under Section 319 Cr.P.C. At the same time, mere reference to such statement would not vitiate the order. The test would be as to whether, even if the statement of witness is removed from consideration, whether on the basis of other incriminating material, the Court could have proceeded under Section 319 Cr.P.C.
The proviso to Section 132 offers statutory immunity against self-incrimination providing that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution or be proved against him in any criminal proceedings except a prosecution for giving false evidence by such answer. Thus, the only protection available is, a witness cannot be subjected to prosecution on the basis of his own statement. It nowhere provides that there is complete and unfettered immunity to a person even if there is other substantial evidence or material against him proving his prima facie involvement. If this complete immunity is read under the proviso to Section 132 of the Act, an influential person with the help of a dishonest

Investigating Officer will provide a legal shield to him by examining him as a witness even though his complicity in the offence is writ large on the basis of the material available in the case.

https://indiankanoon.org/doc/5041804/; Vijay Kumar Kanoria. vs The State Of Telangana on 2 September, 2024; CRLP 147/2024
it is also imperative to mention that the provisions of Section 305 Cr.P.C., provides for a situation where the company may refuse to name any person as its SKS, J representative and in such circumstances, Section 305(4) Cr.P.C., provides that the trial Court may take up trial of the matter without having to insist upon any person representing the company and all the requirements that are set out in the Cr.P.C., for doing certain acts in the presence of accused would stand waived.

https://indiankanoon.org/doc/35402908/;Vemu Rama Rao Kothanna Prasad, vs State Of A.P., on 10 September, 2024; IA no. 1/2024 in CRLRC No 456/2007
This Court specifically observed that P.Ws.1 and 3 did not secure independent mediators at relevant point of time i.e., on 02.12.1999 and that no explanation is forthcoming for not securing any independent mediators and that prosecution did not explain why they could not secure independent mediators to comply the provisions of Section 100(4) Cr.P.C., when so called arrest and seizure explosive substance from the petitioner/accused on the very brought day light that too at 12 noon and the testimony of P.Ws.1 and 3 clinchingly established that there was possibility of securing independent mediators at the place of alleged apprehension and without securing independent mediators, preparing police proceedings creates any amount of doubt over the prosecution version. It is settled that, if there is infirmity or doubt in the investigation done by P.W.3, this Court can come to the conclusion that the prosecution failed to prove the guilt of the accused beyond all reasonable doubts.

https://indiankanoon.org/doc/12347930/; Patlolla Amarendar Reddy vs The State Of Telangana on 11 September, 2024; CRLP 10630/2024
Reverting to the facts of the case on hand, a perusal of Section 186 of IPC makes clear that to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank. Further, Section 2 (d) of Cr.P.C., defines complaint as allegations made orally or in writing to the Magistrate with a view to the Magistrate taking action on such complaint, the Magistrate can take cognizance under Section 190 (1)(a) of Cr.P.C.. Thereafter, the procedure SKS,J prescribed under Section 200 of Cr.P.C has to be followed. Therefore, the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction.
11. Further, it is significant to note the Judgment of the Honourable Supreme Court in State of Karnataka v. Hermareddy AIR 1981 SC 1417, wherein in paragraph No.8, it is held as under:
"8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a Court is necessary under Section 196 (1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a Court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 196 (1)(b) of the Code of Criminal Procedure should be upheld"
(Emphasis supplied)

12. In the instant case, a perusal of the charge sheet discloses that the petitioners are sought to be prosecuted for the offence punishable under Section 186 of IPC including other provisions i.e., 214 of the Act. As per the Judgment of the Hon'ble Supreme Court in Hermareddy (supra) it is clear that if the offences formed part of the same transaction of the offences contemplated under Section 191 of Cr.P.C., it is not possible to split up and hold the prosecution of accused for the other offences. In view of the above, the FIR culminating in taking cognizance of the aforesaid offences stands vitiated. Hence, continuation of criminal proceedings against the petitioners is nothing but abuse of process of law.

https://indiankanoon.org/doc/80361097/; Kole Raju vs The State Of Telangana on 3 September, 2024; CRLP 5349/2024
In spite of the stringent provisions available, illegal mining activities increased. Section 21 (4A) of the Act, 1957 shows that the duty is cast upon the Investigating Officer or officers concerned who seized the vehicle to initiate the confiscation proceedings before the trial Court. If the confiscation proceedings are initiated, the petition under Section 451 Cr.P.C to seek interim custody is not maintainable.

https://indiankanoon.org/doc/155274192/; J. Rajeshwar Rao, vs The State Of Andhra Pradesh, on 6 September, 2024; CRLA 1142/2006
he consequence of the complaint made by the appellant is that the law was set into motion and the ACB has taken steps to investigate the public servant. Though, at the time of lodging the complaint and while being examined in pre-trap and post-trap proceedings and also in 164 Cr.P.C. statement made before the Magistrate, the statement of the appellant/defacto complainant was consistent regarding the demand made by the public servant. (2013) 15 Supreme Court Cases 539 However, in the course of his examination before Special Court, the appellant stated that the bribe amount was thrust into the pocket of the public servant. There is a major shift from his earlier version made during the investigation and the statement before the Court. The appellant being a public servant himself has to explain under what circumstances he lodged a serious complaint of demand of bribe by a public servant. The investigating agency investigated the case and filed charge sheet. However, before the Special Court, appellant herein completely resiled from earlier statement and stated that he himself has thrust the amount into the pocket of the public servant. If the appellant had thrust the amount into the pocket of the public servant involving him in a serious case of bribery, the contradictory statements made by the appellant at different stages i.e. complaint and 164 Cr.P.C. statement need to be tried by the Magistrate Court on the basis of the complaint made by the learned Special Judge.
In the present circumstances, it is expedient in the interest of justice to prosecute the appellant since there is a prima facie case of giving false evidence intentionally, during trial contrary to what was stated in the complaint and in 164 Cr.P.C. statement made before the Magistrate during the course of investigation.

https://indiankanoon.org/doc/10714718/; Mohammed Waseem Ahmed vs The State Of Telangana on 9 September, 2024; CRLP 6071/2024
188 CrPC- there are catena of judgments of the Hon'ble Supreme Court and various High Courts, wherein it is clearly observed that only the offence which is committed in India by an Indian Citizen can be tried in India and no sanction of the Central Government for the same is required, but when the offences are allegedly committed

outside India by a citizen of India, then previous sanction of the Central Government is required for the trial to commence.

https://indiankanoon.org/doc/44585695/; K. Rajvardhan Reddy vs The State Of Telangana on 11 September, 2024; WP 25142/2024

Learned counsel for the petitioner submitted that First Information Report (FIR) No.108 of 2024 of Wanaparthy Rural Police Station dated 28.06.2024 was registered against the petitioner for the offences punishable under Sections 420, 406 and 409 of the Indian Penal Code and Section 7 of the Essential Commodities Act, 1955. It is submitted that the Bharatiya Nyaya Suraksha Sanhita, 2023 (BNSS) came into force with effect from 01st July, 2024 and the provisions of the Code of Criminal Procedure, 1973 (Cr.P.C.) are applicable to FIR No.108 of 2024 which was registered on 28.06.2024 as per the Section 531(2) of BNSS. Despite the same, respondent No.5 - the Station House Officer, Wanaparthy Rural Police Station, has issued notice under Section 35(3) of BNSS.

3. The impugned notice is contrary to Section 531(2) of BNSS. The provisions of Cr.P.C. are applicable to FIR No.108 of 2024 which was registered on 28.06.2024 and BNSS came into force on 01st July, 2024.

4. It is borne out from the record the petitioner filed Crl.P. No.7732 of 2024 seeking quashment of FIR No.108 of 2024 of Wanaparthy Rural Police Station. This Court disposed the said petition by the order dated 23.07.2024 observing that Section 409 of IPC is not applicable and Investigating Officer was directed to serve notice under Section 41A of Cr.P.C to the petitioner.

5. In the circumstances, this writ petition is disposed of, directing respondent No.5 - the Station House Officer, Wanaparthy Rural Police Station, to issue notice under Section 41A of Cr.P.C to the petitioner and proceed with the investigation in FIR No.108 of 2024 of Wanaparthy Rural Police Station in accordance with the provisions of Cr.P.C. There shall be no order as to costs.

{Section 41A CrPC is exact replica of Section 35(3 to 6) BNSS, still the provision to be mentioned in notices prior to implementation of BNSS, should be under CRPC alone; BNSS provisions cannot be mentioned}

https://indiankanoon.org/doc/137732448/; Madipally Venkanna, Nalgonda District vs The State Of A.P. Sho Munagala on 4.9.2024; CRLRC No. 2338/2010

The said order passed under 451 of Cr.P.C is an interlocutory order, as such, this Court is prohibited from entertaining the revision application against interlocutory order under Section 397(2) of Cr.P.C. Accordingly, the revision petition is not maintainable.

2024 0 INSC 701; 2024 0 Supreme(SC) 798; Ramesh and Another Vs. State of Karnataka; Criminal Appeal No. 1467 of 2012; Decided On : 18-09-2024

once the Trial Court found no evidence to convict the accused, the burden was upon the High Court, while reversing the said judgment, to record clear findings in relation to each of the charges and, more particularly, the charge of criminal conspiracy under Section 120B IPC. However, no such exercise was undertaken by the High Court.

2024 0 INSC 708; 2024 0 Supreme(SC) 806; Bhagwan Singh Vs. State of U.P. & Ors.; Criminal Appeal Nos. 3883-3884 of 2024 (@ SLP(Crl.) Nos. 13052-13053 of 2024 @ Diary No. 18885 of 2024); Decided On : 20-09-2024

The matter assumes serious concern when the Advocates who are the officers of the Court are involved and when they actively participate in the ill-motivated litigations of

the unscrupulous litigants, and assist them in misusing and abusing the process of law to achieve their ulterior purposes.
People repose immense faith in Judiciary, and the Bar being an integral part of the Justice delivery system, has been assigned a very crucial role for preserving the independence of justice and the very democratic set up of the country. The legal profession is perceived to be essentially a service oriented, noble profession and the lawyers are perceived to be very responsible officers of the court and an important adjunct of the administration of justice. In the process of overall depletion and erosion of ethical values and degradation of the professional ethics, the instances of professional misconduct are also on rise. There is a great sanctity attached to the proceedings conducted in the court. Every Advocate putting his signatures on the Vakalatnamas and on the documents to be filed in the Courts, and every Advocate appearing for a party in the courts, particularly in the Supreme Court, the highest court of the country is presumed to have filed the proceedings and put his/her appearance with all sense of responsibility and seriousness. No professional much less legal professional, is immuned from being prosecuted for his/her criminal misdeeds.

2024 0 INSC 713; 2024 0 Supreme(SC) 807; Shoor Singh & Anr. Vs. State of Uttarakhand; Criminal Appeal No. 249 of 2013; Decided On: 20-09-2024
To constitute a ‘dowry death’, punishable under Section 304- B[Section 304-B. Dowry Death. – (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called ‘dowry death’, and such husband or relative shall be deemed to have caused her death.
Explanation. -- For the purpose of this sub-section, ‘dowry’ shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 [28 of 1961].
(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life] IPC, following ingredients must be satisfied:

i. death of a woman must have been caused by any burns or bodily injury or it must have occurred otherwise than under normal circumstances;
ii. such death must have occurred within seven years of her marriage;
iii. soon before such death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and
iv. such cruelty or harassment must be in connection with any demand for dowry.

The phrase ‘otherwise than under normal circumstances’ is wide enough to encompass a suicidal death.
13. When all the above ingredients of ‘dowry death’ are proved, the presumption under Section 113-B[Section 113-B. Presumption as to dowry death. When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.
Explanation.- For the purposes of this section, dowry death shall have the same meaning as in section 304 capital B of the Indian Penal Code [45 of 1860]] of the Evidence Act is to be raised against the accused that he has committed the offence of ‘dowry death’. What is important is that the presumption under Section 113-B is not in respect of commission of an act of cruelty, or harassment, in connection with any

demand for dowry, which is one of the essential ingredients of the offence of 'dowry death'. The presumption, however, is in respect of commission of the offence of 'dowry death' by the accused when all the essential ingredients of 'dowry death' are proved beyond reasonable doubt by ordinary rule of evidence, which means that to prove the essential ingredients of an offence of 'dowry death' the burden is on the prosecution.

2024 0 INSC 716; 2024 0 Supreme(SC) 808; Just Rights For Children Alliance & Anr. Vs. S. Harish & ors.; Criminal Appeal Nos. 2161-2162 OF 2024 (Arising Out Of Special Leave Petition (Crl) Nos. 3665-3666 OF 2024); Decided on : 23-09-2024

We summarize our final conclusion as under:

(I) Section 15 of the POCSO provides for three distinct offences that penalize either the storage or the possession of any child pornographic material when done with any particular intention specified under sub- section(s) (1), (2) or (3) respectively. It is in the nature and form of an inchoate offence which penalizes the mere storage or possession of any pornographic material involving a child when done with a specific intent prescribed thereunder, without requiring any actual transmission, dissemination etc.

(II) Sub-section (1) of Section 15 penalizes the failure to delete, destroy or report any child pornographic material that has been found to be stored or in possession of any person with an intention to share or transmit the same. The mens-rea or the intention required under this provision is to be gathered from the actus reus itself i.e., it must be determined from the manner in which such material is stored or possessed and the circumstances in which the same was not deleted, destroyed or reported. To constitute an offence under this provision the circumstances must sufficiently indicate the intention on the part of the accused to share or transmit such material.

(III) Section 15 sub-section (2) penalizes both the actual transmission, propagation, display or distribution of any child pornography as-well as the facilitation of any of the abovementioned acts. To constitute an offence under Section 15 sub-section (2) apart from the storage or possession of such pornographic material, there must be something more to show i.e., either (I) the actual transmission, propagation, display or distribution of such material OR (II) the facilitation of any transmission, propagation, display or distribution of such material, such as any form of preparation or setup done that would enable that person to transmit it or to display it. The mens rea is to be gathered from the manner in which the pornographic material was found to be stored or in possession and any other material apart from such possession or storage that is indicative of any facilitation or actual transmission, propagation, display or distribution of such material.

