Prosecution Replenish

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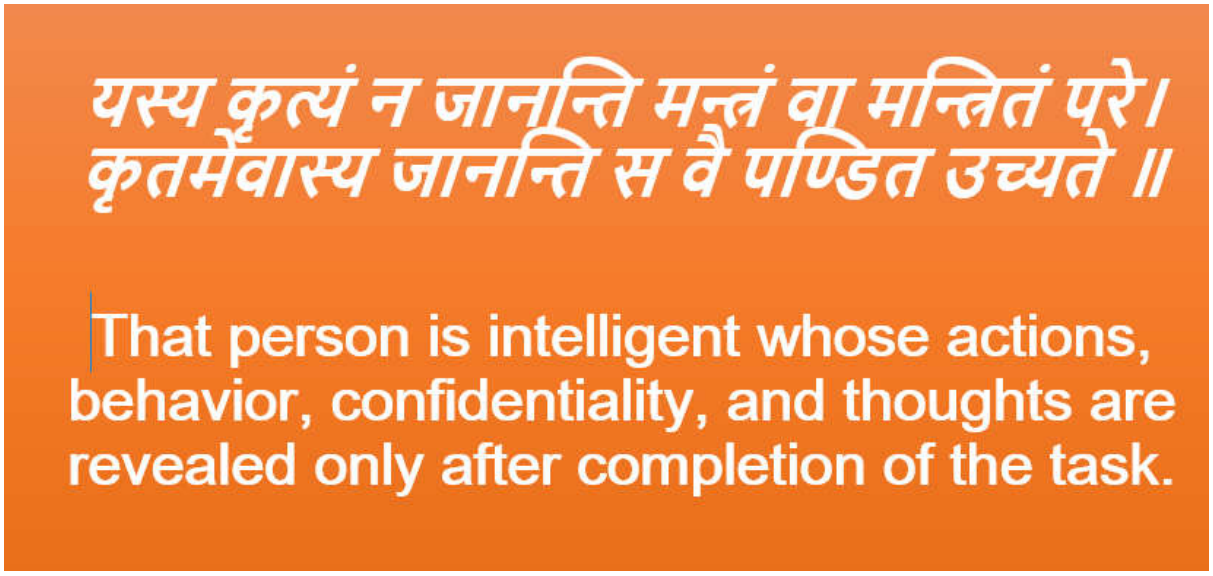
Aano Bhadr Kratvo Yantu Viswatah
(Let Noble Thoughts Come To Me from All Directions)



CITATIONS

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

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

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

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

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

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

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

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

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

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

2024 0 INSC 468; 2024 0 Supreme(SC) 532; Suresh Dattu Bhojane & Anr. Vs. State Of Maharashtra; Criminal Appeal No.412 Of 2012; With Satish Rama Bhojane Vs. The State Of Maharashtra; Criminal Appeal No. 651 Of 2013; Decided On : 08-07-2024

their presence with the other co-accused amounted to an unlawful assembly which is sufficient for conviction, even if they may have not actively participated in the commission of the crime. It goes without saying that when the charge is under Section 149, the presence of the accused as part of the unlawful assembly itself is sufficient for conviction [Yunis alias Kariya vs. State of Madhya Pradesh, AIR 2003 SC 539].

2024 0 INSC 474; 2024 0 Supreme(SC) 538; P. Sasikumar Vs. The State Rep. By The Inspector of Police; Criminal Appeal No.1473 of 2024 (Arising Out of SLP (CRL.) No.2756 of 2019); Decided On : 08-07-2024

It is well settled that TIP is only a part of Police investigation. The identification in TIP of an accused is not a substantive piece of evidence. The substantive piece of evidence, or what can be called evidence is only dock identification that is identification made by witness in Court during trial. This identification has been made in Court by PW-1 and PW-5. The High Court rightly dismisses the identification made by PW-1 for the reason that the appellant i.e., accused no.2 was a stranger to PW-1 and PW-1 had seen the appellant for the first time when he was wearing a monkey cap, and in the absence of TIP to admit the identification by PW-1 made for the first time in the Court was not proper.

2024 0 INSC 480; 2024 0 Supreme(SC) 544; Dharmendra Kumar @ Dhamma Vs. State of Madhya Pradesh; Criminal Appeal No. 2806 of 2024 [Arising out of Special Leave to Appeal (Crl.) No. 11793 of 2022]; Decided on : 08-07-2024

It must also be borne in mind that FIR is not a substantive piece of evidence, and it can be used only to corroborate or contradict the version of an Informant. It is also not necessary that there should always be a written complaint to register the FIR. Even an oral communication to the Police disclosing the commission of a cognizable offence is sufficient to register the FIR.

