# Prosecution Replenish

*An Endeavour for learning and excellence*

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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 ॥*

One should take knowledge without losing a single moment and save every particle and collect money. The one who lost the moment does not get knowledge And those who consider particle as small do not get money.

## CITATIONS

**2025 0 INSC 300; 2025 0 Supreme(SC) 432; In Re: Recruitment Of Visually Impaired In Judicial Services Suo Motu Writ Petition (Civil) No. 2 of 2024 with In Re: Recruitment Of Pwd Candidates In Rajasthan Judicial Services Suo Motu Writ Petition (Civil) No. 6 OF 2024 With Alok Singh Vs. State Of Madhya Pradesh & Ors; Civil Appeal No. 3496 of 2025 (Arising out of SLP (C) No.7683 of 2024) WITH Ayush Yardi Vs. State Of Madhya Pradesh & Anr.; Civil Appeal No. 3497 OF 2025 (Arising out of SLP (C) No.12179 of 2024) With Manvendra Singh Rathore & Ors. Vs. High Court Of Rajasthan & Ors.; Writ Petition (Civil) No. 484 of 2024 With Alisha Vs High Court Of Rajasthan & Ors. Writ Petition (Civil) No. 494 of 2024; Decided on : 03-03-2025**

Thus, after considering the pleadings, submissions of the learned counsel appearing for all the parties, as well as the legal positions and case laws, we conclude as follows:

(i) Visually impaired candidates cannot be said to be 'not suitable' for judicial service and they are eligible to participate in selection for posts in judicial service.

(ii) The amendment made in Rule 6A of the Madhya Pradesh Judicial Service (Recruitment and Conditions of Service) Rules, 1994 falls foul of the Constitution, and is hence, struck down to the extent that it does not include visually impaired persons who are educationally qualified for the post to apply therefor.

(iii) The proviso to Rule 7 of the Madhya Pradesh Judicial Service (Recruitment and Conditions of Service) Rules, 1994 relating to additional requirements, violates the equality doctrine and the principle of reasonable accommodation, and is hereby struck down in its application to differently abled persons who have the requisite educational qualifications for applying to the posts under judicial service.

(iv) Relaxation can be done in assessing suitability of candidates when enough PwD are not available after selection in their respective category, to the extent as stated in the relevant paragraphs above, and in the light of existing Rules and Official Circulars and executive orders in this regard, as in the present case.
(v) A separate cut-off is to be maintained and selection made accordingly for visually-impaired candidates as has been indicated in the relevant paragraphs in line with the judgment in Indra Sawhney.
(vi) For the purpose of rights and entitlements of persons with disabilities, particularly in employment, and more specifically in respect of the issues covered in this judgment, there can be no distinction between Persons with Disabilities (PwD) and Persons with Benchmark Disabilities (PwBD).

**2025 0 INSC 308; 2025 0 Supreme(SC) 439; Rajnish Singh @ Soni Vs. State Of U.P. And Another; Criminal Appeal No(s). 1055 of 2025 (Arising Out of SLP(CRL.) No(s). 8549 of 2023); Decided On : 03-03-2025**
It is, therefore, clear that the accused is not liable for the offence of rape if the victim has wilfully agreed to maintain sexual relations. The Court has also recognised that a prosecutrix can agree to have sexual intercourse on account of her love and passion for the accused.
In conclusion, the Court held that unless it can be shown that the physical relationship was purely because of the promise of marriage and without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact. It was further held that even if it is assumed that a false promise of marriage was made to the complainant initially by the accused, the fact that the relationship continued for a period of nine long years would render the plea of the complainant that her consent for all these years was under misconception of the fact that the accused would marry her implausible.
Testing the facts of the case at hand, on the touchstone of the above precedents, it is clear that the complainant, being a highly qualified major woman continued in a consensual intimate sexual relationship with the appellant over a period of 16 years. At some point in time, the relationship went sour leading to the filing of the FIR. No reasonable man would accept the version that the complainant allowed the accused to establish sexual relations with her over a period of 16 years purely under the misconception of marriage.
There is no dispute that from the year 2006 onwards, the complainant and the appellant were residing in different towns. The complainant is an educated woman and there was no pressure whatsoever upon her which

could have prevented her from filing a police complaint against the accused if she felt that the sexual relations were under duress or were being established under a false assurance of marriage. On many occasions, she even portrayed herself to be the wife of the appellant thereby, dispelling the allegation that the intention of the appellant was to cheat her right from the inception of the relationship. We cannot remain oblivious to the fact that it was mostly the complainant who used to travel to meet the appellant at his place of posting. Therefore, we are convinced that the relationship between the complainant and appellant was consensual without the existence of any element of deceit or misconception.

To the contrary, the complainant has herself set up a case that there was a secret marriage ceremony between her and the appellant. Therefore, in our opinion, even if the allegations made by the complainant are accepted on their face value, it is evident that the appellant and the complainant were in a long-standing live-in relationship during which they even performed marriage rituals albeit informal in nature.

It is trite that there is a distinction between rape and consensual intercourse. This Court in Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 differentiated between a mere breach of promise and not fulfilling a false promise and held that an accused will only be liable if the Courts concludes that his intentions are mala fide and he has clandestine motives.

**2025 0 INSC 307; 2025 0 Supreme(SC) 438; Shabeen Ahmad Vs. The State of Uttar Pradesh and Another; Criminal Appeal No. 1051 of 2025 [SLP (Crl.) No. 15156 of 2024], Criminal Appeal No 1054 of 2025 [SLP (Crl.) No. 15157 of 2024], Criminal Appeal No 1052 of 2025 [SLP (Crl.) No. 11355 of 2024], Criminal Appeal No 1053 of 2025 [SLP (Crl.) No. 15158 of 2024] Decided On : 03-03-2025**

We also find it necessary to express our concern over the seemingly mechanical approach adopted by the High Court in granting bail to the Respondent accused. While the Court did note the absence of prior criminal records, it failed to fully consider the stark realities of the allegations. It is unfortunate that in today's society, dowry deaths remain a grave social concern, and in our opinion, the courts are duty-bound to undertake deeper scrutiny of the circumstances under which bail is granted in these cases. The social message emanating from judicial orders in such cases cannot be overstated: when a young bride dies under suspicious circumstances within barely two years of marriage, the judiciary must reflect heightened vigilance and seriousness. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public

faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar vs. Waseem, (2024) 10 SCC 768 in the following paras:

> "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 vs. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974; Kalyan Chandra Sarkar vs. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977; Masroor vs. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368; Prasanta Kumar Sarkar vs. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765; Neeru Yadav vs. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527; Anil Kumar Yadav vs. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425; Mahipal vs. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558]
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> 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 vs. State of M.P., (2022) 15 SCC 211 decided by a three-Judge 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) Cr.P.C. in the following words: (SCC p. 224, Para 24)
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> "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 vs. 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."

Considerations for setting aside bail orders

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."

**2025 0 INSC 318; 2025 0 Supreme(SC) 451; Suresh Vs. State Rep. By Inspector Of Police; Criminal Appeal No. 540 Of 2013; 04-03-2025**

There is no doubt regarding the well settled position of law that a dying declaration is an important piece of evidence and a conviction can be made by relying solely on a dying declaration alone as it holds immense importance in criminal law. However, such reliance should be placed after ascertaining the quality of the dying declaration and considering the entire facts of a given case.

In other words, if a dying declaration is surrounded by doubt or there are inconsistent dying declarations by the deceased, then Courts must look for corroborative evidence to find out which dying declaration is to be believed. This will depend upon the facts of the case and Courts are required to act cautiously in such cases.

**2025 0 INSC 320; 2025 0 Supreme(SC) 453; Devinder Kumar Bansal Vs. The State Of Punjab;Petition For SLA (Crl.) No. 3247 Of 2025;03-03-2025**

Section 13(1)(a) of the Act, 1988 reads as under:

> "13. Criminal misconduct by a public servant
>
> (1) A public servant is said to commit the offence of criminal misconduct,
>
> (a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or"

Thus, in an offence under Section 7 of the Act, 1988, the points requiring proof are:

> (i) that, the accused at the time of the offence was, or expected to be, a public servant;
>
> (ii) that, he accepted or retained or agreed to accept, or attempted to obtain from some person a gratification;
>
> (iii) that, such gratification was not a legal remuneration due to him;
>
> (iv) that, he accepted such gratification as a motive or reward, proof of which is essential for
>
> (a) doing or forbearing to do an official act, or
>
> (b) showing or forbearing to show favour or disfavour to someone in exercise of his official functions, or
>
> (c) rendering or attempting to render any service, or disservice to someone, with the legislative or executive government, or with any public servant.

Further it is seen that, Section 7 speaks of the "attempt" to obtain a bribe as being in itself an offence. Mere demand or solicitation, therefore, by a public servant amounts to commission of an offence under Section 7 of the P.C. Act. The word "attempt" is to imply no more than a mere solicitation, which, again may be made as effectually in implicit or in explicit terms.

Actual exchange of a bribe is not an essential requirement to be prosecuted under this law. Further, those public servants, who do not take a bribe directly, but, through middlemen or touts, and those who take valuable things from a person with whom they have or are likely to have official dealings, are also punishable as per Sections 10 and 11 of the Act 1988 respectively.

The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

PITNDPS

**2025 0 INSC 321; 2025 0 Supreme(SC) 454; Mortuza Hussain Choudhary Vs. The State of Nagaland and Others; Criminal Appeal Nos. 4872-4873 of 2024; Decided On : 05-03-2025**

It would be apposite at this stage to take note of the statutory regime of the Act of 1988. Section 3(1) thereof empowers the authorized officers, either of the Central Government or of a State Government, to detain any person with a view to prevent him/her from engaging in illicit traffic in narcotic drugs and psychotropic substances. Section 3(2) requires a State Government that passes such a detention order to forward a report of the same to the Central Government within ten days. Section 3(3) mandates communication of the grounds on which the detention order has been made to the detenu as soon as may be after the detention, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days from the date of detention. The sub-section records that this requirement is for the purposes of Article 22(5) of the Constitution, which mandates such communication as soon as may be. Section 6 of the Act of 1988 provides that the grounds of detention are severable and an order of detention shall not be deemed to be invalid or inoperative merely because one or some of the grounds is either found to be vague, non-existent, irrelevant or not connected with such persons or is invalid for any other reason. Section 6 specifically records that where a person has been detained pursuant to an order of detention under Section 3(1), which has been made on two or more grounds, such order shall be deemed to have been made separately on each ground. This indicates that the order of detention must be accompanied by the 'grounds of detention' made by the detaining authority itself. Section 11 of the Act of 1988 speaks of the maximum period of detention and states that the same may be extended up to 2 (two) years from the date of detention.

Non-service of papers in the language known to the detenues is fatal. The Government order does not reflect the grounds considered by it and just mentions the grounds mentioned by the IO.

Sec 306 IPC

**2025 0 INSC 322; 2025 0 Supreme(SC) 455; Patel Babubhai Manohardas and Others Vs. State of Gujarat; Criminal Appeal No. 1388 of 2014; Decided On : 05-03-2025**

Abetment to commit suicide involves a mental process of instigating a person or intentionally aiding a person in the doing of a thing. Without a positive proximate act on the part of the accused to instigate or aid in committing

suicide, conviction cannot be sustained. Besides, in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit the offence.

**2025 0 INSC 323; 2025 0 Supreme(SC) 456; Tanaji Shamrao Kale Vs. State of Maharashtra; Criminal Appeal No. 1145 of 2011 with Criminal Appeal No.1160 of 2025 (Arising out of Special Leave Petition (Crl.) No. 3385 of 2012)Decided On : 05-05-2025**

After carefully perusing the cross-examination, we find no material omissions or contradictions have been brought on record regarding the role ascribed to the appellants. The only omission brought on record is that the statement of the witness recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') does not mention that after attending one class, he came to the house on the date of the incident. We do not think that this omission is so relevant as to amount to contradiction as provided in the explanation to Section 162 of CrPC.

It is true that there may be other eye witnesses who were not examined. But PW-2 is not a witness who was related in any manner to the deceased. He had no enmity against the accused. As the evidence of the three eye witnesses is of sterling quality, the failure to examine the other alleged eye witnesses will not be fatal for the prosecution case.