(IV) Section 15 sub-section (3) penalizes the storage or possession of any child pornographic material when done for any commercial purpose. To establish an offence under Section 15 sub-section (3), besides the storage or possession of the pornographic material involving a child, there must be some additional material or attending circumstances that may sufficiently indicate that the said storage or possession was done with the intent to derive any gain or benefit. To constitute an offence under sub-section (3) there is no requirement to establish that such gain or benefit had been actually realized.

(V) Sub-section(s) (1), (2) and (3) respectively of Section 15 constitute independent and distinct offences. The three offences cannot coexist simultaneously in the same set of facts. They are distinct from each other and are not intertwined.

This is because, the underlying distinction between the three sub-sections of Section 15 lies in the varying degree of culpable mens rea that is required under each of the three provisions.

(VI) The police as well as the courts while examining any matter involving the storage or possession of any child pornography, finds that a particular sub-section of Section 15 is not attracted, then it must not jump to the conclusion that no offence at all is made out under Section 15 of the POCSO. If the offence does not fall within one particular sub- section of Section 15, then it must try to ascertain whether the same falls within the other sub-sections or not.

(VII) Any act of viewing, distributing or displaying etc., of any child pornographic material by a person over the internet without any actual or physical possession or storage of such material in any device or in any form or manner would also amount to 'possession' in terms of Section 15 of the POCSO, provided the said person exercised an invariable degree of control over such material, by virtue of the doctrine of constructive possession.

(VIII) Any visual depiction of a sexually explicit act which any ordinary person of a prudent mind would reasonably believe to prima facie depict a child or appear to involve a child, would be deemed as 'child pornography' and the courts are only required to form a prima facie opinion to arrive at the subjective satisfaction that the material appears to depict a child from the perspective of any ordinary prudent person for any offence under the POCSO that relates to child pornographic material, such as Section 15. Such satisfaction may be arrived at from any authoritative opinion like a forensic science laboratory (FSL) report of such material or opinion of any expert on the material in question, or by the assessment of such material by the courts themselves.

(IX) Section 67B of the IT Act is a comprehensive provision designed to address and penalize the various electronic forms of exploitation and abuse of children online. It not only punishes the electronic dissemination of child pornographic material, but also the creation, possession, propagation and consumption of such material as-well as the different types of direct and indirect acts of online sexual denigration and exploitation of the vulnerable age of children. Section(s) 67, 67A and 67B respectively of the IT Act being a complete code, ought to be interpreted in a purposive manner that suppresses the mischief and advances the remedy and ensures that the legislative intent of penalizing the various forms of cyber-offences relating to children and the use of obscene / pornographic material through electronic means is not defeated by a narrow construction of these provisions.

(X) The statutory presumption of culpable mental state on the part of the accused as envisaged under Section 30 of the POCSO can be made applicable provided the prosecution is able to establish the foundational facts necessary to constitute a particular offence under the POCSO that may have been alleged against the accused. Such presumption can be rebutted by the accused either by discrediting the prosecution's case or by leading evidence to prove the contrary, beyond a reasonable doubt.

(XI) The foundational facts necessary for the purpose of invoking the statutory presumption of culpable mental state for an offence under Section 15 of POCSO are as follows:

(a) For the purpose of sub-section (1), the necessary foundational facts that the prosecution may have to first establish is the storage or possession of any child

pornographic material and that the person accused had failed to delete, destroy or report the same.

(b) In order to invoke the statutory presumption of culpable mental state for an offence under sub-section (2) the prosecution would be required to first establish the storage or possession of any child pornographic material, and also any other fact to indicate either the actual transmission, propagation, display or distribution of any such material or any form of an overt act such as preparation or setup done for the facilitation of the transmission, propagation, display or distribution of such material, whereafter it shall be presumed by the court that the said act was done with the intent of transmitting, displaying, propagating or distributing such material and that the said act(s) had not been done for the purpose of either reporting or for use as evidence.

(c) For the purpose of sub-section (3) the prosecution must establish the storage or possession of such material and further prove any fact that might indicate that the same had been done to derive some form of gain or benefit or the expectation of some gain or benefit.

(XII) The statutory presumption of culpable mental under Section 30 of POCSO can be made applicable in a quashing proceeding pertaining to any offence under the POCSO.

In my opinion, the case in hand calls for issuing the following directions to various stakeholders for due compliance:

1. The persons in charge of the schools/educational institutions, special homes, children homes, shelter homes, hostels, remand homes, jails, etc. or wherever children are housed, if they come across instances of sexual abuse or assault on a minor child which they believe to have been committed or come to know that they are being sexually molested or assaulted are directed to report those facts keeping upmost secrecy to the nearest Special Juvenile Police Unit (SJPU) or local police, and they, depending upon the gravity of the complaint and its genuineness, take appropriate follow-up action casting no stigma to the child or to the family members.
2. Media personnel, persons in charge of hotels, lodges, hospitals, clubs, studios and photograph facilities have to duly comply with the provision of Section 20 of Act 32 of 2012 and provide information to the SJPU, or local police. Media has to strictly comply with Section 23 of the Act as well.
3. Children with intellectual disability are more vulnerable to physical, sexual and emotional abuse. Institutions which house them or persons in care and protection, if come across any act of sexual abuse, have a duty to bring to the notice of the Juvenile Justice Board/SJPU or local police and they in turn be in touch with the competent authority and take appropriate action.
4. Further, it is made clear that if the perpetrator of the crime is a family member himself, then utmost care be taken and further action be taken in consultation with the mother or other female members of the family of the child, bearing in mind the fact that best interest of the child is of paramount consideration.
5. If hospitals, whether government or privately-owned or medical institutions where children are being treated come to know that children admitted are subjected to sexual abuse, the same will immediately be reported to the nearest Juvenile Justice Board/SJPU and the Juvenile Justice Board, in consultation with SJPU, should take appropriate steps in accordance with the law safeguarding the interest of the child.

6. The non-reporting of the crime by anybody, after having come to know that a minor child below the age of 18 years was subjected to any sexual assault, is a serious crime and by not reporting they are screening the offenders from legal punishment and hence be held liable under the ordinary criminal law and prompt action be taken against them, in accordance with law.
7. Complaints, if any, received by Ncpcr, Scpcr, Child Welfare Committee (CWC) and Child Helpline, NGOs or women's organisations, etc., they may take further follow-up action in consultation with the nearest Juvenile Justice Board, SJPU or local police in accordance with law.
8. The Central Government and the State Governments are directed to constitute SJPUs in all the districts, if not already constituted and they have to take prompt and effective action in consultation with the Juvenile Justice Board to take care of the child and protect the child and also take appropriate steps against the perpetrator of the crime.
9. The Central Government and every State Government should take all measures as provided under Section 43 of Act 32 of 2012 to give wide publicity to the provisions of the Act through media including television, radio and print media, at regular intervals, to make the general public, children as well as their parents and guardians, aware of the provisions of the Act."

social media intermediaries in addition to reporting the commission or the likely apprehension of commission of any offence under POCSO to the National Centre for Missing & Exploited Children (NCMEC) is also obligated to report the same to authorities specified under Section 19 of POCSO i.e., the Special Juvenile Police Unit (SJPU) or the local police.

We further caution the courts to refrain from showing any form of leniency or leeway in offences under Section 21 of the POCSO, particularly to schools/educational institutions, special homes, children's homes, shelter homes, hostels, remand homes, jails, etc. who failed to discharge their obligation of reporting the commission or the apprehension of commission of any offence or instance of child abuse or exploitation under the POCSO. Section(s) 19, 20 and 21 of the POCSO are mandatory in nature, and there can be no dilution of the salutary object and purport of these provisions. Merely because Section 21 prescribes a lesser threshold of punishment, the same in no way derogates or detracts from the gravity or severity of the offence which has been sought to be punished as held in Maroti (supra). It is a settled position of law that he length of punishment is not the only indicator of the gravity of the offence and it is to be judged by a totality of factors, especially keeping in mind the background in which the offence came to be recognized by the legislature in the specific international context i.e., the United Nations Convention on Rights of Children, particularly Article(s) 3(2) and 34 of the said Convention.

We propose to suggest the following to the Union of India in its Ministry of Women and Child Development:

(i) The Parliament should seriously consider to bring about an amendment to the POCSO for the purpose of substituting the term "child pornography" that with "child sexual exploitative and abuse material" (CSEAM) with a view to reflect more accurately on the reality of such offences. The Union of India, in the meantime may consider to bring about the suggested amendment to the POCSO by way of an ordinance.

(ii) We put the courts to notice that the term "child pornography" shall not be used in any judicial order or judgment, and instead the term "child sexual exploitative and abuse material" (CSEAM) should be endorsed.

(iii) Implementing comprehensive sex education programs that include information about the legal and ethical ramifications of child pornography can help deter potential offenders. These programs should address common misconceptions and provide young people with a clear understanding of consent and the impact of exploitation.
(iv) Providing support services to the victims and rehabilitation programs for the offenders is essential. These services should include psychological counselling, therapeutic interventions, and educational support to address the underlying issues and promote healthy development. For those already involved in viewing or distributing child pornography, CBT has proven effective in addressing the cognitive distortions that fuel such behaviour. Therapy programs should focus on developing empathy, understanding the harm caused to victims, and altering problematic thought patterns.
(v) Raising awareness about the realities of child sexual exploitative material and its consequences through public campaigns can help reduce its prevalence. These campaigns should aim to destigmatize reporting and encourage community vigilance.
(vi) Identifying at-risk individuals early and implementing intervention strategies for youth with problematic sexual behaviours (PSB) involves several steps and requires a coordinated effort among various stakeholders, including educators, healthcare providers, law enforcement, and child welfare services. Educators, healthcare professionals, and law enforcement officers should be imparted training to identify signs of PSB. Awareness programs can help these professionals recognize early warning signs and understand how to respond appropriately.
(vii) Schools can also play a crucial role in early identification and intervention. Implementing school-based programs that educate students about healthy relationships, consent, and appropriate behaviour can help prevent PSB.
(viii) To give meaningful effect to the above suggestions and work out the necessary modalities, the Union of India may consider constituting an Expert Committee tasked with devising a comprehensive program or mechanism for health and sex education, as well as raising awareness about the POCSO among children across the country from an early age, for ensuring a robust and well-informed approach to child protection, education, and sexual well-being.

2024 0 INSC 734; 2024 0 Supreme(SC) 826; Manik & Ors. Vs The State of Maharashtra; Criminal Appeal Nos.1614-1618 of 2012; Decided on : 25-09-2024

In the light of the decision of this Court in Utpal Das & Anr. v. State of West Bengal, (2010) 6 SCC 493 there can be no doubt that a statement recorded under Section 164, Cr.PC., can also be used like a statement under Section 161, Cr.PC, to cross-examine the maker of it and to contradict him.

A perusal of Section 145 of the Evidence Act, 1872 would reveal that a witness could be cross- examined as to previous statement in writing only in respect of a fact relevant to the matter(s) in question, for the purpose of contradicting him in the manner provided therein. Omissions amounting to contradiction that militate against the core of the prosecution case alone is material as in such circumstances it would have a bearing on the credibility of the witness concerned.

Production of a dead body to prove a murder is not necessary in the eye of law. ‘Corpus Delicti’ is a Latin phrase that broadly means – ‘body of the crime’. Generally,

this principle has reference to the requirement of the prosecution proving that the crime has been committed, so as to charge the delinquent and secure a conviction.

2024 0 INSC 735; 2024 0 Supreme(SC) 829; Vijay Singh@Vijay Kr. Sharma Vs. The State of Bihar; Criminal Appeal No. 1031 of 2015 With Criminal Appeal No. 1578 of 2017, Criminal Appeal No. 765 of 2017, Criminal Appeal No. 1579 of 2017; Decided On : 25-09-2024

Ordinarily, there is no rule of law to discard the testimonies of the witnesses merely because they were known to the victim or belonged to her family. For, an offence may be committed in circumstances that only the family members are present at the place of occurrence in natural course.

A post mortem report is generally not considered as conclusive evidence of the facts mentioned in the report regarding the cause of death, time of death etc. It could always be corroborated with other direct evidence on record such as ocular evidence of the eye witnesses. However, when there is no other credible evidence on record to contradict the report, the facts stated in the post mortem report are generally taken as true.

The accused persons and the eyewitnesses belong to the same family and the presence of a property related dispute is evident. In a hypothetical sense, both the sides could benefit from implicating the other. In such circumstances, placing reliance upon motive alone could be a double-edged sword. We say no more.

2024 0 INSC 738; 2024 0 Supreme(SC) 832; Baljinder Singh @ Ladoo And Others Vs. State Of Punjab; Criminal Appeal No. 1389 of 2012; Decided on : 25-09-2024

paragraph 26 of the decision of this Court in Balu Sudam Khalde and Anr. vs. State of Maharashtra, 2023 SCC OnLine SC 355. The relevant passage is reproduced as under:

> “26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:
>
> (a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.
>
> (b) <u>Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.</u>
>
> <u>(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.</u>
>
> (d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.
>
> <u>(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.</u>
>
> (f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.”(emphasis supplied)

We are of the view that there cannot be a fixed timeframe for formation of common intention. It is not essential for the perpetrators to have had prior meetings to conspire or make preparations for the crime. Common intention to commit murder can arise even moments before the commission of the act. Since common intention is a mental state of the perpetrators, it is inherently challenging to substantiate directly. Instead, it

can be inferred from the conduct of the perpetrators immediately before, during, and after the commission of the act.
It is also settled law that examination of independent witness is not an indispensable requisite if the testimonies of other witnesses are deemed trustworthy and reliable. Non-examination of any independent witness by the prosecution will not go to the root of the matter affecting the decision of the court, unless other witnesses' testimonies and evidences are scant to establish the guilt of the accused.

https://indiankanoon.org/doc/96783196/; T. Ramadevi vs The State Of Telangana on 26 September, 2024; WP No. 21912/2024(DB)
we have no hesitation in reaching to the conclusion that TSPDFE Act has not in any manner ousted the applicability of the provisions of Cr.P.C. so far as the mandatory requirement which includes the fundamental right of any person who stands apprehended or arrested to be produced before the nearest Judicial Magistrate. If the said interpretation is not accepted or followed; the very purpose, object and intention of the law makers at the first instance so far as the fundamental right guaranteed under Article 22(2) of the Constitution of India and secondly under the statute i.e. Section 167(1) and (2) of Cr.P.C. would render the two provisions redundant, which in the opinion of this Court would give rise to far more complications and repercussions and which perhaps is also not the intention of the law makers in the course of enacting the TSPDFE Act.

https://indiankanoon.org/doc/96873105/; Shaik Shadullah vs The State Of Telangana on 23 September, 2024; CRLP 9267/2024
Reverting to the facts of the case on hand, a perusal of Section 186 of IPC makes clear that to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank. Further, Section 2 (d) of Cr.P.C., defines complaint as allegations made orally or in writing to the Magistrate with a view to the Magistrate taking action on such complaint, the Magistrate can take cognizance under Section 190 (1)(a) of Cr.P.C.. Thereafter, the procedure prescribed under Section 200 of Cr.P.C has to be followed. Therefore, the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction.

https://indiankanoon.org/doc/159783365/; Avinash vs The State Of Andhra Pradesh on 23 September, 2024; CRLP No. 6369/2024
Even after, grant of bail, the very same court which has granted bail may suo motu take up the case and examine whether the conditions imposed on the Petitioners while granting bail to them require relaxation/modification

NOSTALGIA

311 CrPC
judgment of **Rajaram Prasad Yadav vs. State of Bihar and Another, (2013) 4 SCC 461** wherein this Court culled out the principles to be borne in mind while exercising the power under Section 311 CrPC. The relevant extract is reproduced herein-below:

> "17. From a conspectus consideration of the above decisions, while dealing with an application under Section 311 CrPC read along with Section

138 of the Evidence Act, we feel the following principles will have to be borne in mind by the courts:

"17.1. Whether the court is right in thinking that the new evidence is needed by it? Whether the evidence sought to be led in under Section 311 is noted by the court for a just decision of a case?