The object of the FIR is three-fold: firstly, to inform the jurisdictional Magistrate and the Police Administration of the offence that has been reported to the Police Station; secondly, to acquaint the Judicial Officer before whom the case is ultimately tried as to what are the actual facts stated immediately after the occurrence and on what materials the investigation commenced; thirdly and most importantly, to safeguard the accused against subsequent variations, exaggerations or additions.

this Court in State v. N.S. Gnaneswaran, (2013) 3 SCC 594. has ruled that the stipulations outlined in Section 154 CrPC concerning the reading over of the information after it is written down, the signing of the said information by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

https://indiankanoon.org/doc/14569715/; Devabhaktuni Subbarao, vs The State Of A.P., on 23 July, 2024; High Court Dated: 13/02/2024 23/07/2024 Amended Common Judgment Crl.A.Nos: 575, 585, 624 & 625 Of 2008 Partly Allowing The Criminal Appeals

In order to base a conviction in Criminal Cases, the case has to be proved beyond all reasonable doubt. Except alleging that there is deficiency in the stock on one hand and on the other hand alleging that AO-1 has violated the norms in purchasing the material in excess, there is no other material to prove the deficiency of stock and thereby the accused have misappropriated the funds.

In order to prove the case, the burden lies on the prosecution to show that there is deficiency in stock and because of that the amounts have been misappropriated by the accused. Once the burden is proved. thereafter the onus shifts on the accused to show that whether there is deficiency in the stock or not. Primarily, it is the burden of the prosecution to prove the case.

https://indiankanoon.org/doc/122937511/; Vemula Ramesh vs The State Of AP; CRIMINAL REVISION CASE No.506 of 2024 Date: 26.07.2024

In Gajendra Singh v. State of Rajasthan (1998) 8 SCC 612, interpreting Section 315 Cr.P.C., their Lordships stated that an accused cannot be denied the opportunity to produce the documents on which he relies merely because he did not produce them before his evidence was recorded.

The other reason given by the trial Court that in a case of child abuse her consent is of no relevance is a matter that should be eligible to be stated while judging the whole case. It was never expected on part of the Court to disallow a defence in such serious offences especially where the reverse onus is on the accused. The view taken by the trial Court may amount to prejudging the facts.

https://indiankanoon.org/doc/89327587/; Jatoth Laxmi vs The State Of Telangana on 25 July, 2024; CRLP 7661/2024

The Station House Officer, Mahabubabad Town filed Crl.M.P.No.277 of 2024 in S.C (NDPS) No.17 of 2022 before the learned Principal Sessions Judge, Mahabubabad under Section 311 Cr.P.C. to issue summons to proposed witness i.e., Circle Inspector of Police, Mahabubabad Town Police Station to mark inventory report.

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

https://indiankanoon.org/doc/183521614/; Peddagundelli Peddagundela vs P.P., Hyd on 25 July, 2024; CrlA 586/2015

Section 161 Cr.P.C statements recorded by police can only be used for the purpose of contradicting a witness during trial. Confession to police is hit by Section 25 of the Indian Evidence Act. Any seizure pursuant to confession would only be admissible under Section 27 of the Evidence Act, for the purpose of corroboration.

https://indiankanoon.org/doc/161303718/; Chinna Narsimulu Koneru Chinna vs The State Of Telangana on 23 July, 2024; CRLP 8161/2024

41A CrPC notice directed to be served in case registered under section 195-A IPC and 506 IPC

https://indiankanoon.org/doc/3812568/; Surender Reddy Bayyapu vs The State Of Telangana on 23 July, 2024; CRLP 8169/2024

41A CrPC notice directed to be served in case registered under section 506 IPC.

{ It appears it was not brought to the notice of the Hon'ble Court that Sec 41A CrPC is applicable to Cognizable cases only}

Culpable Homicide & Murder

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

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

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

Marking of Document- Proof

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

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

BAIL AFTER CONVICTION

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

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

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

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

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

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

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

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

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

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

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ON A LIGHTER VEIN

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

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While due care is taken while preparing this information. The patrons are requested to verify and bring it to the notice of the concerned regarding any misprint or errors immediately, so as to bring it to the notice of all patrons. Needless to add that no responsibility for any result arising out of the said error shall be attributable to the publisher as the same is inadvertent.

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Notes