**2025 0 INSC 324; 2025 0 Supreme(SC) 457; Suresh @ Hanumant Vs. State (Govt. of NCT Delhi); Criminal Appeal No. 2685 of 2023 with Criminal Appeal No. 1250 of 2023 and Criminal Appeal No. 3685 of 2023 Decided On : 05-03-2025**

Once the dying declaration made by the deceased is proved, the fact that the ballistic expert could not give a definite opinion on the question of whether the cartridge recovered from the body of the deceased was fired by the revolver recovered at the instance of the accused no.1, is not relevant at all. Once it is held that the dying declarations are duly proved, this lacuna is insignificant.

**2025 0 INSC 327; 2025 0 Supreme(SC) 459; Joyi Kitty Joseph Vs. Union of India & Ors.; Criminal Appeal No. 1180 of 2025 (@Special Leave Petition (Crl.) No.16893 of 2024); Decided On : 06-03-2025**

The criminal prosecution launched and the preventive detention ordered are on the very same allegations of organised smuggling activities, through a network set up, revealed on successive raids carried on at various locations, on specific information received, leading to recovery of huge cache of

contraband. When bail was granted by the jurisdictional Court, that too on conditions, the detaining authority ought to have examined whether they were sufficient to curb the evil of further indulgence in identical activities; which is the very basis of the preventive detention ordered. The detention order being silent on that aspect, we interfere with the detention order only on the ground of the detaining authority having not looked into the conditions imposed by the Magistrate while granting bail for the very same offence; the allegations in which also have led to the preventive detention, assailed herein, to enter a satisfaction as to whether those conditions are sufficient or not to restrain the detenu from indulging in further like activities of smuggling.

**2025 0 INSC 330; 2025 0 Supreme(SC) 462; Jamin & Anr Vs. State Of Uttar Pradesh & Anr.; Criminal Appeal No. 1184 of 2025 (Arising Out Of SLP (Crl.) NO. 6320 of 2024); Decided on : 06-03-2025**

The scope of power under Section 319 CrPC was explained by this Court in Municipal Corpn. of Delhi v. Ram Kishan Rohtagi reported in (1983) 1 SCC 1 wherein it was held that cognizance against a proposed accused can be taken under Section 319 even if the proceedings against him have been quashed earlier.

A perusal of the aforesaid decisions of this Court indicates that the intention behind giving a wide interpretation to Section 319 is to ensure that the perpetrator of a crime does not get away unpunished. The legislature incorporated the provision with the purpose of empowering the courts to find out the real culprits without getting hindered by procedural impediments so that the guilty does not go unpunished.

Further, the exercise of powers under Section 319 is not inhibited with respect to who can be summoned as an accused. This Court in Hardeep Singh (supra) has clarified in express terms that Section 319 CrPC can be exercised against a person not subjected to investigation, or a person placed in Column 2 of the chargesheet and against whom cognizance had not been taken, or even a person who has been discharged. However, as regards a person who has been discharged, no proceedings can be commenced against him directly under Section 319 CrPC without taking recourse to provisions of Section 300(5) read with Section 398 CrPC. Such a person can be proceeded against under Section 319 only if during or after an inquiry under Section 300(5) read with Section 398, there appears to be evidence against such person which may indicate that they committed any offence for which they could be tried together with the accused.

Therefore, a summoning order issued under Section 319 of the CrPC cannot be quashed only on the ground that even though the proposed accused were

named in the FIR or complaint, the police did not include their names in the chargesheet. In other words, if the evidence tendered in the course of any inquiry or trial shows that any person not being the accused has committed any offence for which he could be tried together with the accused, he can be summoned to face trial even though he may not have been chargesheeted by the investigating agency or may have been discharged at an earlier stage. the Court observed that the trial court has the power to summon additional accused during the proceeding of split- up trial (i.e., trial of the accused which had been separated or bifurcated from the main trial), subject to the evidence recorded in the split-up (bifurcated) trial pointing to the involvement of the accused sought to be summoned. The Court clarified that 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.

We summarise our findings on the issues framed for consideration as follows:

a. The High Court in exercise of its revisional jurisdiction was justified in setting aside the order passed by the Trial Court rejecting the second application preferred by respondent no. 2 under Section 319 of the CrPC as the same was found to have been passed contrary to the settled position of law, suffering from a patent illegality, thus, leading to serious miscarriage of justice.

b. Once a superior court deems fit to interfere with an order passed by a subordinate court, then any rectifications to such order passed in exercise of revisional powers under Section 401 read with Section 397 of the CrPC must be treated on the same footing as rectifications made by an appellate court and as a result would relate back to the time the original order was passed.

c. By virtue of relating back of the order passed by the High Court in a revision petition, the summoning order passed by the Trial Court in compliance with the order of the High Court would also relate back to the initial order rejecting the second application under Section 319, and therefore could be said to have been passed before the conclusion of the trial.

d. Unlike cases where an application under Section 319 is being decided in the first instance by the Trial Court, the conclusion of trial will have no bearing on the adjudication of an application under Section 319 in terms of the directions of the High Court passed in exercise of revisional jurisdiction.

e. The legal effect of the order passed by the High Court relating back to the original order of the Trial Court is that the Trial Court would not be

rendered functus officio for the purpose of considering the application under Section 319 after the conclusion of the trial. We say so because the Trial Court, in considering the application under Section 319 after the conclusion of the trial, merely gave effect to a revisional order directing it to consider the application afresh which it had originally rejected.

f. The summoning order dated 21.02.2024 was passed by the Trial Court in pursuance of the directions issued by the High Court vide the revisional order dated 14.09.2021. Therefore, the same should be construed as an extension of the revisional order passed by the High Court. The combined effect of the revisional order passed by the High Court and the summoning order passed by the Trial Court dated 21.02.2024 would be that the order of the Trial Court dated 19.07.2010 rejecting the second Section 319 application stood replaced and substituted by the summoning order dated 21.02.2024. Thus, although the summoning order in the present case came to be passed on 21.02.2024, that is, after the conclusion of the trial, yet, it would be deemed to have been passed on 19.07.2010 by virtue of the law expounded by this Court in Maru Ram (supra) and Krishnaji Dattatreya Bapat (supra).

g. Section 319 does not contemplate that a summoned person must be given an opportunity of being heard before being added as an accused to face the trial. A right of hearing would accrue only to a person who is already discharged in the very same proceeding prior to the commencement of the trial. This is different from holding that a person who has been summoned as per Section 319 CrPC has a right of being heard in accordance with the principles of natural justice before being added as an accused to be tried along with the other accused. However, after the rejection of an application under Section 319, a right enures in favour of the proposed accused. Thereafter, if in exercise of revisional jurisdiction, the High Court is to pass an order which is prejudicial to the benefit which had already enured in favour of the proposed accused, then the High Court is obligated in law to provide an opportunity of hearing to the proposed accused. This is also the mandate as contained in sub-section (2) of Section 401 of the CrPC.

**https://indiankanoon.org/doc/182857745/; Ch. Rajashekar vs The State Of Telangana on 3 March, 2025; CRLP 7681/2024**

it is noted that in the cancellation of bail petition filed before the trial Court, it is mentioned that though notice was given to petitioner/accused, he has not appeared before the Court, however, though the petitioner/accused was not present, the trial Court had discussed the matter at length and observed that

registration of subsequent case for the similar offences would show that the petitioner/accused has violated the condition imposed by the trial Court with regard to not interfering in the process of investigation.

**https://indiankanoon.org/doc/180001667/; Kalvakuntla Venkata Rama Rao vs The State Of Telangana on 5 March, 2025; CRLP 3168/2025**

As seen from the entire case record, the Police could not putforth any material to substantiate that petitioners had knowledge and/or the reason to believe that the woman was trafficked for the purpose of prostitution. Therefore, the ingredients required for constituting the offences under Section 370(2) of IPC are not made out against the petitioner.

**https://indiankanoon.org/doc/37794726/; Criminal Petition No. 1964 of 2025; 04.03.2025; Karthikeyan P S Karthik vs The State Of AP**

In a case containing serious allegations, the Investigating Officer deserves a 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. The 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 anticipatory bail.

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. The necessity for custodial interrogation of the Petitioner is paramount in this case to facilitate a thorough investigation into the accusations. Denying custodial interrogation could result in significant loopholes and gaps in the ongoing investigation, adversely affecting its integrity.

**https://indiankanoon.org/doc/129342566/; Shaik Sajid Sajju vs The State Of Telangana on 3 March, 2025; CRLP 2916/2025**

it is evident that the proceedings against the petitioner for the offences under Sections 188 of IPC and 54 of the Act have been initiated, basing on the complaint made by the de facto complainant, who is a Police Officer, but not on the basis of complaint in writing of the public servant concerned, as is required under Section 195(1)(a) of Cr.P.C. and Section 60 of the Act. Hence, the continuation of proceedings against the petitioner for the said

offences amounts to abuse of process of law and the same are liable to be quashed.

**https://indiankanoon.org/doc/2191294/; Mohammed Abdul Rahman Osman Mohammed vs State Of Telangana; 4.3.2025; CRLP 1985/2025**

Learned counsel for the petitioner firstly submitted that the petitioner is innocent and he is no way concerned with the alleged offences. He secondly submitted that though there is no corroborative evidence, the petitioner was implicated in the case with false and fabricated allegations. He thirdly submitted that all the material witnesses were examined, and further detention of the petitioner is unnecessary. He fourthly submitted that the petitioner has been in judicial custody since 25.10.2024, causing undue hardship to his family. He fifthly submitted that the petitioner is resident of Hyderabad, with movable and immovable properties, and is willing to furnish sureties as directed. He lastly submitted that previously, bail applications of the petitioner vide Crl.M.P.No.5443 of 2024 was dismissed by the learned II Additional Sessions Judge, Hyderabad, on 04.12.2024, without valid reasons and prayed the Court to grant bail to the petitioner by allowing this **crimin**al petition.

In view thereof, Section 37 of the NDPS Act mandates that offences involving commercial quantities be non-bailable, requiring reasonable grounds to believe the accused is not guilty and unlikely to commit further offences while on bail. Hence, since the allegations levelled against the petitioner are serious in nature and there are no changed circumstances in the case, this Court is not satisfied that conditions for granting bail under Section 37 are met. Therefore, the **crimin**al petition lacks merit and the same is liable to be dismissed.

**2025 0 INSC 341; 2025 0 Supreme(SC) 476; The State of Rajasthan Vs. Indraj Singh; Criminal Appeal No. 1242-1243 of 2025 [Arising Out of S.L.P. (Crl.) Nos. 16156-16157 of 2024] Decided On : 07-03-2025**

Since surely there must have been thousands of people who appeared for the exam, and the respondent-accused persons, for their own benefit, tried to compromise the sanctity of the exam, possibly affecting so many of those who would have put in earnest effort to appear in the exam in the hopes of securing a job, we concur with the view of the Trial Court that they are not entitled to the benefit of bail. At the same time, it is also true that every person has a presumption of innocence working in their favour till and such time the offence they are charged with, stands proved beyond reasonable doubt. Let

them stand trial, and let it be established by the process of law, that the respondent-accused have indeed not committed any crime in law.

**2025 0 INSC 344; 2025 0 Supreme(SC) 479; Lok Mal @ Loku Vs. The State of Uttar Pradesh; Criminal Appeal No. 325 of 2011; 07-03-2025**

Merely because in the medical evidence, there are no major injury marks, this cannot a be a reason to discard the otherwise reliable evidence of the prosecutrix. It is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and it depends on the facts and circumstances of a particular case. We reiterate that absence of injuries on the private parts of the victim is not always fatal to the case of the prosecution.

It is a settled principle of criminal jurisprudence that the evidence of a prosecutrix in a case of rape is of the same value as that of an injured witness and conviction can be made on the basis of the sole testimony of the prosecutrix.