17.2. The exercise of the widest discretionary power under Section 311 CrPC should ensure that the judgment should not be rendered on inchoate, inconclusive and speculative presentation of facts, as thereby the ends of justice would be defeated.

17.3. If evidence of any witness appears to the court to be essential to the just decision of the case, it is the power of the court to summon and examine or recall and re-examine any such person.

17.4. The exercise of power under Section 311 CrPC should be resorted to only with the object of finding out the truth or obtaining proper proof for such facts, which will lead to a just and correct decision of the case.

17.5. **The exercise of the said power cannot be dubbed as filling in a lacuna in a prosecution case, unless the facts and circumstances of the case make it apparent that the exercise of power by the court would result in causing serious prejudice to the accused, resulting in miscarriage of justice.**

17.6. The wide discretionary power should be exercised judiciously and not arbitrarily.

17.7. The court must satisfy itself that it was in every respect essential to examine such a witness or to recall him for further examination in order to arrive at a just decision of the case.

17.8. The object of Section 311 CrPC simultaneously imposes a duty on the court to determine the truth and to render a just decision.

17.9. The court arrives at the conclusion that additional evidence is necessary, not because it would be impossible to pronounce the judgment without it, but because there would be a failure of justice without such evidence being considered.

17.10. Exigency of the situation, fair play and good sense should be the safeguard, while exercising the discretion. The court should bear in mind that no party in a trial can be foreclosed from correcting errors and that if proper evidence was not adduced or a relevant material was not brought on record due to any inadvertence, the court should be magnanimous in permitting such mistakes to be rectified.

17.11. The court should be conscious of the position that after all the trial is basically for the prisoners and the court should afford an opportunity to them in the fairest manner possible. In that parity of reasoning, it would be safe to err in favour of the accused getting an opportunity rather than protecting the prosecution against possible prejudice at the cost of the accused. The court should bear in mind that improper or capricious exercise of such a discretionary power, may lead to undesirable results.

17.12. The additional evidence must not be received as a disguise or to change the nature of the case against any of the party.

17.13. The power must be exercised keeping in mind that the evidence that is likely to be tendered, would be germane to the issue involved and also ensure that an opportunity of rebuttal is given to the other party.

17.14. The power under Section 311 CrPC must therefore, be invoked by the court only in order to meet the ends of justice for strong and valid reasons and the same must be exercised with care, caution and circumspection. The court should bear in mind that fair trial entails the interest of the accused, the victim and the society and, therefore, the grant of fair and proper opportunities to the persons concerned, must be ensured being a constitutional goal, as well as a human right."

319 CrPC

paragraph 33 of the judgment passed by the Constitution Bench of this Court in the case of Sukhpal Singh Khaira vs. State of Punjab, (2023) 1 SCC 289 : 2022 INSC 1252, which reads thus:

"33. For all the reasons stated above, we answer the questions referred as hereunder:-

"I. Whether the trial court has the power under Section 319 of CrPC for summoning additional accused when the trial with respect to other co-accused has ended and the judgment of conviction rendered on the same date before pronouncing the summoning order?

The power under Section 319 of CrPC is to be invoked and exercised before the pronouncement of the order of sentence where there is a judgment of conviction of the accused. In the case of acquittal, the power should be exercised before the order of acquittal is pronounced. Hence, the summoning order has to precede the conclusion of trial by imposition of sentence in the case of conviction. If the order is passed on the same day, it will have to be examined on the facts and circumstances of each case and if such summoning order is passed either after the order of acquittal or imposing sentence in the case of conviction, the same will not be sustainable.

II. Whether the trial court has the power under Section 319 of the CrPC for summoning additional accused when the trial in respect of certain other absconding accused (whose presence is subsequently secured) is ongoing/pending, having been bifurcated from the main trial?

The trial court has the power to summon additional accused when the trial is proceeded in respect of the absconding accused after securing his presence, subject to the evidence recorded in the split up (bifurcated) trial pointing to the involvement of the accused sought to be summoned. But the evidence recorded in the main concluded trial cannot be the basis of the summoning order if such power has not been exercised in the main trial till its conclusion.

III. What are the guidelines that the competent court must follow while exercising power under Section 319 CrPC?"

(i) If the competent court finds evidence or if application under Section 319 of CrPC is filed regarding involvement of any other person in committing the offence based on evidence recorded at any stage in the

trial before passing of the order on acquittal or sentence, it shall pause the trial at that stage.

(ii) The Court shall thereupon first decide the need or otherwise to summon the additional accused and pass orders thereon.

(iii) If the decision of the court is to exercise the power under Section 319 of CrPC and summon the accused, such summoning order shall be passed before proceeding further with the trial in the main case.

(iv) If the summoning order of additional accused is passed, depending on the stage at which it is passed, the Court shall also apply its mind to the fact as to whether such summoned accused is to be tried along with the other accused or separately.

(v) If the decision is for joint trial, the fresh trial shall be commenced only after securing the presence of the summoned accused.

(vi) If the decision is that the summoned accused can be tried separately, on such order being made, there will be no impediment for the Court to continue and conclude the trial against the accused who were being proceeded with.

(vii) If the proceeding paused as in (i) above is in a case where the accused who were tried are to be acquitted and the decision is that the summoned accused can be tried afresh separately, there will be no impediment to pass the judgment of acquittal in the main case.

(viii) If the power is not invoked or exercised in the main trial till its conclusion and if there is a split-up (bifurcated) case, the power under Section 319 of CrPC can be invoked or exercised only if there is evidence to that effect, pointing to the involvement of the additional accused to be summoned in the split up (bifurcated) trial.

(ix) If, after arguments are heard and the case is reserved for judgment the occasion arises for the Court to invoke and exercise the power under Section 319 of CrPC, the appropriate course for the court is to set it down for re-hearing.

(x) On setting it down for re-hearing, the above laid down procedure to decide about summoning; holding of joint trial or otherwise shall be decided and proceeded with accordingly.

(xi) Even in such a case, at that stage, if the decision is to summon additional accused and hold a joint trial the trial shall be conducted afresh and de novo proceedings be held.

(xii) If, in that circumstance, the decision is to hold a separate trial in case of the summoned accused as indicated earlier;

(a) The main case may be decided by pronouncing the conviction and sentence and then proceed afresh against summoned accused.

(b) In the case of acquittal the order shall be passed to that effect in the main case and then proceed afresh against summoned accused."

Judgment of Civil Court & Criminal Court not binding on each other

In Avitel Post Studioz Limited and others v. Hsbc Pi Holding (Mauritius) Limited AIRONLINE 2020 SC 691 the Honourable Supreme Court observed that the law on the issue stands crystallized to the effect that the findings of fact recorded by the civil court do not have any bearing so far as the criminal case is concerned and vice versa. Standard of proof is different in civil and

criminal cases. In civil cases it is preponderance of probabilities while in criminal cases it is proof beyond reasonable doubt. There is neither any statutory nor any legal principle that findings recorded by the court either in civil or criminal proceedings shall be binding between the same parties while dealing with the same subject-matter and both the cases have to be decided on the basis of the evidence adduced therein.

Sanction

In State of U.P. v. Paras Nath Singh, (2009) 6 SCC 372, the Court observed as under:

> "8. …As the provision itself mandates that no finding, sanction or order by a court of competent jurisdiction becomes invalid unless it is so that a failure of justice has in fact been occasioned because of any error, omission or irregularity in the charge including in misjoinder of charge, obviously, the burden is on the accused to show that in fact a failure of justice has been occasioned."

Corpus Delicti

In Sevaka Perumal and another vs. State of Tamil Nadu, (1991) 3 SCC 471 this Court observed that it is not an absolute necessity or an essential ingredient to establish the corpus delicti in a trial for murder, as the factum of death must be established like any other fact. To base a conviction for murder, this Court held that there must be reliable and acceptable evidence that the offence of murder was committed and it must be proved, either by direct or circumstantial evidence, even if the dead body is not traceable.

Examination of Independent Witnesses

It is also settled law that examination of independent witness is not an indispensable requisite if the testimonies of other witnesses are deemed trustworthy and reliable. Non-examination of any independent witness by the prosecution will not go to the root of the matter affecting the decision of the court, unless other witnesses' testimonies and evidences are scant to establish the guilt of the accused. Reference is made to paragraph 24 of the decision of this court in Guru Dutt Pathak vs. State of U.P., (2021) 6 SCC 116, where it was ruled as follows:

> "24. One another ground given by the learned trial court while acquitting the accused was that no independent witness has been examined. The High Court has rightly observed that where there is clinching evidence of eyewitnesses, mere non- examination of some of the witnesses/independent witnesses and/or in absence of examination of any independent witnesses would not be fatal to the case of the prosecution.
>
> 24.1. In Manjit Singh vs. State of Punjab, (2019) 8 SCC 529, it is observed and held by this Court that reliable evidence of injured eyewitnesses cannot be discarded merely for reason that no independent witness was examined.
>
> 24.2. In the recent decision in Surinder Kumar vs. State of Punjab, (2020) 2 SCC 563, it is observed and held by this Court that merely because

prosecution did not examine any independent witness, would not necessarily lead to conclusion that the accused was falsely implicated.

24.3. In Rizwan Khan vs. State of Chhattisgarh, (2020) 9 SCC 627, after referring to the decision of this Court in State of H.P. vs. Pardeep Kumar, (2018) 13 SCC 808, it is observed and held by this Court that the examination of the independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case." (emphasis supplied)

MAY or SHALL

The Hon'ble Supreme Court in the case of Dinesh Chandra Pandey Vs. High Court of Madhya Pradesh 4 in paragraph No.15has held as under:

"15. The courts have taken a view that where the expression "shall" has been used it would not necessarily mean that it is mandatory. It will always depend upon the facts of a given case, the conjunctive reading of the relevant provisions along with other provisions of the Rules, the purpose sought to be achieved and the object behind implementation of such a provision. This Court in SarlaGoel v. Kishan Chand [(2009) 7 SCC 658], took the view that where the word "may" shall be read as "shall" would depend upon the intention of the legislature and it is not to be taken that once the word "may" is used, it per se would be directory. In other words, it is not merely the use of a particular expression that would render a provision directory or mandatory. It would have to be interpreted in the light of the settled principles, and while ensuring that intent of the Rule is not frustrated."

Likewise, in the case of Mohan Singh Vs. International Airport Authority of India again the Hon'ble Supreme Court held (2010) 11 SCC 500 that the words 'may' and 'shall' in the legal context are synonymous and can be used interchangeably if the context requires such an interpretation. In paragraph No.26 of the said judgment, the Hon'ble Supreme Court held as under:

"26. Thus, this Court, keeping in view the objects of the Act, had considered whether the language in a particular section, clause or sentence is directory or mandatory. The word 'shall', though prima facie gives impression of being of mandatory character, it requires to be considered in the light of the intention of the legislature by carefully attending to the scope of the statute, its nature and design and the consequences that would flow from the construction thereof one way or the other. In that behalf, the court is required to keep in view the impact on the profession, necessity of its compliance; whether the statute, if it is avoided, provides for any contingency for non-compliance; if the word 'shall' is construed as having mandatory character, the mischief that would ensue by such construction; whether the public convenience would be subserved or public inconvenience or the general inconvenience that may ensue if it is held mandatory and all other relevant circumstances are required to be taken into consideration in construing whether the provision would be mandatory or directory. If an object of the enactment is defeated by holding the same directory, it should be construed as mandatory whereas if by holding it mandatory serious general inconvenience will be created to (1997) 9 SCC 132 innocent persons of general public without much furthering the object of enactment, the same should be construed as directory but all the same, it would not mean that the language

used would be ignored altogether. Effect must be given to all the provisions harmoniously to suppress public mischief and to promote public justice."

NEWS

- TSHC- Circular- Observance Of Office Timings By The Judicial Officers In The State
- APHC- Amendments To Criminal Rules Of Practice And Circular Orders, 1990 In Terms Of Order Dated 20.04.2021 Passed By The Hon''ble Supreme Court In S.M.W.P. (Crl.) No.1/2017 (In Re: To Issue Certain Guidelines Regarding Inadequacies And Deficiencies In Criminal Trials).
- Amendments To Criminal Rules Of Practice And Circular Orders, 1990 In Terms Of Order Dated 20.04.2021 Passed By The Hon''ble Supreme Court In S.M.W.P. (Crl.) No.1/2017 (In Re: To Issue Certain Guidelines Regarding Inadequacies And Deficiencies In Criminal Trials).
- High Court Of Andhra Pradesh - White A4 Size Paper - Writ Proceeding Rules, 1977.
- The Telangana Civil Courts (Amendment) Act, 2024
- AP- The Appellate Side Rules Of The High Court - Amendments - Final Notification
- AP- Notification Of All The District Offices Of Prosecutions In (13) Districts As "District Directorate Of Prosecutions"
- AP- The Banning Of Unregulated Deposits Schemes Act, 2019 (Act No.21 Of 2019) - Designation Of All The Courts Of Principal District And Sessions Judges And The Metropolitan Sessions Judges Of Vijayawada And Visakhapatnam In The State Of Andhra Pradesh As Special Courts To Try The Cases Under The Banning Of Unregulated Deposits Schemes Act, 2019 (Act No.21 Of 2019).
- High Court for the State of Telangana - Direction of the Hon'ble Supreme Court in Crl.A.No. 3589 of 2023 dated 29-02-2024 overruling the Directions dated 28-03-2018 in Asian Resurfacing case - Forwarding the Judgment in Crl.A.No. 3589 of 2023 dated 29-02-2024 - Instructing all the Judicial Officers in the State to follow the directions - Reg.

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ON A LIGHTER VEIN

A surgeon, an architect an a lawyer are having a heated pub discussion about which of their professions is actually the oldest.

The surgeon says: “Surgery IS the oldest profession. God took a rib from Adam to create Eve and you can’t go back further than that.”

The architect says: “Hold on! In fact, God was the first architect when he created the world out of chaos in 7 days, and you can’t go back any further than THAT!”

The lawyer smiles and says: “Gentlemen, Gentlemen…who do you think created the CHAOS??!!”

*****

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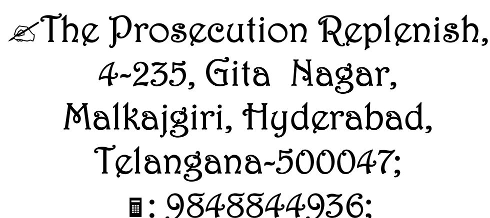

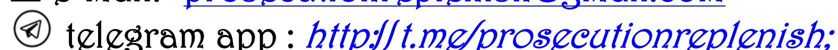

Notes

Prosecution Replenish

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

सर्वं परवशं दुःखं सर्वमात्मवशं सुखम्।
एतद् विद्यात् समासेन लक्षणं सुखदुःखयोः॥

जो सब अन्यों के वश में होता है, वह दुःख है। जो सब अपने वश में होता है, वह सुख है। यही संक्षेप में सुख एवं दुःख का लक्षण है।

Whatever happens under the control of others is sorrow. Whatever is under one's control is happiness. This in short is the symptoms of happiness and sorrow.

CITATIONS

2024 0 INSC 750; 2024 0 Supreme(SC) 850; K. Bharthi Devi and Another Vs. State of Telangana and Another; Criminal Appeal No. 4113 of 2024 [Arising Out of Special Leave Petition (Criminal) No. 4353 of 2018]; 03-10-2024

the Court reiterates that the criminal cases having an overwhelmingly and pre-dominatingly civil flavour stand on a different footing for the purposes of quashing. The Court particularly refers to the offences arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. The Court finds that in such cases, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.

In the present case also, undisputedly, the FIR and the chargesheet are pertaining to the dispute concerning the loan transaction availed by the accused persons on one hand and the Bank on the other hand. Admittedly, the Bank and the accused persons have settled the matter. Apart from the earlier payment received by the Bank either through Equated Monthly Instalments (EMIs) or sale of the mortgaged properties, the borrowers have paid an amount of Rs. 3,80,00,000/- under OTS. After receipt of the amount under OTS, the Bank had also decided to close the loan account. The dispute involved predominantly had overtures of a civil dispute. Apart from that, it is further to be noted that in view of the

settlement between the parties in the proceedings before the DRT, the possibility of conviction is remote and bleak. In our view, continuation of the criminal proceedings would put the accused to great oppression and prejudice.

2024 0 INSC 752; 2024 0 Supreme(SC) 852; Tarina Sen Vs. Union of India and Another; Criminal Appeal No. 4114 of 2024 [Arising out of Special Leave Petition (Criminal) No. 1415 of 2024], Criminal Appeal No. 4115 of 2024 [Arising out of Special Leave Petition (Criminal) No. 1416 of 2024]; Decided On : 03-10-2024

Relying on the earlier judgments of this Court, we have held that in the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 Cr.P.C. for giving an end to the criminal proceedings. We have held that the possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice.

2024 0 INSC 755; 2024 0 Supreme(SC) 855; Rama Devi Vs. The State of Bihar and Others; Criminal Appeal Nos. 2623-2631 of 2014, Criminal Appeal Nos. 2632-2640 of 2014; Decided On : 03-10-2024 (THREE JUDGE BENCH)

Indian law does not recognise the doctrine-falsus in uno, falsus in omnibus. In Deep Chand and Others v. State of Haryana, (1969) 3 SCC 890 this Court had observed that the maxim falsus in uno, falsus in omnibus is not a sound rule to apply in the conditions of this country. This maxim does not occupy the status of rule of law. It is merely a rule of caution which involves the question of the weight of evidence that a court may apply in the given set of circumstances. [Ponnam Chandraiah v. State of Andhra Pradesh, (2008) 11 SCC 640]. In cases where a witness is found to have given unreliable evidence, it is the duty of the court to carefully scrutinise the rest of the evidence, sifting the grain from the chaff. The reliable evidence can be relied upon especially when the substratum of the prosecution case remains intact. The court must be diligent in separating truth from falsehood. Only in exceptional circumstances, when truth and falsehood are so inextricably connected as to make it indistinguishable, should the entire body of evidence be discarded.

The criminal background of a witness necessitates that the courts approach their evidence with caution. The testimony of a witness with a chequered past cannot be dismissed as untruthful or uncreditworthy

without considering the surrounding facts and circumstances of the case, including their presence at the scene of the offence. In cases involving conflicts between rival gangs or groups, the testimony of members from either side is admissible and relevant. If the court is convinced of the veracity and truthfulness of such testimony, it may be considered. Courts typically assess the broader context to determine if there is sufficient corroboration, as long as there are no valid reasons to discredit the evidence. The crucial test is whether the witness is truly an eye-witness and whether their testimony is credible. If their presence at the scene is established beyond doubt, their account of the incident can be relied upon. Such evidence cannot be discarded merely on the grounds of criminal background. [See State of U.P. v. Farid Khan and Others, (2005) 9 SCC 103]

We have already referred to judgments of this Court while examining the doctrine of falsus in uno, falsus in omnibus. The same principles equally apply when the court examines the statement of a witness who has been declared hostile by the prosecution. In a catena of judgments, this Court has observed that the evidence of a hostile witness is not to be completely rejected, so as to exclude versions that support the prosecution. Rather, the testimony of the hostile witness is to be subjected to close scrutiny, thus enabling the court to separate truth from falsehood, exaggerations and improvements. Only reliable evidence should be taken into consideration. The court is not denuded of its power to make an appropriate assessment. The entire testimony of a hostile witness is discarded only when the judge, as a matter of prudence, finds the witness wholly discredited, warranting the exclusion of the evidence in toto. [See: C. Muniappan and Others v. State of Tamil Nadu, (2010) 9 SCC 567] The creditworthy portions of the testimony should be considered for the purpose of evidence in the case.

The ocular version of the witnesses should not be disregarded solely because the weapon used in the crime and the vehicles allegedly used by the accused were not located or seized by the police.

The High Court, in its reasoning, takes an exception on the minor discrepancies regarding the place and time of recording the statement under Section 161 Cr.P.C… Considering the efflux of time of more than 4-6 years between the date of occurrence and recording of court testimony, these issues are at best superficial and peripheral and would not warrant disregarding the prosecution case. The questions posed to the witnesses were more in the nature of a memory test rather than questions posed to test the truthfulness and credibility of their core testimony.

It is trite law that a delay in forwarding the FIR to the jurisdictional magistrate is not fatal to the prosecution case. This Court, in State of

Rajasthan v. Daud Khan, (2016) 2 SCC 607 has examined the case law on the subject and held that when there is a delay in forwarding the FIR to the jurisdictional magistrate and the accused raises a specific contention regarding the same, they must demonstrate how this delay has prejudiced their case. Mere delay by itself is not sufficient to discard and disbelieve the case of the prosecution. If the investigation starts in right earnest and there is sufficient material on record to show that the accused were named and pinpointed, the prosecution case can be accepted when evidence implicates the accused. The requirement to dispatch and serve a copy of the FIR to the jurisdictional magistrate is an external check against ante dating or ante timing of the FIR to ensure that there is no manipulation or interpolation in the FIR. If the court finds the witnesses to be truthful and credible, the lack of a cogent explanation for the delay may not be regarded as detrimental.
The contention that Paras Nath Chaudhury (PW-1) and Mahanth Ashwani Das (PW-25) were not attesting witnesses to the inquest report, fardbeyan, FIR, etc. is inconsequential and does not in any way weaken their ocular evidence. Similarly, the contention that they were not injured during the cross-fire is nugatory as it is clear from the evidence on record that it was Brij Bihari Prasad who was the target of the attack. The armed bodyguards who were attacked had retaliated. Although it is true that the depositions of Paras Nath Chaudhury (PW-1) and Mahanth Ashwani Das (PW-25) do not mention the retaliatory firing by the bodyguards, an independently proven fact, this alone is not a sufficient ground to dismiss their presence at the spot or their versions including the culpability of the persons who had committed the offence.

https://indiankanoon.org/doc/24367836/; Shaik Afroz vs The State Of Telangana, on 4 October, 2024; CRLP 8858 of 2024
a perusal of Section 188 of IPC makes clear that to take cognizance there should be a written complaint and such complaint should be filed either by the officer issuing such promulgation order or the officer above his rank. Further, Section 2 (d) of Cr.P.C., defines complaint as allegations made orally or in writing to the Magistrate with a view to the Magistrate taking action on such complaint, the Magistrate can take cognizance under Section 190 (1)(a) of Cr.P.C.. Thereafter, the procedure prescribed under Section 200 of Cr.P.C has to be followed. Therefore, the first information report, charge sheet and the order taking cognizance on such charge sheet are without jurisdiction.
In the instant case, a perusal of the charge sheet discloses that the petitioners are sought to be prosecuted for the offence punishable under Section 188 of IPC including other penal provisions i.e., 323 and 353 read with 149 of IPC. As per the judgment of the Hon'ble Supreme

Court in Hermareddy (AIR 1981 SC 1417) it is clear that if the offences formed part of the same transaction of the offences contemplated under Section 191 of Cr.P.C., it is not possible to split up and hold the prosecution of accused for the other offences. In view of the above, the FIR culminating in taking cognizance of the aforesaid offences stands vitiated. Hence, continuation of criminal proceedings against the petitioners is nothing but abuse of process of law.

https://indiankanoon.org/doc/111090893/; Koneru Chinna Narsimulu Goud vs The State Of Telangana on 1 October, 2024; CRLP 11880 of 2024

As per Section 195A Cr.P.C, a witness or any other person may file a complaint in relation to an offence under Section 195A IPC. The counsel contends that the procedure to be followed, for a complaint under Section 200 Cr.P.C., is not followed in this case. In this case, based on the representation given by the complainant, the police registered the case and the same was investigated into and later cognizance was taken. Hence, it amounts to violation of the procedure prescribed under Section 195A Cr.P.C. Hence, the same cannot be sustained.

It appears that the precedent reported in (2012 2 ALD(Cri) 98 ; 2012 3 ALT(Cri) 197 ; 2012 0 Supreme(AP) 236; Rebaka Vara Prasad & Another Vs. State of A.P. & Another; Criminal Petition Nos. 10807 of 2011 & 12836 of 2011; Decided On : 05-03-2012, was not brought to the notice of the Hon’ble High court)

https://indiankanoon.org/doc/195759222/; Bonthala Ravi vs The State Of Telangana on 3 October, 2024; CRLP 10926 of 2024

As observed by the Hon'ble Supreme Court in Kambala Nageswara Rao (2014 (1) ALD 521), it is observed that the expert opinion on ink age cannot be of any help in determining the date of its writing as the writing could be made at one time and the ink may have been manufactured years earlier.

https://indiankanoon.org/doc/35664630/; Kapoor Chand Agarwal vs The State Of Telangana, on 4 October, 2024; CRLP 4258 of 2023

In the light of the submissions made by both the learned counsel and a perusal of the material available on record, the main allegation against the petitioner is that he is selling the Fabric under the brand name of Linen Club Fabric. According to de facto complainant, his products are being sold in the official stores and there is no authorization to other persons to sell the cloth by using his brand. In view of the facts and circumstances of the case, this Court is of the considered view that if the subject property is released, it will cause great hardship to the de facto complainant and

also for public also. Therefore, there is no illegality in the order of the trial Court. This Court does not find any ground to interfere with the order of the trial Court, as such, the **crimin**al petition is liable to be dismissed.

https://indiankanoon.org/doc/31245618/; Lakavath Nagaraju vs The State Of Telangana on 3 October, 2024; 11318 of 2024
As seen from the Section 60 of the Disaster Management Act, 2005 And Section 195(i) (a) of Cr.P.C, it is clear that the court is prohibited from taking cognizance except on a complaint made by the authorities for the offences punishable under Sections 420 and 188 read with 34 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 51 (b) of the Disaster Management Act, 2005 .

https://indiankanoon.org/doc/166443385/; Nallanthigal Dharma Praneeth vs The State Of Telangana ;1.10.2024; CRLP 11018 of 2024
this Court is of the considered opinion that mere granting of injunction order in I.A.No.336 of 2024 in O.S.No.101 of 2024 in favour of the petitioners in respect of schedule property, is not a ground to declare the petitioners as owners of the schedule property.

https://indiankanoon.org/doc/85827219/; Shree Samarth Kamadhenu Gow Shala vs State Of Telangana; 3.10.2024; CRLP 11745 of 2024
In view of the submissions made by the learned counsel for the petitioner and a perusal of the material available on record, it appears that as per the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rules, 2017, a Magistrate must follow specified rates for animal care and determine a bond value to cover transportation, maintenance, and treatment costs, based on veterinary officer input. However, the trial court improperly released the vehicle upon payment of Rs.13,500/- to Shree Samarth Kamdhenu Goshala, contravening the rules. It is specifically contended by the learned Assistant Public Prosecutor that as on date, the cattle are not released from the said Goshala. In view of the facts and circumstances of the case, this Court is of the considered view that the trial Court is directed to follow the rules of the Care and Maintenance of Case Property Animals).

https://indiankanoon.org/doc/80211127/; Sri Gopalakrishna Parandhama Charya vs The State Of AP; 4.10.2024; CRLP 6208/2024
Learned Special Assistant Public Prosecutor appearing for Respondent-State is present and submits that the petitioner herein filed a Writ Petition No.19834 of 2024 before this Court seeking same relief and the same is pending. Now, the petitioner preferred this petition with the same relief. The alleged offence in the present crime are punishable with

imprisonment less than seven years and in the decision of the Hon'ble Supreme Court in Arnesh Kumar Vs. State of Bihar and another, the petitioner is entitled the bail under Section 41 A Cr.P.C.
In these circumstances, the petitioner is not even represented by any counsel. Hence, this Court is not inclined to entertain this application, the Criminal Petition is dismissed.