Merely by alleging that mother of the prosecutrix was a lady of easy virtue or her husband left her, there is absolutely no supportive material brought by the appellant in his defence so as to explain why he was implicated. The court is separately required to adjudicate whether the accused committed rape on the victim or not. We find no reason to accept the contention that the alleged immoral character of the mother of the prosecutrix has any bearing on the accused being falsely roped in on the basis of a concocted story by the mother of the prosecutrix. The question of conviction of the accused for rape of the prosecutrix is independent and distinct. It has absolutely no connection with the character of the mother of the prosecutrix and seems to be a dire attempt at using it as a license to discredit the testimony of the prosecutrix. We find no merit in these contentions.

**2025 0 INSC 335; 2025 0 KLT(Online) 1475; 2025 0 Supreme(SC) 470; Gyanendra Singh @ Raja Singh Vs. State Of U.P.; Criminal Appeal No(s). 1257 of 2025 (Arising out of SLP(Criminal) No(s). 3813 of 2025) (Diary No. 36334 of 2024); Decided On : 07-03-2025**

The High Court, while deciding the appeal against conviction preferred by the appellant, observed that the sentence of life imprisonment awarded by the trial Court for the offences punishable under Sections 376(2)(f) and 376(2)(i) of IPC would extend to the remainder of the natural life of the appellant. This direction was merely a clarification to keep the sentence in tune with the language of the sentencing provision. Nevertheless, the fact remains that because of this clarification, the rigour of the sentence awarded

has been increased to the effect that the appellant would have to spend the remainder of his natural life in prison without any possibility of early release.

**2025 0 INSC 338; 2025 0 KLT(Online) 1476; 2025 0 Supreme(SC) 473; Yuvraj Laxmilal Kanther & Anr. Vs. State Of Maharashtra; Criminal Appeal No. 2356 of 2024; Decided on : 07-03-2025**

From the record of the case, it is evident that there was no intention on the part of the two appellants to cause the death or cause such bodily injury as was likely to cause the death of the two deceased employees. It cannot also be said that the appellants had knowledge that by asking the two deceased employees to work on the sign board as part of the work of decoration of the frontage of the shop, they had the knowledge that such an act was likely to cause the death of the two deceased employees. As such, no prima facie case of culpable homicide can be said to have been made out against the appellants. If that be so, the subsequent requirement of having knowledge that the act was likely to cause the death but not having any intention to cause death would become irrelevant though we may hasten to add that nothing is discernible from the record of the case that the appellants had the knowledge that by asking the two employees to work on the sign board would likely cause their death or cause such bodily injury as is likely to cause their death.

**2025 0 INSC 350; 2025 0 KLT(Online) 1518; 2025 0 Supreme(SC) 485; Pradeep Nirankarnath Sharma Vs. State Of Gujarat & Ors.; Criminal Appeal No. 1313 Of 2025 (Arising out of SLP(Crl.) No. 3154 of 2024); Decided On : 17-03-2025**

The scope of a preliminary inquiry, as clarified in the said judgment, is limited to situations where the information received does not prima facie disclose a cognizable offence but requires verification. However, in cases where the information clearly discloses a cognizable offence, the police have no discretion to conduct a preliminary inquiry before registering an FIR. The decision in Lalita Kumari (supra) does not create an absolute rule that a preliminary inquiry must be conducted in every case before the registration of an FIR. Rather, it reaffirms the settled principle that the police authorities are obligated to register an FIR when the information received prima facie discloses a cognizable offence.

Further, this Court cannot issue a blanket direction restraining the registration of FIRs against the appellant or mandating a preliminary inquiry in all future cases involving him. Such a direction would not only be contrary to the statutory framework of the CrPC but would also amount to judicial

overreach. As rightly observed by the High Court, courts cannot rewrite statutory provisions or introduce additional procedural safeguards that are not contemplated by law.

**2025 0 INSC 360; 2025 0 Supreme(SC) 494; State of Rajasthan Vs. Chatra; Criminal Appeal No. 586 of 2017; Decided on : 18-03-2025**

The child witness (victim), it is true, has not deposed anything about the commission of the offence against her. When asked about the incident, the trial Judge records that 'V' was silent, and upon being further asked, only shed silent tears and nothing more. Nothing could be elicited from the testimony regarding the commission of the offence. This, in our view, cannot be used as a factor in favour of the respondent. The tears of 'V', have to be understood for what they are worth. This silence cannot accrue to the benefit of the respondent. The silence here is that of a child. It cannot be equated with the silence of a fully realised adult prosecutrix, which again would have to be weighed in its own circumstances. It has been held in Hemudan Nanbha Gadhvi v. State of Gujarat, (2019) 17 SCC 523, that a nine-year-old prosecutrix turning hostile would not be a fatal blow to the prosecution case when other evidence can establish the guilt of the accused. In these facts, 'V' has not turned hostile. Trauma has engulfed her in silence. It would be unfair to burden her young shoulders with the weight of the entire prosecution. A child traumatized at a tender age by this ghastly imposition upon her has to be relieved of being the basis on which her offender can be put behind bars. In almost all other cases, the testimony of the prosecutrix is present and forms an essential part of the conviction of an accused, but at the same time, there is no hard and fast rule that in the absence of such a statement a conviction cannot stand, particularly when other evidence, medical and circumstantial, is available pointing to such a conclusion. Reference can be made to State of Maharashtra v. Bandu alias Daulat, (2018) 11 SCC 163, wherein the prosecutrix was "deaf and dumb and mentally retarded". The Court held that even in the absence of her being examined as a witness, other evidence on record was sufficient to record conviction of the accused. The principle of law, therefore, is that if the prosecutrix is unable to testify, or for some justifiable reason remains unexamined, the possibility of conviction is automatically excluded. At this stage, it is important to record that we should not for a moment be understood saying that a person with a disability is by definition an incompetent witness. This Court in Patan Jamal Vali v. State of A.P., (2021) 16 SCC 225 frowned upon an earlier observation made by this Court in Mange v. State of Haryana, (1979) 4 SCC 349, wherein the Court observed

"apart from being a child witness, she was also deaf and dumb and no useful purpose would have been served by examining her." It was held in para 48 as under :

> "48. This kind of a judicial attitude stems from and perpetuates the underlying bias and stereotypes against persons with disabilities. We are of the view that the testimony of a prosecutrix with a disability, or of a disabled witness for that matter, cannot be considered weak or inferior, only because such an individual interacts with the world in a different manner, vis-à-vis their able-bodied counterparts. As long as the testimony of such a witness otherwise meets the criteria for inspiring judicial confidence, it is entitled to full legal weight. It goes without saying that the court appreciating such testimony needs to be attentive to the fact that the witness' disability can have the consequence of the testimony being rendered in a different form, relative to that of an able-bodied witness. In the case at hand, for instance, PW 2's blindness meant that she had no visual contact with the world. Her primary mode of identifying those around her, therefore, is by the sound of their voice. And so PW 2's testimony is entitled to equal weight as that of a prosecutrix who would have been able to visually identify the appellant."(Emphasis supplied)

We fully endorse this view. The upshot of the discussion is that the absence of evidence of the prosecutrix is, not in all cases, a negative to be accounted for in the prosecution case.

The question that arises for consideration is whether this contradiction in the FIR versus the statement made in Court is material, in as much as, to discredit his statement, thereby landing a fatal blow to the prosecution case. A Constitution Bench of this Court in State of Punjab v. Kartar Singh, (1994) 3 SCC 569 speaking through Pandian J., held that the purpose of cross-examination is to discredit the witness/elicit facts from such person, which may favour the other party, etc. Having gone through the cross- examination of this witness, we find none of these criteria to have been met. Even this discrepancy was not put to him so as to get an answer from the witness in this regard. That apart, we may also take note of what has been held in Sanjeev Kumar Gupta v. State of U.P., (2015) 11 SCC 69. In the said case, a coordinate Bench of this Court was confronted with a similar situation while deciding an appeal arising from the High Court of Uttarakhand. There was a discrepancy in the statement made in the FIR and the deposition in Court. It was held that whether the discrepancy is material or not so, is a determination to be made in the facts and circumstances of the case. It was held that since evidence of other nature, such as the medical evidence,

supports the prosecution case, then the contradiction is to be judged in that light, as was done in that case.

The version suggested by the defence that the injury caused to the private part of 'V' could not have been caused by a nail or an all-pin. Further attempt to discredit the evidence of the Doctor by suggesting that he had, in fact, given his findings, influenced by a bribe, is only a mere allegation/statement, as the same is entirely unsubstantiated by the record. Even on being queried by the Court, the witness answered that the cause of injury to 'V' can be through sexual intercourse, or an accident. That, coupled with the finding of injury on the genital organ of the accused being possible only due to forceful intercourse with a minor female, leads to a circumstance pointing to the respondent-accused having committed the offense against 'V'.

**2025 0 INSC 376; 2025 0 Supreme(SC) 514; State (CBI) Vs. Mohd. Salim Zargar @ Fayaz & Ors.; Criminal Appeal No. 1681 of 2009, Criminal Appeal No. 1770 of 2009; Decided on : 20-03-2025**

Vires of the TADA Act was challenged before the Supreme Court in Kartar Singh (supra). A Constitution Bench of this Court while upholding the validity of Section 15 of the TADA Act as well as the entirety of the Act, however, laid down certain guidelines so as to ensure that confession obtained in the pre- indictment interrogation by a police officer not lower in rank than a Superintendent of Police is not tainted with any vice but is in strict compliance with well-recognized and accepted aesthetic principles and fundamental fairness. These guidelines are as follows:

> 263. However, we would like to lay down following guidelines so as to ensure that the confession obtained in the pre-indictment interrogation by a police officer not lower in rank than a Superintendent of Police is not tainted with any vice but is in strict conformity with the well-recognised and accepted aesthetic principles and fundamental fairness:
>
> (1) The confession should be recorded in a free atmosphere in the same language in which the person is examined and as narrated by him;
>
> (2) The person from whom a confession has been recorded under Section 15(1) of the Act, should be produced before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate to whom the confession is required to be sent under Rule 15(5) along with the original statement of confession, written or recorded on mechanical device without unreasonable delay;
>
> (3) The Chief Metropolitan Magistrate or the Chief Judicial Magistrate should scrupulously record the statement, if any, made by the accused so produced and get his signature and in case of any complaint of torture,

the person should be directed to be produced for medical examination before a Medical Officer not lower in rank than of an Assistant Civil Surgeon;

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank of an Assistant Commissioner of Police in the metropolitan cities and elsewhere of a Deputy Superintendent of Police or a police officer of equivalent rank, should investigate any offence punishable under this Act of 1987.

This is necessary in view of the drastic provisions of this Act. More so when the Prevention of Corruption Act, 1988 under Section 17 and the Immoral Traffic Prevention Act, 1956 under Section 13, authorise only a police officer of a specified rank to investigate the offences under those specified Acts.

(5) The police officer if he is seeking the custody of any person for pre-indictment or pre-trial interrogation from the judicial custody, must file an affidavit sworn by him explaining the reason not only for such custody but also for the delay, if any, in seeking the police custody;

(6) In case, the person, taken for interrogation, on receipt of the statutory warning that he is not bound to make a confession and that if he does so, the said statement may be used against him as evidence, asserts his right to silence, the police officer must respect his right of assertion without making any compulsion to give a statement of disclosure;

The Central Government may take note of these guidelines and incorporate them by appropriate amendments in the Act and the Rules.

**2025 0 INSC 378; 2025 0 Supreme(SC) 516; Sudam Prabhakar Achat Vs. The State of Maharashtra; Criminal Appeal No. 641 of 2024; 21-03-2025**

No doubt that all the witnesses are related to the deceased. As a matter of fact, the deceased and the complainant on the one hand and the accused persons on the other hand are also closely related to each other inasmuch they are first cousins. It is however a settled position of law that merely because the witnesses are relatives of the deceased and as such are interested witnesses, that alone cannot be a ground to discard their testimony. The only requirement is that the testimony of such witnesses has to be scrutinized with greater caution and circumspection.