(Notice under 41A CrPC= 35(3) BNSS not mandatory in cases punishable below 7 years)

https://indiankanoon.org/doc/186558131/; Kobbala Ashok, vs The State Of A.P., Rep By Pp., on 4 October, 2024; CRLRC 1520/2010
In view of the version of forcible rape not being supported by any physical injury that was caused to the victim, corroborating evidence has to be looked into since the testimony of PW.1 is unreliable.

https://indiankanoon.org/doc/111347079/; Saladi Veera Venkata Arjuna Seetaram vs State Of AP;15.10.2024;CRLP 6628/2024
After due hearing on both sides by an order dated 27.08.2024, the learned Magistrate stated that section 376(2)(n) of IPC is triable exclusively by the Hon'ble Court of sessions and that the accused despite adding the new penal provisions did not choose to surrender and did not choose to apply for bail for the newly added penal provisions. In view of those circumstances, it directed the accused to be arrested for the offences under sections 376(2)(n), 354-C and 506 IPC. Thus, it is at the direction of the court, the prosecution intended to arrest the accused.
Thus, there is warrant/ justification for the police to arrest. The ratio of the Pradeep Ram's case permitted several alternatives and the accused did not pursue any of those alternatives. The offences alleged against him are very grave. In such circumstances, pre-arrest bail cannot be granted. Seeing from the facts of the case it has to be stated that the accused is a person who was released on regular bail for some of the penal provisions and he now seeks anticipatory bail for the newly added penal provisions. It is difficult to comprehend that in the same crime, one could avail a regular bail in part and anticipatory bail in part. At any rate taking a case as a case when once the accused was arrested in the case, his right to seek pre arrest bail ceases.

https://indiankanoon.org/doc/93473708/; John Velanganamma vs The State Of Andhra Pradesh; 15 October, 2024; CRLRC 866 & 899 of 2023
The said provision provides that the learned trial judge upon consideration of the record of the case and the documents submitted therewith and after hearing the submissions of the accused and the prosecution, considers

that there is no sufficient ground for proceeding against the accused; it shall discharge the accused and record reasons for doing so. On the other hand, if after such consideration and hearing, the judge is of the opinion that there is ground for presuming that the accused has committed an offence which is exclusively triable by a court of sessions, it shall frame in writing a charge against the accused vide section 228(1)(b) of CrPC. On the other hand, if it finds that there is ground for presuming that the accused has committed an offence which is not exclusively triable by court of session, it may frame a charge against the accused and by an order transfer the case for trial to the Chief Judicial Magistrate or any other Judicial Magistrate of the First Class and direct the accused to appear before the said Magistrate on such date as it deems fit and there upon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report as provided in section 228(1)(a) of the CrPC.

Could it be said that there is sufficient ground to proceed to charge a citizen for a grave offence under section 307 IPC only based on his own confession and nothing else. Be it noted that the confessional statement of this accused/A2 was not recorded before learned Judicial Magistrate of the First Class under section 164 CrPC. The law is clear that confession made by accused to police cannot even be narrated in the charge sheet1. Such confession made to police cannot be called as legal material to frame a charge2. {Sanju Bhansal V. State of Uttar Pradesh 2024 LiveLaw (SC) 467 Deepak Bhai Jagadesh Chandra Patel V. State of Gujarat 2019 (16) SCC 547}

Here two things are to be noticed The first one is that the learned Assistant Sessions Judge has not referred to any single fact which according to it would amount to a material to frame a charge for the offence under section 307 IPC. The second aspect to be observed is that it considered confession, seizure and panchanama and found prima facie case for charging A1. Thus, the impugned order is an order that is devoid of reasons. Justice demands an order supported by reasons. Bereft of reasons, it ceases to command the respect that is deserved by an order of a court and could be called arbitrary order.

https://indiankanoon.org/doc/6336057/; Polaki Sarana Kumari vs The State Of Andhra Pradesh on 14 October, 2024; CRLP 6695/2024

In the backdrop of the legal proposition referred to supra, coming to the factual aspects of the present case, it is not the case of the prosecution that against the very same Accused, complaint has been made, which was registered as C.C.No.494 of 2022. In the present case, Police deleted the names of Accused Nos.2 to 4 and filed charge sheet against Accused No.1 only and the Court has taken cognizance of the offence

under Sections 447 and 427 IPC against Accused No.1 and numbered the same as C.C.No.32 of 2015. The trial Court proceeded with the matter and when the same has reached the stage of Section 313 Cr.P.C examination of the Accused, on a protest petition, the Court has taken cognizance of the offence under Sections 447 and 427 IPC against Accused Nos.2 to 4 also and accordingly issued summons to them. For the present, Non-Bailable Warrant is pending against Accused No.3, which means Accused Nos.2 and 4 appeared before the Court in C.C.No.494 of 2022.
At this juncture, the learned trial Judge ordered Accused Nos.2 to 4 to appear in C.C.No.32 of 2015 by closing C.C.No.494 of 2022, which is not in accordance with the ratio referred to supra. The Accused in C.C.No.494 of 2022 are Accused Nos.2 to 4 and the Accused in C.C.No.32 of 2015 is Accused No.1 and they are different persons. As rightly argued, there is no incriminating material found in the charge sheet against Accused Nos.2 to 4. Hence, clubbing of C.C.No.32 of 2015 with C.C.No.494 of 2022 may cause prejudice to the interests of the Petitioner herein.

2024 0 INSC 779; 2024 0 Supreme(SC) 930; Eknath Kisan Kumbharkar Vs. State of Maharashtra; Criminal Appeal No. 4220 of 2024 (Arising Out Of The Special Leave Petition (Criminal) No.251 OF 2020); Decided on : 16-10-2024 (THREE JUDGE BENCH)
It is an established principle of law that conviction can be based on the testimony of a sole eyewitness. This Court in the case of Vadivelu Thevar and another Vs. State of Madras, AIR 1957 SC 614 has held that the court can act on the testimony of a single witness though uncorroborated. Unless corroboration is insisted upon by a statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence that corroboration should be insisted upon. Whether corroboration of the testimony of a single witness is or is not necessary, would depend upon facts and circumstances of each case and depends upon the judicial discretion. In other words, this Court has held that court would be considered with the quality and not the quantity of the evidence necessary for proving or not proving a fact.
The thrust of the arguments canvassed on behalf of the appellant is to the effect that non-examination of the owner of the tea stall located near the scene of crime; non-examination of the ward boy of Savkar hospital; non-examination of independent witnesses who had assembled near the scene of crime on hue and cry being raised by PW-2; was fatal to the prosecution case. Though at first blush, said arguments looks attractive, on deeper examination it has to be answered against the appellant as it is settled principle of law that non-examination of independent witnesses by

itself would not give rise to adverse inference against the prosecution. It would only assume importance when the evidence of eyewitness raises a serious doubt about their presence at the time of actual occurrence.[7][Guru Dutt Pathak v. State of Uttar Pradesh, (2021) 6 SCC 116]

Yet another plea was raised that due to financial dispute between appellant and PW-2, he (PW-2) had falsely implicated the appellant. During course of examination, it was suggested to PW2 that there was some dispute between him and the appellant on account of monetary transaction. Though PW2 accepted that he had demanded a hand loan from the accused, he has denied that appellant had mortgaged his bike with the friend of PW2 and has also denied the receipt of hand loan from the appellant. Section 103 of the Evidence Act, mandates that burden of proof as to any particular fact lies on that person who wishes the court to believe its existence. As such, burden was on the appellant to tender evidence for the purpose of proving the alleged financial transaction. Apart from making a bald statement in his statement recorded under Section 313 of Cr.P.C., no efforts have been made by the appellant to either examine the friend of PW2 as a witness or tender any documentary evidence to prove the so called financial transaction. Hence, the plea of the appellant regarding alleged financial transaction with PW2 is not established.

This Court in the case of Rohtash Kumar v State of Haryana, (2013) 14 SCC 434 has held that undue importance should not be given to minor omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution.

This Court in the case of Manoj Suryavanshi v State of Chhattisgarh, (2020) 4 SCC 451 has held there are bound to be some discrepancies between the narration of different witnesses, when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. It is further observed that corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence. As such the contention of the appellant raised in this regard is liable to be rejected and accordingly it is rejected.

2024 0 INSC 782; 2024 0 Supreme(SC) 937; Lalu Yadav Vs. The State of Uttar Pradesh & Ors.; Criminal Appeal No. 4222 of 2024 (Arising out of SLP (Crl.) No. 9371 of 2018; Decided On : 16-10-2024

Now, having bestowed our anxious consideration to the decisions referred supra with reference to the factual situations obtained in the case at hand,

we are of the considered view that the High Court has palpably gone wrong in not considering the question whether the allegations in the complaint reveals prima facie case that the complainant had given her consent for the sexual relationship with the appellant under misconception of fact, as alleged, or whether it reveals a case of consensual sex. Firstly, it is to be noted that the subject FIR itself would reveal that there occurred a delay of more than 5 years for registering the FIR; secondly, the very case of the complainant, as revealed from the FIR, would go to show that they lived for a long period as man and wife and thirdly, the facts and circumstances obtained from the subject FIR and other materials on record would reveal absence of a prima facie case that the complainant viz., respondent No. 4 had given her consent for sexual relationship with the appellant under misconception of fact. At any rate, the allegations in the FIR would not constitute a prima facie case of false promise to marry from the inception with a view to establish sexual relationship and instead they would reveal a prima facie case of long consensual physical relationship, during which the complainant addressed the appellant as her husband. Moreover, it is also the case of the complainant, revealed from the subject FIR and the other materials on record that she went along with the appellant to Varanasi with the knowledge of her family and stayed with him in hotels during such visits. The subsequent refusal to marry the complainant would not be sufficient, in view of the facts and circumstances obtained in the case at hand, by any stretch of imagination to draw existence of a prima facie case that the complainant had given consent for the sexual relationship with the appellant under misconception of fact, so as to accuse the appellant guilty of having committed rape within the meaning of Section 375, IPC.

2024 0 INSC 798; 2024 0 Supreme(SC) 952; Yashodeep Bisanrao Vadode Vs. The State of Maharashtra & Anr; Criminal Appeal Nos. 4278 of 2024 (Arising out of SLP (Crl.) No. 8245 of 2023); Decided On : 21-10-2024

On an anxious consideration of the materials on record would reveal that the main instance of demand for Rs. 5 lakhs for the purpose of purchasing residential flat was allegedly occurred since January, 2010 onwards. But then, the evidence on record would show that the marriage between the appellant and Savita (accused No.2) who is one of the sisters of the first accused was conducted much later viz., only on 26.10.2010. The unfortunate incident resulting in her death occurred hardly within five and half months since he became a relative of the family of the husband of the deceased. It is a fact that despite the general, vague allegation no specific accusation was raised against the appellant. That apart, despite our microscopic examination, we could not find any specific evidence brought

out by the prosecution against the appellant herein through anyone of the witnesses. In other words, the fact discernible from the impugned judgment is that none of the prosecution witnesses had specifically deposed against the appellant herein of his having committed any cruelty which will attract the offence under Section 498-A, IPC, against him. There is also no case that no complaints were filed implicating the appellant earlier to the subject FIR. In short, we find that there is no scintilla of evidence against the appellant herein to hold that he has committed the offence under Section 498-A, IPC, even with the aid of Section 34, IPC. Being the husband of the second accused, Savita, who was found guilty by the courts below for the aforesaid offence cannot be a ground to hold the appellant guilty under the said offence in the absence of any specific material on record.

2024 0 INSC 800; 2024 0 Supreme(SC) 953; Shyam Narayan Ram Vs. State Of U.P. & Anr.; Criminal Appeal Nos. of 2024 (@ Special Leave to Petition (Crl.) Nos.16282- 16284 of 2023); Decided on : 21-10-2024
A bare reading of the aforesaid provision, in particular, (Sec 294 CrPC) sub-section (3) provides that where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed. That is to say that if the authors of such documents does not enter the witness box to prove their signatures, the said documents could still be read in evidence. Further, under the proviso the Court has the jurisdiction in its discretion to require such signature to be proved. In the present case, the documents filed by the investigating agency were all public documents duly signed by public servants in their respective capacities either as Investigating Officer or the doctor conducting the autopsy or other police officials preparing the memo of recoveries etc. As such the Trial Court had rightly relied upon the same and exhibited them in view of the specific repeated stand taken by the defence in admitting the genuineness of the said documents. In so far as the police papers which had been signed by private persons like the informant, the same had been duly proved.

2024 0 INSC 809; 2024 0 Supreme(SC) 962; Uma & Anr. Vs. The State Rep. By The Deputy Superintendent Of Police; Criminal Appeal No. 757 of 2015 With Criminal Appeal No. 67 of 2016; Decided on : 22-10-2024
The prosecution has proved its case beyond reasonable doubt, established the complete chain of circumstances including the; (i) motive (ii) presence of the Appellants at the time of incident (iii) false explanation in the statement under Section 313 of the CrPC (iv) the conduct of the

Appellants before and after the incident & most pertinently (v) the medical evidence; which in all human probability only correspond to the guilt of the Appellants.
In the case of Trimukh Maroti Kirkan v. State of Maharashtra, [2006] Supp. (7) S.C.R. 156, this Court has pointed out that there are two important consequences that play out when an offence is said to have taken place in the privacy of a house, where the accused is said to have been present. Firstly, the standard of proof expected to prove such a case based on circumstantial evidence is lesser than other cases of circumstantial evidence. Secondly, the appellant would be under a duty to explain as to the circumstances that led to the death of the deceased. In that sense, there is a limited shifting of the onus of proof. If he remains quiet or offers a false explanation, then such a response would become an additional link in the chain of circumstances. In terms of Section 106 of the Evidence Act, the Appellants have not discharged their burden that the injuries sustained by the deceased were not homicidal and not inflicted by them.
Although, this Court is conscious of the fact that an Appellate Court must not ordinarily reverse the finding of acquittal, the High Court has been able to demonstrate perversity and non-appreciation of the materials on record. On a fresh appreciation of evidence, we also find ourselves unable to agree with the findings of the Trial Court and are of the considered view that the circumstances in this case are conclusive and a conclusion of guilt can be drawn.

2024 0 INSC 823; 2024 0 Supreme(SC) 978; The State of Madhya Pradesh Vs. Ramjan Khan & Ors.; Criminal Appeal No. 2129 of 2014; 25-10-2024
There can be no doubt with respect to the position that the prime object of FIR, from the point of view of the informant is to set the criminal law in motion and from the point of the investigating authorities is to obtain information about the alleged activity so as to enable to take suitable steps to trace and book the guilty. Thus, it can be said that FIR is an important document, though not a substantial piece of evidence, and may be put in evidence to support or contradict the evidence of its maker viz., the informant. Whether the omission(s) is one which seriously impeaches the credibility of the witness and is sufficient to reject the testimony of the informant would depend upon the question whether it is of an important fact and whether that fact was within the knowledge of the informant, going by the case of prosecution unraveled through the witness concerned.

https://indiankanoon.org/doc/156979765/; Parvataneni Vijaya Kumar vs The State Of Telangana on 22 October, 2024; Crl.P.No.6449 OF 2024

In view of the above order, it becomes quite apt to note the definition of word 'investigation'. As defined in Section 4(l) of Cr.P.C., 1898 and Section 2(h) of Cr.P.C., 1973, the word "investigation" includes all the proceedings under the code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf. Therefore, it can be said that there is no force in this contention as it is needless to observe that order dated 15.11.2023 passed by this Court in Crl.P.No.11238 of 2023 is binding on petitioners herein, whereunder, they were directed to co-operate with the Investigating Officer by furnishing requisite information to conclude the investigation, and in spite of issuance of this order by this Court, the petitioners are pleading to not give specimen signatures and same amounts to causing hindrance to the process of investigation.

Reverting to the facts of the case on hand, it is significant to note that notice under Section 41-A of Cr.P.C., is already issued to the petitioners and as such, they are not arrested. A cursor reading of the aforesaid provisions would clearly reveal that there is a bar under Section 311-A of Cr.P.C., which enables the Magistrate to order a person to give specimen signatures or handwriting, if the Magistrate is satisfied that the same is done for the purpose of investigation, or proceedings under the Code, it becomes expedient to direct the person, including an accused, to give specimen signature or handwriting, as such, the trial Court issued notice to the petitioner on a requisition made by the Police for the purpose of facilitating investigation. Further, in the judgement rendered by the Hon'ble Supreme Court in Sushil Agarwal Vs. State (NCT of Delhi) 10 while dealing with grant of anticipatory bail, it was observed in paragraph No.92.7 that "an order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail". In view of the same, (2020) 5 SCC 1 SKS, J Crl.P.No.6449 OF 2024 issuance of 41-A Cr.P.C., notice does not limit the powers of investigating agency.

At this juncture, it is relevant to note that by following the rules and directives issued in the cases of Joginder Kumar (supra 4) and Arnesh Kumar (supra 8) would reveal that the process of arrest in cases of criminal offences is necessarily fraught with legal requirements. If Section 311-A is interpreted to require an arrest, it will not only make it more difficult for the judiciary to accomplish the objectives of the Section but will also open doors to unnecessary arrests by the Police. The Court in the landmark case of Kathi Kalu Oghad (supra 2) made an imperative

observation in this regard that "the specimen handwriting and the impressions of the fingers, palm, or foot of the accused person will only implicate him if the identification of the two sets can be proven through comparison with other handwritings or impressions. These handwritings or impressions by themselves neither tend nor serve to implicate the accused", the question that has to be considered is SKS, J Crl.P.No.6449 OF 2024 whether it should be really 'necessary' for the police to 'arrest' a person for the purposes of this clause when it is conspicuous that the ultimate aim of the Section can be achieved without mandating this requirement too.

The word "arrest" has been used in relation to the provisions of Section 311-A of the Cr.P.C., to benefit the investigating agency rather than the accused so that the learned Magistrate can issue an order requiring an accused who is in custody to provide the specimen signature or handwriting without violating the rights of accused under either Article 20(3) of the Constitution of India or the provisions of the Cr.P.C. In addition, in the judgment of the Hon'ble Supreme Court in the case of State of Bombay Vs. Kathi Kalu Oghad (supra 2) it was observed that giving of specimen signatures and handwritings to the Police will not amount to testimonial compulsion which is prohibited by Article 20(3) of the Constitution of India and there is no constitutional bar for the Police to obtain specimen signatures and handwritings from the accused.

https://indiankanoon.org/doc/70011311/; Mohammad Raheel Aamir vs The State Of Telangana on 24 October, 2024; WP No. 16446/2014

it is needless to mention that having regard to the discussion as noted above, it is clear that it would be desirable that the police should inform the Court and seek formal permission to make further investigation. In such a situation the power of the Court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the Court is obliged to hear the accused before any such direction is made. In addition, the term further investigation within the meaning of provision of Section 173(8) Cr.P.C., is additional; more ; or supplemental, therefore, further investigation is nothing but the continuation of the earlier investigation and not a fresh investigation or reinvestigation to be started ab initio wiping out the earlier investigation altogether.

Furthermore, it is pertinent to mention that when Section 156(3) of Cr.P.C., states that a Magistrate empowered under Section 190 may order an investigation, such Magistrate may also order further investigation under Section 173(8), having regard to the definition of "investigation" contained in Section 2(h).

https://indiankanoon.org/doc/62288753/; Cheekatla Srinivas vs The State Of Telangana on 16 October, 2024; Crl.P.No.8590 of 2024

The investigating agency has to proceed only on the information about commission of a cognizable offence which is first entered in the police station diary by the officer-in-charge under Section 158 of the Code of Criminal Procedure, 1973 (hereinafter called "CrPC") and all other subsequent information would be covered by Section 162 CrPC for the reason that it is the duty of the investigating officer not merely to investigate the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and the investigating officer has to file one or more reports under Section 173 CrPC. Even after submission of the report under Section 173(2) CrPC, if the investigating officer comes across any further information pertaining to the same incident, he can make further investigation, but it is desirable that he must take the leave of the court and forward the further evidence, if any, with further report or reports under Section 173(8) CrPC. In case the officer receives more than one piece of information in respect of the same incident involving one or more than one cognizable offences such information cannot properly be treated as an FIR as it would, in effect, be a second FIR and the same is not in conformity with the scheme of CrPC."

https://indiankanoon.org/doc/30484228/; Katkoju Saida Chary vs The State Of Telangana on 22 October, 2024; CRLP No. 6260/2023

Having regard to the submissions made by both the counsel and the material placed on record, admittedly, petitioners and 2nd respondent are having lands in the same survey number and there are boundary disputes between them and that the petitioners damaged the boundary stones and the paddy crop, when both the parties are having civil disputes with regard to same property, even when there is an injunction order in favour of 1st petitioner, it cannot exonerate him and cannot give right to the petitioners herein to enter into others property and damage the same when both are adjacent owners whether this petitioner entered into the 2nd respondent land and damaged the crop cannot be decided without trial. Further, the statement of witnesses shows that petitioners damaged the paddy crop of 2nd respondent. Therefore, mere having injunction in favour of 1st petitioner is not a ground to quash the proceedings against the petitioners, when there is damage to the property. Further, the investigating officer investigated the matter and conducted scene of offence panchanama showing damage to the crop of 2nd respondent in the presence of mediators which requires trial. As such, the proceedings against the petitioners cannot be quashed and the same is liable to be dismissed.

https://indiankanoon.org/doc/70011311/; Mohammad Raheel Aamir vs The State Of Telangana on 24 October, 2024;

In addition, in the case of Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanadha Maharaj Vs. State of Andhra Pradesh it was held that the power of the police to conduct further investigation, after laying final report, is recognized under Section 173(8) of Cr.P.C. Even after the Court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. Further, the same point was so stated by the Hon'ble Supreme Court in J Ram Lal Narang v. State (Delhi Admn.) observing that the only rider provided by the aforesaid decision is that it would be desirable that the police should inform the Court and seek formal permission to make further investigation. In such a situation the power of the Court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the Court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the Court would only result in encumbering the Court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, the Magistrate cannot be burdened with such an obligation.

Furthermore, it is pertinent to mention that when Section 156(3) of Cr.P.C., states that a Magistrate empowered under Section 190 may order an investigation, such Magistrate may also order further investigation under Section 173(8), having regard to the definition of "investigation" contained in Section 2(h).

NOSTALGIA

Non- recovery of weapon or vehicle

Yogesh Singh v. Mahabeer Singh and Others, (2017) 11 SCC 195 which refers to several other decisions. See also State of Rajasthan v. Arjun Singh and Others (2011) 9 SCC 115]

The ocular version of the witnesses should not be disregarded solely because the weapon used in the crime and the vehicles allegedly used by the accused were not located or seized by the police.

Bar under 195 CrPC vitiates other offences also

the Honourable Supreme Court in State of Karnataka v. Hermareddy, AIR 1981 SC 1417 wherein in paragraph No.8, it is held as under:

"8. We agree with the view expressed by the learned Judge and hold that in cases where in the course of the same transaction an offence for which no complaint by a Court is necessary under Section 196 (1)(b) of the Code of Criminal Procedure and an offence for which a complaint of a Court is necessary under that sub-section, are committed, it is not possible to split up and hold that the prosecution of the accused for the offences not mentioned in Section 196 (1)(b) of the Code of Criminal Procedure should be upheld"

Age of the ink

the Hon'ble Supreme Court in Kambala Nageswara Rao v. Kesana Bala Krishna 2014 (1) ALD 521, wherein in paragraph No.5, it is held as follows:

"5. The application, no doubt, is filed under Section 45 of the Act, and it is not uncommon that such applications are filed in the suits for recovery of money on the strength of promissory notes. However, the prayer in the I.A. is somewhat peculiar. Even while not disputing his signature on the promissory note, the petitioner wanted the age thereof to be determined. Several complications arise in this regard. The mere determination of the age, even if there exists any facility for that purpose; cannot, by itself, determine the age of the signature. In a given case, the ink, or for that matter, the pen, may have been manufactured several years ago, before it was used, to put a signature. If there was a gap of 10 years between the date of manufacture of ink or pen, and the date on which, the signature was put or document was written, the document cannot be said to have been executed or signed on the date of manufacture of ink or pen. It is only in certain forensic cases, that such questions may become relevant. The trial Court has taken correct view of the matter and dismissed the application."

Police Case and Private complaint

the Hon'ble Supreme Court in Pal @ Palla Vs. State of Uttar Pradesh1, wherein, at Paragraphs 28 to 30 it was held as follows:

"28. Although, it will appear from the above that under Section 210 Cr.P.C. the Magistrate may try the two cases arising out of a

police report and a private complaint together, the same, in our view, contemplates a situation where having taken cognizance of an offence in respect of an accused in a complaint case, in a separate police investigation such a person is again made an accused, then the Magistrate may inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. That, however, is not the fact situation in the instant case, since the accused are different in the two separate proceedings and the situation has, in fact, arisen where prejudice in all possibility is likely to be caused in a single trial where a person is both an accused and a witness in view of the two separate proceedings out of which the trial arises.

29. In our view, this is a case where the decision in Harjinder Singh's case (supra) would be more apposite. In the said case, the question of Article 20(2) of the Constitution, as well as Section 300 Cr.P.C., relating to double jeopardy was considered. A similar situation has arisen in this case where the version in the complaint case and the police report are totally different, though, arising out of the same incident. In our view, this is a case where the two trials should be held simultaneously but not as a single trial.

30. The facts of the case also warrant that the two trials should be conducted by the same Presiding Officer in order to avoid conflict of decisions. As was observed in Harjinder Singh's case (supra) clubbing and consolidating the two cases, one on a police challan and the other on a complaint, if the prosecution versions in the two cases are materially different, contradictory and mutually exclusive, should not be consolidated but should be tried together with the evidence in the two cases being recorded separately, so that both the cases could be disposed of simultaneously."

498A – other relatives

this Court in the decision in Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667. This Court observed that it is a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a large number of cases.

Sec 294 CrPC

the applicability of section 294 CrPC, reference may be had to the following judgments of this Court in the case of Sonu alias Amar

vs. State of Haryana, (2017) 8 SCC 570 wherein this Court had held in para 30 as follows:

> "30. Section 294 of the Cr.P.C. 1973 provides a procedure for filing documents in a Court by the prosecution or the accused. The documents have to be included in a list and the other side shall be given an opportunity to admit or deny the genuineness of each document. In case the genuineness is not disputed, such document shall be read in evidence without formal proof in accordance with the Evidence Act."

19. Further, in the case of Shamsher Singh Verma vs. State of Haryana, (2016) 15 SCC 485, this Court held in para 14 as under:

> "14….. It is not necessary for the court to obtain admission or denial on a document under sub-section (1) to Section 294 CrPC personally from the accused or complainant or the witness. The endorsement of admission or denial made by the counsel for defence, on the document filed by the prosecution or on the application/ report with which same is filed, is sufficient compliance of Section 294 CrPC. Similarly on a document filed by the defence, endorsement of admission or denial by the public prosecutor is sufficient and defence will have to prove the document if not admitted by the prosecution. In case it is admitted, it need not be formally proved, and can be read in evidence. In a complaint case such an endorsement can be made by the counsel for the complainant in respect of document filed by the defence."