**2025 0 INSC 381; 2025 0 Supreme(SC) 518; Dhirubhai Bhailalbhai Chauhan and Another Vs. State of Gujarat and Others; Criminal Appeal No. 816 of 2016; WITH; Kiritbhai Manibhai Patel and Others Vs. The State of Gujarat; Crl. A. No. 817 of 2016; Decided On : 21-03-2025**

In the instant case, the appellants were residents of the same village where riots broke out, therefore their presence at the spot is natural and by itself not incriminating. More so, because it is not the case of the prosecution that they came with arms or instruments of destruction. In these circumstances, their presence at the spot could be that of an innocent bystander who had a right to move freely in absence of prohibitory orders. In such a situation, to sustain their conviction, the prosecution ought to have led some reliable evidence to demonstrate that they were a part of the unlawful assembly and not just spectator. Here no evidence has come on record to indicate that the appellants incited the mob, or they themselves acted in any manner indicative of them being a part of the unlawful assembly.

in absence of any inculpatory role ascribed to the appellants, their arrest on the spot is not conclusive that they were a part of the unlawful assembly, particularly when neither instrument of destruction nor any inflammatory material was seized from them. Besides that, the police resorted to firing causing people to run helter skelter. In that melee, even an innocent person may be mistaken for a miscreant. Thus, appellants' arrest from the spot is not a guarantee of their culpability. In our view, therefore, mere presence of the appellants at the spot, or their arrest therefrom, was not sufficient to prove that they were a part of the unlawful assembly comprising of more than a thousand people.

**2025 0 INSC 386; 2025 0 Supreme(SC) 529; Jothiragawan Vs. State Rep. By The Inspector of Police & Anr.; Criminal Appeal No. 1434 of 2025 [@ Special Leave Petition (Crl) No. 6821 of 2024]; Decided On : 24-03-2025**

We have already found that there is no promise of marriage to coerce consent from the victim for sexual intercourse; as forthcoming from the statements made by the victim. The promise if any was after the first physical intercourse and even later the allegation was forceful intercourse without any consent. In all the three instances it was the allegation that, the intercourse was on threat and coercion and there is no consent spoken of by the victim, in which case there cannot be any inducement found, on a promise held out. The allegation of forceful intercourse on threat and coercion is also not believable, given the relationship admitted between the parties and the willing and repeated excursions to hotel rooms.

On a reading of the statements made by the victim before the Police, both the First Information Statement and that recorded later on, we are not convinced that the sexual relationship admitted by both the parties was without the consent of the victim. That they were closely related and were in a relationship is admitted by the victim. The allegation is also of threat and

coercion against the victim, to have sexual intercourse with the accused, which even as per the victim's statement was repeated thrice in the same manner, when she willingly accompanied the accused to a hotel room. The victim had also categorically stated that after the first incident and the second incident she was mentally upset, but that did not caution her from again accompanying the accused to hotel rooms.

Having heard both sides in this case, we have absolutely no doubt in our mind that the criminal proceedings initiated against the present appellant are nothing but an abuse of process of the court.

**2025 0 INSC 387; 2025 0 Supreme(SC) 528; Firoz Khan Akbarkhan Vs. The State of Maharashtra; Criminal Appeal No. 257 of 2013; Decided On : 24-03-2025 (THREE JUDGE BENCH)**

To our mind, the prosecution has succeeded in proving its case beyond reasonable doubt. Having carefully gone through the material on record, especially the depositions of the witnesses and upon a keen examination of the relevant aspects of the case, we find that the presence of the appellant at the site of the incident and him having stabbed the deceased on the stomach repeatedly has been the consistent stand of the PWs who were eye-witnesses. The Courts below have also concurrently found the same. The accused-appellant has not been able to controvert the evidence on record. Minor and immaterial inconsistencies and/or discrepancies shall not harm the case of the prosecution, as held, inter alia, in State of Himachal Pradesh v Lekh Raj, (2000) 1 SCC 247; Narayan Chetanram Chaudhary v State of Maharashtra, (2000) 8 SCC 457; State of Madhya Pradesh v Ramesh, (2011) 4 SCC 786; Mekala Sivaiah v State of Andhra Pradesh, (2022) 8 SCC 253, and; Rameshji Amarsingh Thakor v State of Gujarat, 2023 SCC OnLine SC 1321.

**2025 0 INSC 384; 2025 0 Supreme(SC) 531; Amit Kumar & Ors Vs. Union Of India & Ors.; Criminal Appeal No. 1425 of 2025 (@SLP (CRL) NO. 13324 OF 2024); Decided on : 24-03-2025**

The investigation after registration of F.I.R. under Section 154 of the CrPC is an investigation into an offence. In contrast, the investigation under Section 174 of the CrPC is an investigation or an "inquiry" into the apparent cause of death.

The marginal note attached to Section 174 of the CrPC reads "Police to inquire and report on suicide, etc." This is self-explanatory as to the scope of the provision. Sections 174 to 176 of the CrPC only contemplate inquiry into the cause of death. Although the phrase 'investigation' is used in Section 174

of the CrPC, yet it is only an investigation in the nature of an inquiry. Sometimes, during the inquest, the police record the presence of witnesses who are also witnesses in the case. These statements are not meant as substitutes for statements under Section 161 of the CrPC. The inquest requirement under Section 174 does use the word investigation but if one considers the entire phraseology of Section 174 of the CrPC, one comes to the conclusion that the word investigation in Section 174 is not an investigation to find out who are the offenders. It is only to enable the police to come up with the "apparent cause of death". This phrase in Section 174 should give us the clue as to the correct understanding of the role of the police in inquest panchnama.
State Governments instructed to constitute task force to check suicides in higher educational institutions.

**2025 0 INSC 390; 2025 0 Supreme(SC) 520; Deepak Kumar Tala Vs. State of Andhra Pradesh & Ors.; Criminal Appeal No. 1471 of 2025 Arising out of SLP (Crl.) No. 17738 of 2024; Decided On : 25-03-2025**
From a prima facie examination of the FIR, it is very clear that there is only one alleged instance of an insult/caste slur but there is no allegation that such offending statement was made in the presence of members of the general public [See Swaran Singh v. State, (2008) 8 SCC 435, paras 28, 33; Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710, para 15; Ramesh Chandra Vaishya v. State of Uttar Pradesh, 2023 SCC OnLine SC 668, para 17; Priti Agarwalla v. State of GNCT of Delhi, 2024 SCC OnLine SC 973, para 19.1; Rabindra Kumar Chhattoi v. State of Odisha, SLP (Crl.) No 1608/2020 (order dt. 05.12.2024), para 13; Karuppudayar v. State, 2025 SCC OnLine SC 215, para 11]. Hence, an essential ingredient for attracting Sections 2(1)(r) and 2(1)(s) of the SC/ST Act, i.e., that such statement must be made within "public view", as held by this Court in Shajan Skaria v. State of Kerala, 2024 SCC OnLine SC 2249 is prima facie not made out from the FIR.

**2025 0 INSC 397; 2025 0 Supreme(SC) 539; State Rep. By The Deputy Superintendent Of Police Vs. G. Easwaran: Criminal Appeal No. 1405 of 2019; Decided on : 26-03-2025**
Third, the validity of the sanction can always be examined during the course of the trial and the problems due to the typographical error as alleged by the State could have been explained by producing the file at the time of trial. Fourth, it is settled that a mere delay in the grant of sanction for prosecuting a public authority is not a ground to quash a criminal case.

**https://indiankanoon.org/doc/154240111/; Pradeep Kumar Agarwal vs State Of Telangana; 12.3.2025; CRLA 328,354,391 and 395 of 2021(DB)**

When addressing cases involving minor children or victims of rape, Courts must exercise heightened vigilance and sensitivity recognizing that child victims of sexual assault endure not only the trauma experienced by adults but also additional layers of vulnerability due to their developmental stage, limited understanding and reliance on adults for protection. The testimony of a child victim deserves special weight as their innocence and lack of sophistication make it unlikely for them to fabricate such traumatic experiences. The psychological impact on child victims is profound often leading to developmental challenges, educational setbacks, trust issues and lifelong scars. Behavioural changes, regression, and nightmares often corroborate their accounts underscoring the need for a child-friendly judicial process that safeguards their dignity and ensures their voiceis heard. Society bears a moral obligation to protect its most vulnerable members, and the legal system must reflect this by approaching such cases with care, prioritizing the well-being of the child while gathering corroborative evidence without causing further harm.

33. Moreover, in our considered opinion while dealing with such sensitive matters the gravity of such cases demands utmost attention and sensitivity. It is equally imperative that the prosecution exercises due diligence in implicating accused persons. This Bench observes that the prosecution cannot justify the implication of adding accused persons merely based on unreliable statements of co-accused, particularly when there exists no direct testimony or statement from the victims against such persons. Thus, the sanctity of justice requires that only those against whom there is clear and reliable evidence primarily through the testimony of the victims should face prosecution. To do otherwise would not only compromise the integrity of the judicial process but also dilute the focus from delivering justice to the actual victims of these heinous crimes, and at the same time, also subjecting the innocent persons to traumatic trial leading to anxiety and also resulting in damage to their reputation within in the society and within the family and outside the society

**https://indiankanoon.org/doc/71447610/; Chukka Shilpa vs The National Investigation Agency; CRIMINAL APPEALS No. 678 of 2024 and 705 of 2024 ; Date: 07.03.2025 (DB)**

A bare reading of Sub-section (5) of Section 43-D shows that it bars the Special Court from releasing an accused on bail without affording the Public

Prosecutor an opportunity of being heard on the application seeking release of an accused on bail. The proviso to Sub- section (5) of Section 43-D puts a complete embargo on the powers of the Special Court to release an accused on bail. It lays down that if the Court, on perusal of the case diary or the report made under Section 173 of the Code of **Crimin**al Procedure', is of the opinion that there are reasonable grounds for believing that the accusation, against such person, as regards commission of offence or offences under Chapter IV and/or Chapter VI of the Act 1967 is prima facie true, such accused person shall not be released on bail or on his own bond. It is interesting to note that there is no analogous provision traceable in any other statute to the one found in Section 43-D (5) of the Act 1967. In that sense, the language of bail limitation adopted therein remains unique to Act 1967.

**https://indiankanoon.org/doc/169060556/;Kuntala Suresh Kumar vs The State Of Telangana on 12 March, 2025; CRLP 2601 and 1648 of 2019** it appears that the complaint has been made to force the accused into settling the civil disputes. A reading of the complaint clearly reflects that the claim and the counter claims made in the civil suits are mentioned in the complaint. The issues that have to be decided by the civil Court, cannot be a subject matter of investigation and the Investigating Officer is not competent to decide regarding the rights or otherwise of the parties. As already discussed, nothing specific is alleged against A2 and A4 to A30. The present complaint was filed after the respondent/complainant failed to get any favourable orders in the Civil Court. Criminal forum cannot be used to force a settlement in civil cases. None of the ingredients of either cheating or fabrication of record is made out against A2 and A4 to A30.

**https://indiankanoon.org/doc/193341909/; Ambati Venkateswarlu 3 Others vs The State Of A.P. ; CRLRC No: 992/2009 11.03.2025;**
In the instant case, the learned Principal Assistant Sessions Judge, Ongole instead of adopting the procedure contemplated under Section 195 (1) (B) of „the Cr.P.C.," i.e., either the Court making a complaint in writing or directing the officer of the Court by authorization in writing or of some other Court to which that Court is subordinate, directed the Station House Officer, Santhanuthalapadu to register a case, which procedure is against the spirit of Section 195 of „the Cr.P.C". The learned Trial Court cannot take cognizance on the basis of the charge sheet filed by the Sub Inspector of Police Santhanuthalapadu. The legally permissible course available to the learned Principal Assistant Sessions Judge, Ongole was that either the

Presiding Officer should have, in writing, made a complaint or authorized the officer of the Court in writing to make a complaint or directed the Court subordinate to the Principal Assistant Sessions Judge to make a complaint. Therefore, the learned Trial Court or the learned Appellate Court failed to point out this material procedural irregularity in lodging the complaint for taking cognizance for the offence under Section 193 of „the IPC".

**https://indiankanoon.org/doc/56560098/; Kamatham Balaiah, 65 Others, vs The State Of AP; Crl.R.C.Nos: 561, 784, 587, 586, 585, 584, 581, 579, 566, 562, 564 of 2011 and 1188 of 2009 Dated 11.03.2025**

as can be seen from the impugned order the learned District Collector had authorized a certain cadre of the officers to conduct inquiry obtaining the information and submit report within only one day. Sections 6-A and 6-B of 'the E.C Act.,' contemplate that the inquiry has to be conducted by the learned District Collector himself; he cannot delegate the power of conducting the inquiry to some subordinate authorities. The maximum „delegatus non potest delegare" has to be applied where a statute clearly and strictly directs the learned District Collector to conduct himself an inquiry as contemplated under Section 6-B of 'the E.C Act.,' he cannot further delegate his powers to any of his subordinates.

**https://indiankanoon.org/doc/10293410/; V.Raghavulu vs The Government Of Telangana on 13 March, 2025; WP 17170/2019**

Regarding petitioner's claim of acquittal in **crimin**al case, it is important to note that departmental proceedings and **crimin**al trial operates under different standards of proof. The object of **crimin**al trial is to inflict appropriate punishment on the offender, while the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a **crimin**al trial, in**crimin**ating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the one to record commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In **crimin**al law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubt, he cannot be convicted by a Court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. In this case, admittedly, petitioner was acquitted in **Crimin**al

Case as prosecution miserably failed to prove the guilt of accused beyond all reasonable doubt by adducing cogent evidence. Upon acquittal, petitioner is also stated to have submitted representation on 06.05.2019 requesting the respondent authorities to set aside the penalty. The said representation was rejected vide order dated 06.08.2019 and the same was communicated to him. In this context, the judgments relied on by learned Government Pleader support the case of respondents. In the light of the same, it cannot be said that acquittal in **crimin**al case would be of help to consider the case of petitioner positively.

**https://indiankanoon.org/doc/168325617/; Kalvakuntla Chandrashekar Rao vs The State Of Telangana on 18 March, 2025; CRLP 15970/2024**
Under Section 256 of the CrPC, it is only in summons- cases that the death of the complainant will result in an acquittal of the accused. All other cases which are warrant-cases, the death of the complainant will not result in an acquittal. This can be seen in Section 249 of the CrPC.

**https://indiankanoon.org/doc/144475762/;Sode Vishnu Narayana, Shivaiah vs The State Of A.P. on 21 March, 2025; CRLRC 1476/2011**
It is the case of the prosecution that the petitioner-accused committed rape upon the victim by putting her under fear by threatening with knife and also promised her that he will marry her. Thereafter, the petitioner-accused had sexual intercourse with her several times and that she had become pregnant. But no complaint was lodged by the victim. It shows that the relationship between the victim and accused is consensual. Moreover, it is an admitted fact that they are married couple. Therefore, the petitioner-accused is the husband of the victim and the offence under Section 376 of IPC cannot be attributed to the husband, as he falls under the exception 2 of Section 375 of IPC. The present complaint was filed when the accused refused to continue his marital life with the victim.

**https://indiankanoon.org/doc/36239221/; Sk Mahaboob Subhani vs The State Of Andhra Pradesh, on 21 March, 2025; APHC 010137432025**
M.Paul Anthony v. Bharat Gold Mines Limited (1999) 3 SCC 679 , wherein at para No.22, the Hon'ble Apex Court observed as follows: "22. The conclusions which are deducible from various decisions of this Court referred to above are:
(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the chargesheet.
(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.
(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest."

**https://indiankanoon.org/doc/113378487/; CRLP 15967/2024: Cherukuri Ranganayakamma vs The State Of Telangana on 17 March, 2025;** it is pertinent to note that there is no prescribed format for filing a petition under Section 156(3) of the Cr.P.C.

**https://indiankanoon.org/doc/190160848/; S. Veeravenakata Satya Ganesh Kumar vs B.V.S. Murthy on 25 March, 2025; FA 332/2005**
The documents to be received as additional evidence in this application is certified copy of the judgment in C.C.No.78 of 2015 on the file of Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Kovvur. The contention of the petitioners/appellants is that they were acquitted in a criminal case filed by the respondent. The law is well settled that the proceedings and orders of a criminal court are not binding on a civil Court. The subject matter of the present suit is recovery of possession as sought by the 1st respondent which is a title suit. As noticed supra, the judgment of a criminal court is not at all binding on a civil Court.

**https://indiankanoon.org/doc/189750561/; Tummala Prakash Babu vs The State Of Telangana on 18 March, 2025; CRLP 12769/2017**

Considering these contentions, it is clear that there was no sanction to prosecute the petitioner, and the procedure laid down under Section 197 of the Cr.P.C., was not followed. Moreover, for any irregularity, respondent No.2 should have filed an appeal before the appropriate authority for rectification of the revenue entries. Without exhausting this remedy, respondent No.2 filed a police complaint against the petitioner. Additionally, since the entries had already been rectified, continuation of proceedings against the petitioner amounts to an abuse of the process of law. Therefore, the proceedings against the petitioner are liable to be quashed.

**https://indiankanoon.org/doc/77668470/:Mandha Jaya Sheeba Sheela vs The State Of Telangana on 19 March, 2025; CRLP 13059/2024**

Section 64-A of the Act was introduced but there is no mention about the authority, by whom such immunity can be granted from prosecution to the addicts volunteering for treatment. The Legislature had deemed it fit to introduce the provision under Section 64-A of the Act to grant immunity to persons who are addicted to drugs and not in any way involved either with peddling or sale of drugs. In the absence of any specification regarding the authority or the procedure to grant immunity from prosecution to the addicts volunteering treatment, this Court under the inherent powers can quash the proceedings by granting immunity from prosecution considering the facts and circumstances in a given case. In similar circumstances, the High Court of Madras in the case of Sanjiv Bhatnagar v.State, represented by its Intelligence Officer (2016 SCC OnLine Mad 33796) and also in the case of AnishKumar Dundoo v. State of Telangana (2021 SCC OnLine TS2195) invoked the provision under Section 482 of Cr.P.C for grant of immunity from prosecution

**2025 0 INSC 410; 2025 0 Supreme(SC) 552; Imran Pratapgadhi Vs. State of Gujarat and Another; Criminal Appeal No. 1545 of 2025; 28-03-2025**

Following is the summary of our conclusions:

(i) Sub-Section (3) of Section 173 of the BNSS makes a significant departure from Section 154 of Cr.P.C. It provides that when information relating to the commission of a cognizable offence which is made punishable for 3 years or more but less than 7 years is received by an officer-in- charge of a police station, with the prior permission of a superior officer as mentioned therein, the police officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a prima facie case

for proceeding in the matter. However, under Section 154 of the Cr.P.C. as held in the case of Lalita Kumari2, only a limited preliminary inquiry is permissible to ascertain whether the information received discloses a cognizable offence. Moreover, a preliminary inquiry can be made under the Cr.P.C. only if the information does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry. Sub-Section (3) of Section 173 of the BNSS is an exception to Sub-Section (1) of Section 173. In the category of cases covered by Sub-Section (3), a police officer is empowered to make a preliminary inquiry to ascertain whether a prima facie case is made out for proceeding in the matter even if the information received discloses commission of any cognizable offence.

(ii) Under Sub-Section (3) of Section 173 of the BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he can avail a remedy under Sub-Section (4) of Section 173.

(iii) In case of the offence punishable under Section 196 of the BNS to decide whether the words, either spoken or written or by sign or by visible representations or through electronic communication or otherwise, lead to the consequences provided in the Section, the police officer to whom information is furnished will have to read or hear the words written or spoken, and by taking the same as correct, decide whether an offence under Section 196 is made out. Reading of written words, or hearing spoken words will be necessary to determine whether the contents make out a case of the commission of a cognizable offence. The same is the case with offences punishable under Sections 197, 299 and 302 of BNS. Therefore, to ascertain whether the information received by an officer-in-charge of the police station makes out a cognizable offence, the officer must consider the meaning of the spoken or written words. This act on the part of the police officer will not amount to making a preliminary inquiry which is not permissible under Sub-Section (1) of Section 173.

(iv) The police officers must abide by the Constitution and respect its ideals. The philosophy of the Constitution and its ideals can be found in the preamble itself. The preamble lays down that the people of India have solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to secure all its citizens liberty of thought, expression, belief, faith and worship. Therefore, liberty of thought and expression is one of the ideals of our Constitution. Article 19(1)(a) confers

a fundamental right on all citizens to freedom of speech and expression. The police machinery is a part of the State within the meaning of Article 12 of the Constitution. Moreover, the police officers being citizens, are bound to abide by the Constitution. They are bound to honour and uphold freedom of speech and expression conferred on all citizens.

(v) Clause (2) of Article 19 of the Constitution carves out an exception to the fundamental right guaranteed under sub-clause (a) of clause (1) of Article 19. If there is a law covered by clause (2), its operation remains unaffected by sub-clause (a) of clause (1). We must remember that laws covered by the clause (2) are protected by way of an exception provided they impose a reasonable restriction. Therefore, when an allegation is of the commission of an offence covered by the law referred to in clause (2) of Article 19, if sub- Section (3) of Section 173 is applicable, it is always appropriate to conduct a preliminary inquiry to ascertain whether a prima facie case is made out to proceed against the accused. This will ensure that the fundamental rights guaranteed under sub-clause (a) of clause (1) of Article 19 remain protected. Therefore, in such cases, the higher police officer referred to in sub- Section (3) of Section 173 must normally grant permission to the police officer to conduct a preliminary inquiry.

(vi) When an offence punishable under Section 196 of BNS is alleged, the effect of the spoken or written words will have to be considered based on standards of reasonable, strong-minded, firm and courageous individuals and not based on the standards of people with weak and oscillating minds. The effect of the spoken or written words cannot be judged on the basis of the standards of people who always have a sense of insecurity or of those who always perceive criticism as a threat to their power or position.

(vii) There is no absolute rule that when the investigation is at a nascent stage, the High Court cannot exercise its jurisdiction to quash an offence by exercising its jurisdiction under Article 226 of the Constitution of India or under Section 482 of the Cr.P.C. equivalent to Section 528 of the BNSS. When the High Court, in the given case, finds that no offence was made out on the face of it, to prevent abuse of the process of law, it can always interfere even though the investigation is at the nascent stage. It all depends on the facts and circumstances of each case as well as the nature of the offence. There is no such blanket rule putting an embargo on the powers of the High Court to quash FIR only on the ground that the investigation was at a nascent stage.

(viii) Free expression of thoughts and views by individuals or group of individuals is an integral part of a healthy civilised society. Without

freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed by Article 21 of the Constitution. In a healthy democracy, the views, opinions or thoughts expressed by an individual or group of individuals must be countered by expressing another point of view. Even if a large number of persons dislike the views expressed by another, the right of the person to express the views must be respected and protected. Literature including poetry, dramas, films, stage shows including stand-up comedy, satire and art, make the lives of human beings more meaningful. The Courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But, still, it is our duty to uphold the fundamental right under Article 19 (1)(a). We Judges are under an obligation to uphold the Constitution and respect its ideals. If the police or executive fail to honour and protect the fundamental rights guaranteed under Article 19 (1)(a) of the Constitution, it is the duty of the Courts to step in and protect the fundamental rights. There is no other institution which can uphold the fundamental rights of the citizens.

(ix) 75 years into our republic, we cannot be seen to be so shaky on our fundamentals that mere recital of a poem or for that matter, any form of art or entertainment, such as, stand-up comedy, can be alleged to lead to animosity or hatred amongst different communities. Subscribing to such a view would stifle all legitimate expressions of view in the public domain which is so fundamental to a free society.