20. Also, this Court in the case of Akhtar vs. State of Uttaranchal, (2009) 13 SCC 722 has held in para 21 as under:

> "21. It has been argued that non- examination of the concerned medical officers is fatal for the prosecution. However, there is no denial of the fact that the defence admitted the genuineness of the injury reports and the post-mortem examination reports before the trial court. So the genuineness and authenticity of the documents stands proved and shall be treated as valid evidence under Section 294 of the CrPC. It is settled position of law that if the genuineness of any document filed by a party is not disputed by the opposite party it can be read as substantive evidence under sub-section (3) of Section 294 CrPC. Accordingly, the post-mortem report, if its genuineness is not disputed by the opposite party, the said post-mortem report can be read as substantive evidence to prove the correctness of its contents without the doctor concerned being examined."

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Conditions for Bail

The fundamental purpose of bail is to ensure the accused's presence during the investigation and trial. Any conditions imposed must be reasonable and directly related to this objective. This Court in "Parvez Noordin Lokhandwalla v. State of Maharastra and Another, (2020) 10 SCC 77" observed that though the competent court is empowered to exercise its discretion to impose "any condition" for the grant of bail under Sections 437(3) and 439(1)(a) CrPC, the discretion of the court has to be guided by the need to facilitate the administration of justice, secure the presence of the accused and ensure that the liberty of the accused is not misused to impede the investigation, overawe the witnesses or obstruct the course of justice. The relevant observations are extracted herein below:

> "14. The language of Section 437(3) CrPC which uses the expression "any condition … otherwise in the interest of justice" has been construed in several decisions of this Court. **Though the competent court is empowered to exercise its discretion to impose "any condition" for the grant of bail under Sections 437(3) and 439(1)(a) CrPC, the discretion of the court has to be guided by the need to facilitate the administration of justice, secure the presence of the accused and ensure that the liberty of the accused is not misused to impede the investigation, overawe the witnesses or obstruct the course of justice.** Several decisions of this Court have dwelt on the nature of the conditions which can legitimately be imposed both in the context of bail and anticipatory bail."
>
> (Emphasis supplied)

13. In Sumit Mehta v. State (NCT of Delhi), (2013) 15 SCC 570, this Court discussed the scope of the discretion of the Court to impose "any condition" on the grant of bail and observed in the following terms:-

> "15. The words "any condition" used in the provision should not be regarded as conferring absolute power on a court of law to impose any condition that it chooses to impose. **Any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail.** We are of the view that the present facts and circumstances of the case do not warrant such extreme condition to be imposed."

(Emphasis supplied)

14. This Court in Dilip Singh v. State of Madhya Pradesh and Another, (2021) 2 SCC 779, laid down the factors to be taken into consideration while deciding the application for bail and observed:

"4. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realisation of disputed dues. It is open to a court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. **The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character, behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations.** A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial."

(Emphasis supplied)

15. In Mahesh Chandra v. State of U.P. and Others, (2006) 6 SCC 196, this Court observed that while deciding a bail application, it is not the jurisdiction of the Court to decide civil disputes as between the parties. The relevant part is extracted hereinbelow:

"3. As a condition for grant of anticipatory bail, the High Court has recorded the undertaking of the petitioners to pay to the victim daughter-in-law a sum of Rs. 2000 per month and failure to do so would result in vacation of the order granting bail. We notice that the applicants before the High Court were the jeth and jethani of the victim. We fail to understand how they can be made liable to deposit Rs. 2000 per month for the maintenance of the victim. **Moreover, while deciding a bail application, it is not the jurisdiction of the court to decide civil disputes as between the parties.** We, therefore, remit the matter to the High Court to consider the bail application afresh on merit and to pass an appropriate order without imposing any condition of the nature imposed by the impugned order.

(Emphasis supplied)

NEWS

- THE BANNING OF UNREGULATED DEPOSITS SCHEMES ACT, 2019 (ACT NO.21 OF 2019) - DESIGNATION OF ALL THE COURTS OF PRINCIPAL DISTRICT AND SESSIONS JUDGES IN THE STATE OF ANDHRA PRADESH AS SPECIAL COURTS TO TRY THE CASES UNDER THE BANNING OF UNREGULATED DEPOSITS SCHEMES ACT, 2019 (ACT NO.21 OF 2019), IN SUPERSESSION OF EARLIER ORDERS.
- AMENDMENT TO THE ANDHRA PRADESH STATE JUDICIAL (SERVICE AND CADRE) RULES, 2007.
- CIVIL AND CRIMINAL - DESIGNATION OF THE COURT OF IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, VISAKHAPATNAM, AS SPECIAL COURT FOR TRIAL OF ECONOMIC OFFENCES UNDER THE SPECIFIED CENTRAL ACTS FOR ENTIRE STATE OF ANDHRA PRADESH AND ALSO GOODS AND SERVICES TAX (GST) ACTS, IN SUPERSESSION OF EARLIER ORDERS.

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ON A LIGHTER VEIN

Q: What gear were you in at the moment of the impact?

A: Gucci sweats and Reeboks.

*****

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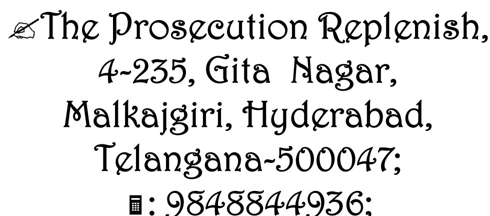

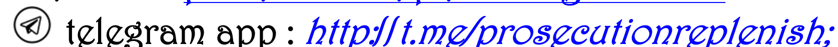

Prosecution Replenish

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Vol: XII **December ,2024**

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

उद्धरेदात्मनात्मानं नात्मानमवसादयेत्।
आत्मैव ह्यात्मनो बन्धुरात्मैव रिपुरात्मनः॥

अपने मन की शक्ति द्वारा स्वयं को ऊपर उठाएँ, न कि स्वयं को नीचा दिखाएँ,
क्योंकि मन स्वयं का मित्र भी हो सकता है और शत्रु भी।

Lift yourself up, not degrade yourself, by the power of your mind.
Because the mind can be one's own friend as well as enemy.

CITATIONS

2024 0 INSC 834; 2024 0 Supreme(SC) 988; Subrata Choudhury @ Santosh Choudhury & Ors. Vs. The State of Assam & Anr.; Criminal Appeal No. 4451 of 2024 (Arising out of SLP (Crl.) No.1242 of 2021); Decided On : 05-11-2024

This fundamental rule of our criminal law revealed from this Section enables raising of the special pleas of autrefois acquit and autrefois convict, subject to the satisfaction of the conditions enjoined thereunder. This position has been made clear by this Court in Vijayalakshmi v. Vasudevan, (1994) 4 SCC 656. In the case at hand, the undisputed facts stated hereinbefore would reveal that the appellants were never ever tried before a Court of competent jurisdiction for the aforesaid offence(s) on the basis of the aforesaid set of facts. Therefore, indisputably there was no verdict of conviction or acquittal in regard to the aforesaid Sections in respect of the appellants on the aforesaid set of facts, by a Court of competent jurisdiction.

Firstly, the question as to what are the courses available to a Magistrate on receipt of a negative report is to be looked into and in fact, that question was considered by this Court in Bhagwat Singh v. Commissioner of Police and Anr., (1985) 2 SCC 537 This Court held that on receipt of a negative report, the following four courses are open to the Magistrate concerned: -

1. to accept the report and to drop the proceedings;
2. to direct further investigation to be made by the police.

3. to investigate himself or refer the investigation to be made by another Magistrate under Section 159, Cr.P.C., and
4. to take cognizance of the offence under Section 200, Cr.P.C., as private complaint when materials are sufficient in his opinion as if the complainant is prepared for that course.

The indisputable position is that in the case at hand the learned CJM on receipt of the negative report accepted it after rejecting the written objections/protest petition, which is one of the courses open to a Magistrate on receipt of a negative report, in terms of Bhagwat Singh's case

In view of the confirmance of the judgment of the learned Sessions Judge carrying the following observations/findings it is not inappropriate to delve into them for the limited purpose. They, in so far as relevant, read thus:-

> "(i) Thus, the present complaint in question is truly qualify to the definition of the term complaint and the same has been filed on being aggrieved against the final report, submitted against his previous complaint. Hence, in my considered opinion the learned court below misconstrued the definition of the term complaint, by treating the simple objection petition as Narazi complaint, whereas terming the present complaint in question as second complaint.
> (ii) Situated thus, the Hon'ble Apex Court of India, in the said decision, (referring to the decision in Abhinandan Jha v. Dinesh Misra, reported in AIR 1968 Supreme Court 117) specifically observed that even after accepting the final report, it is open to the Magistrate to treat the respective protest petitions as complaints and to take further proceedings in accordance with law."

if the earlier disposal of the complaint was on merits and in a manner known to law, the second complaint on "almost identical facts" which were raised in the first complaint would not be maintainable. What has been laid down is that "if the core of both the complaints is same", the second complaint ought not to be entertained.

If the dismissal of the complaint was not on merit but on default of the complainant to be present there is no bar in the complainant moving the Magistrate again with a second complaint on the same facts.

2024 0 INSC 843; 2024 0 Supreme(SC) 997; Directorate of Enforcement Vs. Bibhu Prasad Acharya; Criminal Appeal Nos. 4314-4316 of 2024; Decided on : 06-11-2024

The expression "to have been committed by him while acting or purporting to act in the discharge of his official duty" has been judicially interpreted. A bench of three Hon'ble Judges of this Court in the case of Centre for Public Interest Litigation v. Union of India, (2005) 8 SCC 202, in paragraph no 9, observed thus:

> “9………………….. **This protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant from the protection.** The question is not as to the nature of the offence such as whether the alleged offence contained an element necessarily dependent upon the offender being a public servant, but whether it was committed by a public servant acting or purporting to act as such in the discharge of his official capacity. Before Section 197 can be invoked, it must be shown that the official concerned was accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties. It is not the duty which requires examination so much as the act, because the official act can be performed both in the discharge of the official duty as well as in dereliction of it. The act must fall within the scope and range of the official duties of the public servant concerned. It is the quality of the act which is important and the protection of this section is available if the act falls within the scope and range of his official duty. There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case.” (emphasis added)

8. In the decision of this Court in the case of Prakash Singh Badal and Another3, in paragraph 38, this Court held thus:

> “38. **The question relating to the need of sanction under Section 197 of the Code is not necessarily to be considered as soon as the complaint is lodged and on the allegations contained therein. This question may arise at any stage of the proceeding.** The question whether sanction is necessary or not may have to be determined from stage to stage.” (emphasis added)

A Bench of three Hon'ble Judges of this Court in the case of P.K. Pradhan v. State of Sikkim, (2001) 6 SCC 704, in paragraphs 5 and 15 held thus:

"5. The legislative mandate engrafted in sub-section (1) of Section 197 debarring a court from taking cognizance of an offence except with the previous sanction of the Government concerned in a case where the acts complained of are alleged to have been committed by a public servant in discharge of his official duty or purporting to be in the discharge of his official duty and such public servant is not removable from office save by or with the sanction of the Government, touches the jurisdiction of the court itself. It is a prohibition imposed by the statute from taking cognizance. Different tests have been laid down in decided cases to ascertain the scope and meaning of the relevant words occurring in Section 197 of the Code: "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". **The offence alleged to have been committed must have something to do, or must be related in some manner, with the discharge of official duty.** No question of sanction can arise under Section 197, unless the act complained of is an offence; **the only point for determination is whether it was committed in the discharge of official duty. There must be a reasonable connection between the act and the official duty. It does not matter even if the act exceeds what is strictly necessary for the discharge of the duty, as this question will arise only at a later stage when the trial proceeds on the merits. What a court has to find out is whether the act and the official duty are so interrelated that one can postulate reasonably that it was done by the accused in the performance of official duty, though, possibly in excess of the needs and requirements of the situation"**

"15. Thus, from a conspectus of the aforesaid decisions, it will be clear that for claiming protection under Section 197 of the Code, it has to be shown by the accused that there is reasonable connection between the act complained of and the discharge of official duty. An official act can be performed in the discharge of official duty as well as in dereliction of it. For invoking protection under Section 197 of the Code, the acts of the accused complained of must be such that the same cannot be separated from the discharge of official duty, but if there was no reasonable connection between them and the performance of those duties, the official status furnishes only the occasion or opportunity for the acts, then no sanction would be required. If the case as put forward by the prosecution fails or the defence establishes that the act purported to be done is in discharge of duty, the proceedings will have to be dropped. **It is well settled that question of sanction under Section 197 of the Code can be raised any time after the**

cognizance; maybe immediately after cognizance or framing of charge or even at the time of conclusion of trial and after conviction as well. But there may be certain cases where it may not be possible to decide the question effectively without giving opportunity to the defence to establish that what he did was in discharge of official duty. In order to come to the conclusion whether claim of the accused that the act that he did was in course of the performance of his duty was a reasonable one and neither pretended nor fanciful, can be examined during the course of trial by giving opportunity to the defence to establish it. In such an eventuality, the question of sanction should be left open to be decided in the main judgment which may be delivered upon conclusion of the trial." (emphasis added)

2024 0 INSC 846; 2024 0 Supreme(SC) 1000; Ramji Lal Bairwa & Anr. Vs. State of Rajasthan & Ors.; Criminal Appeal No. 3403 of 2023 (@ SLP (Crl.) No. 12912 of 2022); 07-11-2024

Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape,

dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.
in unambiguous terms this Court held that before exercising the power under Section 482, Cr. PC the High Court must have due regard to the nature and gravity of the crime besides observing and holding that heinous and serious offences could not be quashed even though a victim or victim's family and the offender had settled the dispute. This Court held that such offences are not private in nature and have a serious impact on the society. Having understood the position of law on the second question that it is the bounden duty of the court concerned to consider whether the compromise is just and fair besides being free from undue pressure we will proceed to consider the matter further.