**https://indiankanoon.org/doc/161860638/; Chimakurthi Naga Venkata Sai Kiran vs The State Of Andhra Pradesh; THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO CRIMINAL PETITION NO: 2641/2025 Date: 27.03.2024**

In light of these facts, this Court finds that custodial interrogation of the Petitioner is necessary. The purpose of such an interrogation would be to recover the amount that was withdrawn under questionable circumstances. Given the gravity of the offence and the Petitioner's failure to account for the misappropriated funds, it is essential to ensure that further investigations are carried out to determine the fate of the withdrawn money and to ascertain the Petitioner's role of involvement in the crime. Therefore, this Court holds that custodial interrogation is justified in order to facilitate the recovery of the amount and to fully uncover the details of the Petitioner's role in the offence. While considering the similar submissions in W.P.No.3848 of 2020, this Court passed an order dated 28.04.2020, observing that even in the case of

Arnesh Kumar (3 supra), the Hon'ble Supreme Court of India has spelt out the manner in which the power under Section 41 (1) (b) and 41-A of Cr.P.C. are to be exercised. The Hon'ble Supreme Court of India, after considering Section 41 (1) Cr.P.C., noted that in all cases where the arrest of a person is not actually required, the Police Officer should issue a notice directing the accused to appear before him at a specified place and time. **This Court concurs with the submission of the learned Government Pleader that the discretion to arrest or not to arrest a person and thereafter to follow Section 41-A of Cr.P.C. is solely vested in the Investigating Officer. This Court cannot compel the police to act based on 41-A Cr.P.C. as a matter of right. In this Court's opinion, the discretion should be left to the officer concerned to arrest or not to arrest.**

**In light of the preceding discussion and settled case law, simply because the offences prima facie made out against the Petitioner/A.20 are punishable with imprisonment of seven years or less than seven years, it cannot be held that the Petitioner is entitled to the benefit of notice under section 35(3) of BNSS. The discretion should be left to the investigating officer concerned to arrest or not to arrest and, therefore, to follow under section 35(3) of BNSS, is solely vested in the investigating officer.**

In a case containing severe allegations, the Investigating Officer deserves a free hand to take the investigation to its logical conclusion. The investigation officer who has been prevented from subjecting the Petitioner to custodial interrogation can hardly be fruitful in finding prima facie substance in the extremely serious allegations. The possibility of the investigation being 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 anticipatory bail.

**https://indiankanoon.org/doc/11884754/; Shaikshafi Ahmed vs The State Of Andhra Pradesh, on 28 March, 2025;WP 7984/2025**

It is now well settled law that an order passed under Section 164 of BNSS (145 Cr.P.C) or the proceedings initiated under Section 164 of BNSS (145 Cr.P.C) are amenable to revisional jurisdiction under Section 438 of BNSS (397(1) Cr.P.C). Any proceedings that are initiated or order passed under Section 164 of BNSS (145 Cr.P.C) cannot be construed as an interlocutory order so as to attract the bar under Section 438 of BNSS (397(1) Cr.P.C).

**https://indiankanoon.org/doc/60008213/; Md. Ibrahim vs The State Of Telangana on 28 March, 2025; CRLP 4127/2025**

**Police directed to issue SECOND 41A CrPC{35(3) BNSS} notice.**

**MUDIREDDYDIVYA VS SULKTISIVARAMA REDDY; FAMILY COURT APPEAL No.19 of 2025; 26.3.2025; (DB) TGHC**

The discussion in the foregoing paragraphs of this judgment persuade us to conclude that the respondent married the appellant during the lifetime of his first wife without being covered by the exception carved out under section 29(2) of the1955 Act with regard to customary divorce. This leads to the irrefutable presumption that the respondent knowingly cohabited with the appellant as her spouse from 08.03.2018 on the appellant's mistaken belief that the respondent had divorced his first wife.

Under section 5(i) read with section 11 of the 1955 Act, if the husband is already a married man, the subsequent marriage is void *ab initio* and has no sanctity in law. Since the respondent knew at the material point of time that he had a wife living at the time of entering into physical relations with the appellant and the appellant's consent to such physical relations was premised on her believing that the respondent is her lawfully-wedded husband, the respondent is guilty of the offence punishable under sections 375 and 376 of the IPC and alternatively, under sections 63 and 64 of the BNS.



**Preventive Detention**

In Kamarunnissa vs. Union of India, (1991) 1 SCC 128 the detenus were already in judicial custody at the time the orders of preventive detention were passed against them. This Court affirmed that detention orders could be validly passed against detenus who were in jail, provided the officers passing the orders were alive to the factum of the detenus being in custody and there was material on record to justify the conclusion that they would indulge in similar activities, if set at liberty. Reference was made to the earlier decision of this Court in Binod Singh vs. District Magistrate, Dhanbad, Bihar, (1986) 4 SCC 416 wherein it was held that there must be cogent material before the officer passing the detention order to infer that the detenu was likely to be released on bail and such an inference must be drawn from the material on record and must not be the ipse dixit of the officer passing such order. This Court, therefore, emphasized that before passing the detention order in respect of a person who is in jail, the concerned authority must satisfy himself and such satisfaction must be reached on the basis of cogent material that there is

a real possibility of the detenu being released on bail and, further, if released on bail, the material on record must reveal that he/she would indulge in prejudicial activity again, if not detained.

9. On similar lines, in Rekha vs. State of Tamil Nadu, (2011) 5 SCC 244 a 3-Judge Bench of this Court affirmed that, where a detention order is passed against a person already in jail, there should be a real possibility of the release of that person on bail, that is, he must have moved a bail application which is pending. It was observed that if no bail application is pending it logically followed that there is no likelihood of the person in jail being released on bail. The Bench, however, pointed out that the exception to this Rule would be where a co-accused, whose case stood on the same footing, was granted bail. The Bench cautioned that details in this regard have to be recorded, otherwise the statement would be mere ipse dixit and cannot be relied upon. The law laid down in Rekha (supra) was reiterated and followed in Huidrom Konungjao Singh vs. State of Manipur and Others, (2012) 7 SCC 181.

10. Earlier, in Union of India vs. Paul Manickam and Another, (2003) 8 SCC 342 this Court observed that, where detention orders are passed against persons who are already in jail, the detaining authority should apply its mind and show awareness in the grounds of detention of the chances of release of such persons on bail. It was observed that the detaining authority must be reasonably satisfied, on the basis of cogent material, that there is a likelihood of the detenu's release and in view of his/her antecedent activities, which are proximate in point of time, he/she must be detained in order to prevent him/her from indulging in such prejudicial activities. It was held that an order of detention would be valid in such circumstances only if the authority passing the order is aware of the fact that the detenu is actually in custody; the authority has a reason to believe, on the basis of reliable material, that there is a real possibility of the detenu being released on bail and that, upon such release, he/she would, in all probability, indulge in prejudicial activities; and it is felt essential to detain him/her to prevent him/her from so doing. This principle was again reiterated and applied in Union of India and Another vs. Dimple Happy Dhakad, (2019) 20 SCC 609.

11. We may now refer to the Constitution Bench judgment in Harikisan vs. State of Maharashtra and Others, AIR 1962 SC 911 in the context of proper communication of the grounds of detention to the detenu so as to protect his/her right under Article 22(5) of the Constitution of making an effective representation against such detention. In that case, the grounds of detention were in English and the authorities asserted that the same were explained to the detenu in Hindi, a

language known to the detenu, and that it would amount to satisfactory compliance. This plea was, however, rejected. The observations of the Bench in this regard read as under:

> "In our opinion, this was not sufficient compliance in this case with the requirements of the Constitution, as laid down in clause (5) of Article 22. To a person, who is not conversant with the English language, service of the Order and the grounds of detention in English, with their oral translation or explanation by the police officer serving them does not fulfil the requirements of the law. As has been explained by this Court in the case of State of Bombay vs. Atma Ram Sridhar Vaidya, 1951 SCC 43 : (1951) SCR 167 clause (5) of Article 22 requires that the grounds of his detention should be made available to the detenue as soon as may be, and that the earliest opportunity of making a representation against the Order should also be afforded to him. In order that the detenue should have that opportunity, it is not sufficient that he has been physically delivered the means of knowledge with which to make his representation. In order that the detenue should be in a position effectively to make his representation against the Order, he should have knowledge of the grounds of detention, which are in the nature of the charge against him setting out the kinds of prejudicial acts which the authorities attribute to him. Communication, in this context, must, therefore, mean imparting sufficient knowledge of all the grounds on which the Order of Detention is based. In this case the grounds are several, and are based on numerous speeches said to have been made by the appellant himself on different occasions and different dates. Naturally, therefore, any oral translation or explanation given by the police officer serving those on the detenue would not amount to communicating the grounds. Communication, in this context, must mean bringing home to the detenue effective knowledge of the facts and circumstances on which the Order of Detention is based."

The Constitution Bench went on to affirm that, if the detenu is not conversant with the English language, in order to satisfy the requirements of the Constitution, the detenu must be given the grounds in a language which he/she can understand and in a script which he/she can read, if he/she is a literate person.

**Sec 306 IPC**

he crucial word in Section 306 IPC is 'abets'. 'Abetment' is defined in Section 107 of IPC. As per Section 107 IPC, 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. There are two explanations to Section 107. As per Explanation 1, 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. Explanation 2 clarifies 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.

17. Section 114 IPC is an explanation or clarification of Section 107 IPC. What Section 114 IPC says is that whenever any person is absent but was present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such an act or offence and would be liable to be punished as an abettor.

18. In Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618 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. 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'.

19. Elaborating further, this Court in Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi), (2009) 16 SCC 605 observed that to constitute 'instigation' a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by 'goading' or 'urging forward'. This Court summed up the constituents of 'abetment' as under:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction.

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

20. Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 is a case where this Court held that in a case of alleged abetment of suicide, there must be

proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the deceased to commit suicide, conviction in terms of Section 306 IPC would not be sustainable. Similar view has been expressed by this Court in case of Ude Singh vs. State of Haryana, (2019) 17 SCC 301.

21. After considering the provisions of Sections 306 and 107 of IPC, this Court in Rajesh vs. State of Haryana, (2020) 15 SCC 359 held that conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide.

22. Abetment to commit suicide involves a mental process of instigating a person or intentionally aiding a person in the doing of a thing. Without a positive proximate act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. Besides, in order to convict a person under Section 306 IPC, there has to be a clear mens rea to commit the offence.

23. This Court in Amudha vs. State, 2024 INSC 244 held that there has to be an act of incitement on the part of the accused proximate to the date on which the deceased committed suicide. The act attributed should not only be proximate to the time of suicide but should also be of such a nature that the deceased was left with no alternative but to take the drastic step of committing suicide.

24. Again, in the case of Kamaruddin Dastagir Sanadi vs. State of Karnataka, (2024) SCC Online SC 3541 this Court observed that discord and differences in domestic life are quite common in society. Commission of suicide largely depends upon the mental state of the victim. Until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict the accused for an offence under Section 306 IPC.

25. Prakash vs. State of Maharashtra, 2024 INSC 1020 is a case where this Court after analysing various decisions on the point summed up the legal position in the following manner:

> 14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and

should put the victim in such a position that he/she would have no other option but to commit suicide.

25.1. In the aforesaid judgment, this Court referred to its earlier decision in Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh, (2002) 5 SCC 371 and held that in a given case, even a time gap of 48 hours between using of abusive language by the accused and the commission of suicide would not amount to a proximate act.

**Sec 389 CrPC**

in Omprakash Sahni v. Jai Shankar Chaudhary and another 2023 SCC ONLINE 551. The Hon'ble Apex Court in the above referred judgment observed as follows : - "However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The Appellate Court should not re-appreciate the evidence at the stage of Section 389 of the Cr.P.C. and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach."

**BAIL**

The discussion made in Ajwar v. Waseem, (2024) 10 SCC 768 by a coordinate Bench of this Court (which included one of us, i.e. Amanullah J.) is on point. The relevant paragraphs are as under:

**"Relevant parameters for granting bail:**

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 : 2004 SCC (Cri) 1974; Kalyan Chandra Sarkar vs. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977; Masroor vs. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368; Prasanta Kumar Sarkar vs. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC

(Cri) 765; Neeru Yadav vs. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527; Anil Kumar Yadav vs. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425; Mahipal vs. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558]

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 vs. State of M.P., (2022) 15 SCC 211] decided by a three-Judge 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) Cr.P.C. in the following words: (SCC p. 224, Para 24)

"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 vs. 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."

Considerations for setting aside bail orders

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."

8.4 A recent judgment of this Court in Shabeen Ahmad vs. State of U.P. in Criminal Appeal No. 1051 of 2025 from the pen of Vikram Nath J. referred to the above paragraphs of Ajwar (supra) in cancelling the bail granted to certain accused persons in connection with alleged offences under Sections 498A, 304B, Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

**CASES INVOLVING A CHILD VICTIM OF SEXUAL ASSAULT.**

In State of Rajasthan v. Om Prakash, (2002) 7 SCC 745 this Court sounded a warning against offences of sexual nature against children, in the following terms:

"19. Child rape cases are cases of perverse lust for sex where even innocent children are not spared in pursuit of sexual pleasure. There cannot be anything more obscene than this. It is a crime against humanity. Many such cases are not even brought to light because of the social stigma attached thereto. According to some surveys, there has been a steep rise in child rape cases. Children need special care and protection. In such cases, responsibility on the shoulders of the courts is more onerous so as to provide proper legal protection to these children. Their physical and mental immobility call for such protection. Children are the natural resource of our country. They are the country's future. Hope of tomorrow rests on them. In our country, a girl child is in a very vulnerable position and one of the modes of her exploitation is rape besides other modes of sexual abuse. These factors point towards a different approach required to be adopted…"

In numerous cases, this Court as well as others, have discussed the applicability of the statement of a child witness to a case. We may notice a few of them:

In Dattu Ramrao Sakhare v. State of Maharashtra, (1997) 5 SCC 341 this Court held :"5….A child witness if found competent to depose to the facts and reliable one such evidence could be the basis of conviction. In other words even in the absence of oath the evidence of a child witness can be considered under Section 118 of the Evidence Act provided that such witness is able to understand the questions and able to give rational answers thereof. The evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and there is no likelihood of being tutored…"

In Hari Om v. State of U.P., (2021) 4 SCC 345, a three-Judge Bench reiterated the caution observed by this Court in Suryanarayana v. State of Karnataka, (2001) 9 SCC 129, that "corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence". It was further observed therein :

> "6. This Court in Panchhi v. State of U.P. [Panchhi v. State of U.P., (1998) 7 SCC 177 : 1998 SCC (Cri) 1561] held that the evidence of the child witness must be evaluated more carefully and with greater circumspection because a child is susceptible to be swayed by what others tell him and thus an easy prey to tutoring. The evidence of the child witness must find adequate corroboration before it is relied upon, as the rule of corroboration is of practical wisdom than of law (vide Prakash v. State of M.P. [Prakash v. State of M.P., (1992) 4 SCC 225 : 1992 SCC (Cri) 853]; Baby Kandayanathil v. State of Kerala [Baby Kandayanathil v. State of Kerala, 1993 Supp (3) SCC 667 : 1993 SCC (Cri) 1084]; Raja Ram Yadav v. State of Bihar [Raja Ram Yadav v. State of Bihar, (1996) 9 SCC 287 : 1996 SCC (Cri) 1004] and Dattu Ramrao Sakhare v. State of Maharashtra [Dattu Ramrao Sakhare v. State of Maharashtra, (1997) 5 SCC 341 : 1997 SCC (Cri) 685]).
>
> 7. To the same effect is the judgment in State of U.P. v. Ashok Dixit [State of U.P. v. Ashok Dixit, (2000) 3 SCC 70 : 2000 SCC (Cri) 579]."

13. The rule regarding child witnesses was laid down by the US Supreme Court as far back as 1895[19][Wheeler v. United States, 1895 SCC OnLine US SC 220] in the following terms :

> "5. … While no one would think of calling as a witness an infant only two or three years old, there is no precise age which determines the question of competency. This depends on the capacity and intelligence of the child, his appreciation of the difference between truth and falsehood, as well as of his duty to tell the former. The decision of this question rests primarily with the trial Judge, who sees the proposed witness, notices his manner, his apparent possession or lack of intelligence, and may resort to any examination which will tend to disclose his capacity and intelligence as well as his understanding of the obligations of an oath. As many of these matters cannot be photographed into the record the decision of the trial Judge will not be disturbed on review unless from that which is preserved it is clear that it was erroneous."

In interpreting the evidence given by a child victim of sexual assault, this Court in State of H.P. v. Sanjay Kumar, (2017) 2 SCC 51, held that social realities have to be given due attention. It was observed by Sikri J., writing for the Court that :

> "30. By no means, it is suggested that whenever such charge of rape is made, where the victim is a child, it has to be treated as a gospel truth and the accused

person has to be convicted. We have already discussed above the manner in which the testimony of the prosecutrix is to be examined and analysed in order to find out the truth therein and to ensure that deposition of the victim is trustworthy. At the same time, after taking all due precautions which are necessary, when it is found that the prosecution version is worth believing, the case is to be dealt with all sensitivity that is needed in such cases. In such a situation one has to take stock of the realities of life as well. Various studies show that in more than 80% cases of such abuses, perpetrators have acquaintance with the victims who are not strangers. The danger is more within than outside. Most of the time, acquaintance rapes, when the culprit is a family member, are not even reported for various reasons, not difficult to fathom. The strongest among those is the fear of attracting social stigma. Another deterring factor which many times prevents such victims or their families to lodge a complaint is that they find whole process of criminal justice system extremely intimidating coupled with absence of victim protection mechanism. Therefore, time is ripe to bring about significant reforms in the criminal justice system as well. Equally, there is also a dire need to have a survivor-centric approach towards victims of sexual violence, particularly, the children, keeping in view the traumatic long-lasting effects on such victims."

In Pradeep v. State of Haryana, 2023 SCC OnLine SC 777, it was held that the role of the trial Judge, when a case involves a child witness, becomes heightened. The Court recorded :

"10. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the Appellate Court can go into the correctness of the opinion of the Trial Court."

In Sooryanarayana v. State of Karnataka, (2001) 9 SCC 129 referred to by a Bench of three Judges in Hari Om v. State of U.P., (2021) 4 SCC 345, it has been held thus :"5. Admittedly, Bhavya (PW 2), who at the time of occurrence was about four years of age, is the only solitary eyewitness who was rightly not given the oath. The time

and place of the occurrence and the attending circumstances of the case suggest no possibility of there being any other person as an eyewitness. The evidence of the child witness cannot be rejected per se, but the court, as a rule of prudence, is required to consider such evidence with close scrutiny and only on being convinced about the quality of the statements and its reliability, base conviction by accepting the statement of the child witness. The evidence of PW 2 cannot be discarded only on the ground of her being of tender age. The fact of PW 2 being a child witness would require the court to scrutinise her evidence with care and caution. If she is shown to have stood the test of cross-examination and there is no infirmity in her evidence, the prosecution can rightly claim a conviction based upon her testimony alone. Corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. Some discrepancies in the statement of a child witness cannot be made the basis for discarding the testimony. Discrepancies in the deposition, if not in material particulars, would lend credence to the testimony of a child witness who, under the normal circumstances, would like to mix-up what the witness saw with what he or she is likely to imagine to have seen. While appreciating the evidence of the child witness, the courts are required to rule out the possibility of the child being tutored. In the absence of any allegation regarding tutoring or using the child witness for ulterior purposes of the prosecution, the courts have no option but to rely upon the confidence inspiring testimony of such witness for the purposes of holding the accused guilty or not."

Recently, a coordinate Bench of this Court in State of Madhya Pradesh v. Balveer Singh, 2025 SCC OnLine 390; 2025 INSC 261 speaking through J.B. Pardiwala, J., considered a large number of prior decisions of this Court to lay down guidelines for the appreciation of the evidence of a child witness. We have perused through the same.

Reference can also be made to other judgments in State of M.P v. Ramesh, (2011) 4 SCC 786; Panchhi v. State of U.P., (1998) 7 SCC 177; and State of U.P. v. Ashok Dixit, (2000) 3 SCC 70, etc.

14. The principles that can be adduced from an overview of the aforesaid decisions, are:

a. No hard and fast rule can be laid down qua testing the competency of a child witness to testify at trial.

b. Whether or not a given child witness will testify is a matter of the Trial Judge being satisfied as to the ability and competence of said witness. To determine the same the Judge is to look to the manner of the witness, intelligence, or lack

thereof, as may be apparent; an understanding of the distinction between truth and falsehood etc.

c. The non-administration of oath to a child witness will not render their testimony doubtful or unusable.

d. The trial Judge must be alive to the possibility of the child witness being swayed, influenced and tutored, for in their innocence, such matters are of ease for those who may wish to influence the outcome of the trial, in one direction or another.

e. Seeking corroboration, therefore, of the testimony of a child witness, is well-placed practical wisdom.

f. There is no bar to cross-examination of a child witness. If said witness has withstood the cross- examination, the prosecution would be entirely within their rights to seek conviction even solely relying thereon.

**REASONABLE DOUBT & PROOF**

in Ramakant Rai v. Madan Rai, (2003) 12 SCC 395, wherein it was observed :

"23. A person has, no doubt, a profound right not to be convicted of an offence which is not established by the evidential standard of proof beyond reasonable doubt. Though this standard is a higher standard, there is, however, no absolute standard. What degree of probability amounts to "proof" is an exercise particular to each case. Referring to (sic) of probability amounts to "proof" is an exercise, the interdependence of evidence and the confirmation of one piece of evidence by another, as learned author says : [see The Mathematics of Proof II : Glanville Williams, Criminal Law Review, 1979, by Sweet and Maxwell, p. 340 (342)]

"The simple multiplication rule does not apply if the separate pieces of evidence are dependent. Two events are dependent when they tend to occur together, and the evidence of such events may also be said to be dependent. In a criminal case, different pieces of evidence directed to establishing that the defendant did the prohibited act with the specified state of mind are generally dependent. A juror may feel doubt whether to credit an alleged confession, and doubt whether to infer guilt from the fact that the defendant fled from justice. But since it is generally guilty rather than innocent people who make confessions, and guilty rather than innocent people who run away, the two doubts are not to be multiplied together. The one piece of evidence may confirm the other."

24. Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than the truth. To constitute

reasonable doubt, it must be free from an over emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case.

25. The concepts of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element in the evaluation of the degrees of probability and the quantum of proof. Forensic probability must, in the last analysis, rest on a robust common sense and, ultimately, on the trained intuitions of the judge. While the protection given by the criminal process to the accused persons is not to be eroded, at the same time, uninformed legitimisation of trivialities would make a mockery of the administration of criminal justice. This position was illuminatingly stated by Venkatachaliah, J. (as His Lordship then was) in State of U.P. v. Krishna Gopal [(1988) 4 SCC 302 : 1988 SCC (Cri) 928 : AIR 1988 SC 2154]."

16.1 Observations by O. Chinappa Reddy J., in K. Gopal Reddy v. State of A.P., (1979) 1 SCC 355 are also instructive. He observed :

"9. … "A reasonable doubt", it has been remarked, "does not mean some light, airy, insubstantial doubt that may flit through the minds of any of us about almost anything at some time or other; it does not mean a doubt begotten by sympathy out of reluctance to convict; it means a real doubt, a doubt founded upon reasons [ Salmon, J. in his charge to the jury in R. v. Fantle reported in 1959 Criminal Law Review 584] . As observed by Lord Denning in Miller v. Minister of Pensions [(1947) 2 All ER 372] "Proof beyond a reasonable doubt does not mean proof beyond a shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour, which can be dismissed with the sentence "of course it is possible but not in the least probable", the case is proved beyond reasonable doubt, but nothing short of that will suffice." In Khem Karan v. State of U.P. [(1974) 4 SCC 603 : 1974 SCC (Cri) 689 : AIR 1974 SC 1567] this Court observed:

"Neither mere possibilities nor remote possibilities nor mere doubts which are not reasonable can, without danger to the administration of justice, be the

foundation of the acquittal of an accused person, if there is otherwise fairly credible testimony."

**ISSUE ESTOPPEL Vs DOUBLE JEOPARDY**

in the case of Ravinder Singh Vs. Sukhbir Singh, (2013) 9 SCC 245, examined the principle of issue estoppel. That was a case arising out of a prayer for quashing of criminal proceedings under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This Court explained the principle of issue estoppel in the following manner:

25. The principle of issue estoppel is also known as "cause of action estoppel" and the same is different from the principle of double jeopardy or autrefois acquit, as embodied in Section 300 CrPC. This principle applies where an issue of fact has been tried by a competent court on a former occasion, and a finding has been reached in favour of an accused. Such a finding would then constitute an estoppel, or res judicata against the prosecution but would not operate as a bar to the trial and conviction of the accused, for a different or distinct offence. It would only preclude the reception of evidence that will disturb that finding of fact already recorded when the accused is tried subsequently, even for a different offence, which might be permitted by Section 300(2) CrPC. Thus, the rule of issue estoppel prevents re-litigation of an issue which has been determined in a criminal trial between the parties...