https://indiankanoon.org/doc/109412385/; Mrs.Gunjan Sonthalia, vs The State Of Telangana on 6 November, 2024; CRLP 12429 of 2017
A medical practitioner is not liable to be held negligent simply because things went wrong from mischance or misadventure or through an error of judgment in choosing one reasonable course of treatment in preference to another. He would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field. For instance, he would be liable if he leaves a surgical gauze inside the patient after an operation vide Achutrao Haribhau Khodwa & others vs. State of Maharashtra & others, AIR 1996 SC 2377 or operates on the wrong part of the body, and he would be also criminally liable if he operates on someone for removing an organ for illegitimate trade.
38. The higher the acuteness in an emergency and the higher the complication, the more are the chances of error of judgment. At times, the

professional is confronted with making a choice between the devil and the deep sea and has to choose the lesser evil. The doctor is often called upon to adopt a procedure which involves higher element of risk, but which he honestly believes as providing greater chances of success for the patient rather than a procedure involving lesser risk but higher chances of failure. Which course is more appropriate to follow, would depend on the facts and circumstances of a given case but a doctor cannot be penalized if he adopts the former procedure, even if it results in a failure. The usual practice prevalent nowadays is to obtain the consent of the patient or of the person in-charge of the patient if the patient is not in a position to give consent before adopting a given procedure.
42. When a patient dies or suffers some mishap, there is a tendency to blame the doctor for this. Things have gone wrong and, therefore, somebody must be punished for it. However, it is well known that even the best professionals, what to say of the average professional, sometimes have failures. A lawyer cannot win every case in his professional career but surely he cannot be penalized for losing a case provided he appeared in it and made his submissions.
43. To fasten liability in criminal proceedings e.g. under Section 304A IPC the degree of negligence has to be higher than the negligence which is enough to fasten liability in civil proceedings. Thus, for civil liability it may be enough for the complainant to prove that the doctor did not exercise reasonable care in accordance with the principles mentioned above, but for convicting a doctor in a criminal case, it must also be proved that this negligence was gross amounting to recklessness.

https://indiankanoon.org/doc/190813727/; Pandem Sai Kumar Reddy vs The State Of Telangana on 5 November, 2024;
since the Gazetted Officer is the LW.3 who filed the charge sheet after completion of SKS,J the investigation apart from being a complainant and drawing samples from the packets of the petitioner/accused No.1 at the time of seizure is not conformity with the law laid down by the Apex Court in the case Mohanlal (Supra 3), this Court is of the considered opinion that the proceedings against the petitioner/accused No.1 are liable to be quashed.

https://indiankanoon.org/doc/79577176/; Yepuri Thirapathaiah, Thirapaiah, vs P.P., Hyd on 5 November, 2024; CRLA 729 of 2015
in the case of Uttam v. State of Maharashtra 1, wherein the Hon'ble Supreme Court discussed the effect of Dying Declaration. The following principles are laid down at para 14 of the judgment.
"14. In Paniben v. State of Gujarat [Paniben v. State of Gujarat, (1992) 2 SCC 474 : 1992 SCC (Cri) 403] , on examining the entire conspectus of

the law on the principles governing dying declaration, this Court had concluded thus : (SCC pp. 480-81, para 18) "18. ...

(i) There is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration. (Munnu Raja v. State of M.P. [Munnu Raja v. State of M.P., (1976) 3 SCC 104 : 1976 SCC (Cri) 376])

(ii) If the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. (State of U.P. v. Ram Sagar Yadav [State of U.P. v. Ram Sagar Yadav, (1985) 1 SCC 552 : 1985 SCC (Cri) 127] ; Ramawati Devi v. State of Bihar [Ramawati Devi v. State of Bihar, (1983) 1 SCC 211 : 1983 SCC (Cri) 169] .)

(iii) This Court has to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had opportunity to observe and identify the assailants and was in a fit state to make the declaration. (K. Ramachandra Reddy v. Public Prosecutor [K. Ramachandra Reddy v. Public Prosecutor, (1976) 3 SCC 618 : 1976 SCC (Cri) 473] .) (2022) 8 Supreme Court Cases 576

(iv) Where dying declaration is suspicious it should not be acted upon without corroborative evidence. (Rasheed Beg v. State of M.P. [Rasheed Beg v. State of M.P., (1974) 4 SCC 264 : 1974 SCC (Cri) 426])

(v) Where the deceased was unconscious and could never make any dying declaration the evidence with regard to it is to be rejected. (Kake Singh v. State of M.P. [Kake Singh v. State of M.P., 1981 Supp SCC 25 : 1981 SCC (Cri) 645])

(vi) A dying declaration which suffers from infirmity cannot form the basis of conviction. (Ram Manorath v. State of U.P. [Ram Manorath v. State of U.P., (1981) 2 SCC 654 : 1981 SCC (Cri) 581])

(vii) Merely because a dying declaration does not contain the details as to the occurrence, it is not to be rejected. (State of Maharashtra v. Krishnamurti Laxmipati Naidu [State of Maharashtra v. Krishnamurti Laxmipati Naidu, 1980 Supp SCC 455 : 1981 SCC (Cri) 364] .)

(viii) Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth. (Surajdeo Ojha v. State of Bihar [Surajdeo Ojha v. State of Bihar, 1980 Supp SCC 769 : 1979 SCC (Cri) 519] .)

(ix) Normally the court in order to satisfy whether deceased was in a fit mental condition to make the dying declaration look up to the medical opinion. But where the eyewitness has said that the

deceased was in a fit and conscious state to make this dying declaration, the medical opinion cannot prevail. (Nanhau Ram v. State of M.P. [Nanhau Ram v. State of M.P., 1988 Supp SCC 152 : 1988 SCC (Cri) 342])

(x) Where the prosecution version differs from the version as given in the dying declaration, the said declaration cannot be acted upon. (State of U.P. v. Madan Mohan [State of U.P. v. Madan Mohan, (1989) 3 SCC 390 :1989 SCC (Cri) 585] .)"

https://indiankanoon.org/doc/42260377/; Poduvu Srinivas vs The State Of Telangana on 4 November, 2024; CRLA 959 of 2024

This criminal appeal is filed questioning the judgment in S.C.No.64 of 2019 dated 28.08.2024 passed by the learned Assistant Sessions Judge, at Chevella, Ranga Reddy District, whereby, the case filed by the police was tried and accused acquitted for the offences under Sections 307 r/w 120(B) of Indian Penal Code.

The proviso under Section 372 of Cr.P.C and the new provision under Section 413 Bharatiya Nagarik Suraksha Sanhita, 2023 ('for short BNSS') contemplates that, if the victim is aggrieved by the quantum of compensation, lesser sentence or acquittal, victim should approach the Court where the appeal would normally lie against the order of conviction. In the present case, the appeal would lie to the Sessions Court in the event of conviction. Accordingly, the appeal is dismissed as not maintainable, granting liberty to the appellant-de facto complainant/victim to approach the concerned Sessions Court to prosecute the appeal in accordance with law.

https://indiankanoon.org/doc/166884262/; The State Of Telangana vs Palle Mohana Krishna on 11 November, 2024; CRLA 508/2024

P.W.1 is major and admits that the accused was a relative and she moved closely, went to movies and other places on account of their love affair. They were also in sexual relation over the said period. The only reason for lodging the complaint is that the accused refused to marry P.W.1. Mere refusal to marry will not amount to an offence of cheating unless it is proved by the prosecution or evident from the circumstances that there was any kind of inducement or mis-statement made deliberately to have physical or sexual relation. In the present complaint, when P.W.1 admits that she was having love affair, went along with the appellant on her own, the question of cheating or committing rape on P.W.1 does not arise.

2024 0 INSC 897; 2024 0 Supreme(SC) 1086; Mahesh Damu Khare Vs. The State Of Maharashtra & Anr.; Criminal Appeal No. of 2024 (@ Special Leave Petition (Crl.) No. 4326 of 2018); Decided On : 26-11-2024

It may be also noted that there may be occasions where a promise to marry was made initially but for various reasons, a person may not be able to keep the promise to marry. If such promise is not made from the very beginning with the ulterior motive to deceive her, it cannot be said to be a false promise to attract the penal provisions of Section 375 IPC, punishable under Section 376 IPC.

In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact.

Moreover, even if it is assumed that a false promise of marriage was made to the complainant initially by the appellant, even though no such cogent evidence has been brought on record before us to that effect, the fact that the relationship continued for nine long years, would render the plea of the complainant that her consent for all these years was under misconception of fact that the Appellant would marry her implausible. Consequently, the criminal liability attached to such false promise would be diluted after such a long passage of time and in light of the fact that no protest was registered by the complainant during all those years. Such a prolonged continuation of physical relationship without demurral or remonstration by the female partner, in effect takes out the sting of criminal culpability and neutralises it.

It will be very difficult to assume that the complainant who is otherwise a mature person with two grown up children, was unable to discover the deceitful behaviour of the appellant who continued to have sexual relationship with her for such a long period on the promise of marriage. Any such mendacious act of the appellant would have been exposed sooner without having to wait for nine years. The inference one can draw under the circumstances is that there was no such false promise made to the complainant by the appellant of marriage by continuing to have physical relationship so as to bring this act within the province of Section 376 IPC and therefore, there was no vitiation of consent under misconception of fact.

In our view if criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences. It will open the scope for imputing criminality to such long term relationships after turning sour, as such an allegation can be made even at a belated stage to drag a person in the juggernaut of stringent criminal

process. There is always a danger of attributing criminal intent to an otherwise disturbed civil relationship of which the Court must also be mindful.
We, however, make it clear that our decision in this case and observations made are to be understood in the factual matrix before this Court. Every case must be decided on its own facts and circumstances, for we are dealing with human relationships and psychology which are dynamic and permeated with an array of unpredictable human emotions and sensitivities and hence, every decision relating to human relationships must be based on the peculiar facts and circumstances obtaining in the particular case.

2024 0 INSC 907; 2024 0 Supreme(SC) 1104; Suresh Chandra Tiwari & Anr. Vs. State of Uttarakhand; Criminal Appeal No. 1902 of 2013; Decided On : 28-11-2024
Before parting, we would like to put on record that the High Court also erred in converting the conviction from one punishable under Section 302 to Section 304 Part I of IPC only because, according to it, the fatal injury could be a result of a solitary blow. What it overlooked was that there were multiple injuries on the body of the deceased apart from two incised wounds on the head with underlying fracture of occipital bone of the skull. In such a scenario, whosoever committed the crime had clear intention to kill the deceased. Once that is the position, in a case based on circumstantial evidence, when no effort is made on the part of the accused either to take a plea, or lead evidence to show, that their act would fall in any of the exceptions to Section 300 IPC, there was no justification at all to alter the conviction.

2024 0 INSC 908; 2024 0 Supreme(SC) 1105; Kamaruddin Dastagir Sanadi Vs. State of Karnataka Through Sho Kakati Police; Criminal Appeal No. 551 of 2012; Decided On : 29-11-2024
Even assuming, though there is no evidence that the accused-appellant promised to marry the deceased, that there was such a promise, it is again a simple case of a broken relationship for which there is a different cause of action, but not prosecution or conviction for an offence under Section 306, specially in the facts and circumstances of the case where no guilty intention or mens rea on the part of the accused-appellant had been established.

2024 0 INSC 909; 2024 0 Supreme(SC) 1106; X Vs. State Of Rajasthan & Anr.; Special Leave Petition (Criminal) No. 13378 of 2024; Decided on : 27-11-2024

Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.

https://indiankanoon.org/doc/50857093/; **B. Partha Sarathi vs The State Of Telangana on 25 November, 2024; CRLP 14202/2024**

it appears that the petitioner was not arrayed as accused in the subject Crime. Therefore, the text message sent to the petitioner to attend for enquiry in the subject Crime is not in accordance with law. Therefore, this Court deems it fit to set aside the text message dated 18.11.2024 issued against the petitioner.

NOSTALGIA

Habitual offender

in MAJID BABU V. HOME SECRETARY, GOVERNMENT OF ANDHRA PRADESH {(1987) 2 ALT 904}, in order to classify a person as a habitual offender, he should be involved in more than two criminal cases. Following the aforesaid judgment, this Court in Mansoor Shah Khan v. State of Telangana (W.P.No.22980 of 2020 dated 01.06.2021), held that rowdy sheet cannot be opened against a person unless he is involved in more than two criminal cases.

164CrPC Statement

In R. Shaji v. State of Kerala, MANU/SC/0087/2013 this Court discussed the two-fold objective of a statement under Section 164 CrPC as:

> "15. So far as the statement of witnesses recorded under Section 164 is concerned, the object is two fold; in the first place, to deter the witness from changing his stand by denying the contents of his previously recorded statement, and secondly, to tide over immunity from prosecution by the witness under Section 164. A proposition to the effect that if a statement of a witness is recorded under Section 164, his evidence in Court should be discarded, is not at all warranted …"
>
> The Court also recognized that the need for recording the statement of a witness under Section 164 CrPC arises when the witness appears to be connected to the accused and is prone to changing his version at a later stage due to influence. The relevant para reads thus:
>
> "16. … During the investigation, the Police Officer may sometimes feel that it is expedient to record the statement of a witness under Section 164 Code of Criminal Procedure. This usually happens when the witnesses to a crime are clearly connected to the accused, or where the accused is very influential, owing to which the witnesses may be influenced …"

Discovery U/sec 27 IEA Vs Recovery

In Geejaganda Somaiah vs. State of Karnataka, (2007) 9 SCC 315, this Court has cautioned the courts about misuse of provision of Section 27 of the Evidence Act, 1872 while observing as under:

> "22. As the section is alleged to be frequently misused by the police, the courts are required to be vigilant about its application. The court must ensure the credibility of evidence by police because this provision is vulnerable to abuse. It does not, however, mean that any statement made in terms of the aforesaid section should be seen with suspicion and it cannot be discarded only on the ground that it was made to a police officer during investigation. The court has to be cautious that no effort is made by the prosecution to make out a statement of the accused with a simple case of recovery as a case of discovery of fact in order to attract the provisions of section 27 of the Evidence Act." (Emphasis supplied)

NEWS

- Prosecution Replenish wishes Smt Vyjayanthi, DOP, Telangana, a very happy and healthy retired life.

- A.P.- Public Services- Finance Department- Age of Superannuation of Judicial Officers- Enhancement of age of superannuation of Judicial Officers from 60 years to 61years as per the Andhra Pradesh Public

Employment (Regulation of Age of Superannuation) (Amendment) Act, 2024 w.e.f. 01.11.2024 - Orders- Issued.- GOMS No. 97 FINANCE (HR.IV-FR & LR) DEPARTMENT dt. 29.11.2024

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ON A LIGHTER VEIN

Q: How old is your son, the one living with you?

A: Thirty-eight or thirty-five, I can't remember which.

Q: How long has he lived with you?

A: Forty-five years.

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