**APPRECIATION OF EVIDENCE OF THE VICTIM OF SEXUAL OFFENCE**

26. It would be relevant at this juncture to refer to a couple of decisions on the subject matter. In the case of State of Uttar Pradesh vs. Chhotey Lal 1, the Hon'ble Supreme Court in paragraph Nos.22 to 29 held as under, viz., "22. In the backdrop of the above legal position, with which we are in respectful agreement, the evidence of the prosecutrix needs to be analysed and examined carefully. But, before we do that, we state, as has been repeatedly stated by this Court, that a woman who is a victim of sexual assault is not an accomplice to the crime. Her evidence cannot be tested with suspicion as that of an accomplice. As a matter of fact, the evidence of the prosecutrix is similar to the evidence of an injured complainant or witness. The testimony of the prosecutrix, if found to be reliable, by itself, may be sufficient to convict the culprit and no corroboration of her evidence is necessary. In prosecutions of rape, the law does not require corroboration. The evidence of the prosecutrix may sustain a conviction. It is only

by way of abundant caution that the court may look for some corroboration so as to satisfy its conscience and rule out any false accusations.

23. In State of Maharashtra v. Chandraprakash Kewalchand Jain [(1990) 1 SCC 550 : 1990 SCC (Cri) 210] this Court at SCC p. 559 of the Report said: (SCC para 16) "16. A prosecutrix of a sex offence cannot be put on a par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of (2011) 2 Supreme Court Cases 550 physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the court must be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the court should ordinarily have no hesitation in accepting her evidence."

24. In State of Punjab v. Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] this Court made the following weighty observations at pp. 394-96 and p. 403: (SCC paras 8 & 21) "8. ... The court overlooked the situation in which a poor helpless minor girl had found herself in the company of three desperate young men who were threatening her and preventing her from raising any alarm. Again, if the investigating officer did not conduct the investigation properly or was negligent in not being able to trace out the driver or the car, how can that become a ground to discredit the testimony of the prosecutrix? The prosecutrix had no control over the investigating agency and the negligence of an investigating officer could not affect the credibility of the statement of the prosecutrix ... The courts must, while

evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward in a court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. In cases involving sexual molestation, supposed considerations which have no material effect on the veracity of the prosecution case or even discrepancies in the statement of the prosecutrix should not, unless the discrepancies are such which are of fatal nature, be allowed to throw out an otherwise reliable prosecution case ... Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury ... Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances.

21. ... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestations."

(emphasis in original)

25. In Vijay v. State of M.P. [(2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639] , decided recently, this Court referred to the above two decisions of this Court in Chandraprakash Kewalchand Jain [(1990) 1 SCC 550 : 1990 SCC (Cri) 210] and Gurmit Singh [(1996) 2 SCC 384 : 1996 SCC (Cri) 316] and also few other decisions and observed as follows: (Vijay case [(2010) 8 SCC 191 : (2010) 3 SCC (Cri) 639] , SCC p. 198, para 14) "14. Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix."

26. The important thing that the court has to bear in mind is that what is lost by a rape victim is face. The victim loses value as a person. Ours is a conservative society and, therefore, a woman and more so a young unmarried woman will not put her reputation in peril by alleging falsely about forcible sexual assault. In examining the evidence of the prosecutrix the courts must be alive to the conditions prevalent in

the Indian society and must not be swayed by beliefs in other countries. The courts must be sensitive and responsive to the plight of the female victim of sexual assault. Society's belief and value systems need to be kept uppermost in mind as rape is the worst form of women's oppression. A forcible sexual assault brings in humiliation, feeling of disgust, tremendous embarrassment, sense of shame, trauma and lifelong emotional scar to a victim and it is, therefore, most unlikely of a woman, and more so by a young woman, roping in somebody falsely in the crime of rape. The stigma that attaches to the victim of rape in Indian society ordinarily rules out the levelling of false accusations. An Indian woman traditionally will not concoct an untruthful story and bring charges of rape for the purpose of blackmail, hatred, spite or revenge.

27. This Court has repeatedly laid down the guidelines as to how the evidence of the prosecutrix in the crime of rape should be evaluated by the court. The observations made in Bharwada Bhoginbhai Hirjibhai v. State of Gujarat [(1983) 3 SCC 217 :

1983 SCC (Cri) 728] deserve special mention as, in our view, these must be kept in mind invariably while dealing with a rape case. This Court observed as follows: (SCC p. 224, para 9) "9. In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion? To do so is to justify the charge of male chauvinism in a male dominated society. We must analyse the argument in support of the need for corroboration and subject it to relentless and remorseless cross- examination. And we must do so with a logical, and not an opinionated, eye in the light of probabilities with our feet firmly planted on the soil of India and with our eyes focussed on the Indian horizon. We must not be swept off the feet by the approach made in the western world which has its own social milieu, its own social mores, its own permissive values, and its own code of life. Corroboration may be considered essential to establish a sexual offence in the backdrop of the social ecology of the western world. It is wholly unnecessary to import the said concept on a turnkey basis and to transplant it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian society, and its profile. The identities of the two worlds are different. The solution of problems cannot, therefore, be identical."

28. This Court went on to observe at SCC pp. 225-26: (Bharwada case [(1983) 3 SCC 217 : 1983 SCC (Cri) 728] , SCC para 10) "10. Without the fear of making too wide a

statement, or of overstating the case, it can be said that rarely will a girl or a woman in India make false allegations of sexual assault on account of any such factor as has been just enlisted. The statement is generally true in the context of the urban as also rural society. It is also by and large true in the context of the sophisticated, not so sophisticated, and unsophisticated society. Only very rarely can one conceivably come across an exception or two and that too possibly from amongst the urban elites. Because--(1) A girl or a woman in the tradition- bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred.(2) She would be conscious of the danger of being ostracised by the society or being looked down by the society including by her own family members, relatives, friends, and neighbours.(3) She would have to brave the whole world.(4) She would face the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered.(5) If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family.(6) It would almost inevitably and almost invariably result in mental torture and suffering to herself.(7) The fear of being taunted by others will always haunt her.(8) She would feel extremely embarrassed in relating the incident to others being overpowered by a feeling of shame on account of the upbringing in a tradition-bound society where by and large sex is taboo. (9) The natural inclination would be to avoid giving publicity to the incident lest the family name and family honour is brought into controversy.(10) The parents of an unmarried girl as also the husband and members of the husband's family of a married woman, would also more often than not, want to avoid publicity on account of the fear of social stigma on the family name and family honour.(11) The fear of the victim herself being considered to be promiscuous or in some way responsible for the incident regardless of her innocence.(12) The reluctance to face interrogation by the investigating agency, to face the court, to face the cross-examination by the counsel for the culprit, and the risk of being disbelieved, acts as a deterrent."

29. We shall now examine the evidence of the prosecutrix. The prosecutrix at the relevant time was less than 18 years of age. She was removed from the lawful custody of her brother in the evening on 19-9-1989. She was taken to a different village by two adult males under threat and kept in a rented room for many days where A-1 had forcible sexual intercourse with her. Whenever she asked A-1 for return to her village, she was threatened and her mouth was gagged. Although we find that there are certain contradictions and omissions in her testimony, but such

omissions and contradictions are minor and on material aspects, her evidence is consistent. The prosecutrix being illiterate and rustic young woman, some contradictions and omissions are natural as her recollection, observance, memory and narration of chain of events may not be precise."

27. In the case of Haneel vs. State 2, the learned Single Judge of the High Court of Allahabad held in paragraph No.17 as under, viz., "17. The pain and suffering of a child is a brutal assault oh her physical frame, when she is raped. She has no idea about the sex or rape. It is a nightmare. It is not a Utopian thought or "floating fancy" of unwarranted assumption. It is the demonstration of reality in concrete terms. When a society moves in this way, there has to be instillation of fear of law and the punishment has to be definitive in a different way. In such a situation the classical understanding of crime by Marcus Aurelius, the Roman Emperor of 2nd Century A.D., who had said that poverty is the mother of crime may not hold good, for the crimes committed on girl children has no nexus with the economic status of the perpetrator of crime; on the contrary, may have nexus with neurotic behaviour. In fact, this is a crime which is a shameless demonstration and total insensitive exposition of attitude to a victim. It is a gross violation of the social values and a failure of an individual. It is an act of extreme depravity." 2016 SCC OnLine All 3058

**Extortion X Theft**

In Salib @ Shalu @ Salim (supra), the Apex Court dealt with the ingredients of extortion in terms of Sections 383 of IPC and punishment for extortion under Section 386 of IPC. The Apex Court held that one of the necessary ingredients of the offence of extortion is that the victim must be induced to deliver to any person any property or valuable security etc. That is to say, the delivery of the property must be with consent which has been obtained by putting the person in fear of any injury. In contrast to theft, in extortion there is an element of consent, of course, obtained by putting the victim in fear of injury. In extortion, the will of the victim has to be overpowered by putting him or her in fear of injury. Forcibly taking any property will not come under this definition. It has to be shown that the person was induced to part with the property by putting him in fear of injury. Illustrations to the Section given in the IPC make this perfectly clear.

**NO COERCIVE STEPS**

**Special Leave to Appeal (Crl.) No.9859/2023; SATISH KUMAR RAVI Vs. THE STATE OF JHARKHAND; 29-11-2024**

Charge sheet cannot be filed, if any order not to take coercive steps is existing.

**{ contributed by Sri Siva Prasad, APP, Vijayawada }**

# NEWS

- The Disaster Management (Amendment) Act, 2025 Published' 29.03.2025
- Notification Of Nagpur (Maharashtra), Raipur (Chhattisgarh), And Khordha (Odisha) Campus Of The National Forensic Sciences University (NFSU) Dt 18.3.2025
- Designation Of The Court Of The Principal Junior Civil Judge-Cum-Metropolitan Magistrate, Ranga Reddy At Lb Nagar For Trail Of Cases Registered At Economic Offences Wing Police Station, Cyberabad Covering Part Of The Territorial Jurisdiction Of Ranga Reddy, Sangareddy And Medchal Malkajgiri Districts.
- Telugu Translation Of Certain State Acts - Publication Of State Acts In The Andhra Pradesh Gazette Part Iv-C - Extraordinary As Authoritative Text.
- Buildings- Issuance Of Certain Revised Instructions - Official Functions Relating To Laying Of Foundation Stones And Inauguration Of New Courts & Guidelines For Construction Of Buildings For Bar Associations, Advocate Clerks' Association, Branches Of Banks, Post Office, Canteen Etc., -Regarding.
- Telangana_Police_Manual_(Part-1,_volume-II) New standing orders regd Mode of service of Sec 41A CrPC/35(3) BNSS; 160 CrPC/179BNSS etc on accused.

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# ON A LIGHTER VEIN

A German walks into a bar and orders a beer.

The bartender tells him : "20 euros!"

The German is shocked - "20 euros? yesterday it was only 3 euros !"

"Well, today it is 20 euros."

- "But why 20, damn it?"

Bar tender : "I'll explain it,

-3 euros is beer,

-3 to help Ukraine, UA

-4 assistance to European countries who have imposed sanctions and are not members of the EU.

-4 euros in aid to the UK, GB for successful implementation of sanctions against Russia RU.

-Then 3 euros are sent to the Balkan countries as aid to buy furnace coal.

- and finally, 3 euros for a gas subsidy for the EU and fund to help maintain sanctions!"

The German DE silently took out the money and gave the bartender 20 euros.

The bartender took them, entered in the cash register and gave him 3 euros back.

German in disbelief : "Wait, you said 20 euros, right ? I gave you 20, why are you giving me back 3 euros?"

"Ahh... We have no beer!"

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