Prosecution Replenish

An Endeavour for learning and excellence

Vol : XIII **February,2025**

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

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CITATIONS

2025 0 INSC 13; 2025 0 Supreme(SC) 11; Jayshree Kanabar Vs. State of Maharashtra & Ors.; Criminal Appeal No. of 2025 (@ SLP (Crl.) No. 15341 of 2023) With Criminal Appeal No. of 2025 (@ SLP (Crl.) No. 15820 of 2023); Decided on : 02-01-2025

When there is an embargo put in by a specific provision under a special enactment in the matter of grant of bail in respect of offences allegedly committed thereunder, the power to grant bail should necessarily be subject to satisfaction of the conditions mentioned in such specific provision. In the case on hand, such a specific provision is contained under Section 21(4) of the MCOCA. The learned counsel for the petitioners would submit that bail was granted to respondent Nos.2 and 3 herein sans considering their entitlement in view of the decision of this Court in Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwan & Anr., (2021) 6 SCC 230; 2021 INSC 265 At the same time, the learned counsel appearing for the respondent would submit that even in the case of offences under Prevention of Money Laundering Act (for short, 'the PMLA') which carries similar rigour in the matter of grant of bail under Section 45(1), PMLA, this Court held that such stringent provisions for the grant of bail would not take away the power of Constitution of Courts to grant bail on grounds of violation of Part-III of the Constitution of India. But we may hasten to add that a critical examination of the impugned order would reveal that bail was granted to respondent Nos.2 and 3 in

the case on hand not on the ground of violation of Part-III of the Constitution of India and instead, the High Court has considered the sufficiency or otherwise of the evidence against them available on record. There can be no doubt with respect to the position that materials collected during the investigation would not mature into evidence at the stage of consideration of an appeal and as such, the admissibility and evidentiary value are matters to be decided during the trial and are not matters for consideration at the present stage of the proceedings.

SEC 326 IPC= 118(2) BNS ALLOWED TO BE COMPOUNDED
2025 0 INSC 37; 2025 0 Supreme(SC) 39; H. N. Pandakumar Vs. The State of Karnataka; Miscellaneous Application No. 2667 of 2024 in SLP(Crl.) No. 895 of 2024; Decided On : 07-01-2025

The complainant and the petitioner reside in close proximity, with only a road separating their houses, making it essential to maintain a peaceful relationship between the two families. The parties are also distantly related, and any lingering hostility is likely to disturb the social fabric of their neighbourhood. The compromise covers not only the criminal case but also related property disputes, including the right of way, which had been a point of contention for years. The applicant/petitioner's commitment to paying the agreed compensation reflects a genuine effort to end the discord and uphold the terms of the settlement. This Court notes that the complainant's unequivocal support for the compromise further underscores the voluntary nature of the settlement and the shared desire to put an end to all disputes.

In light of the amicable settlement and the complainant's unequivocal consent, as evidenced by the Interlocutory Application, this Court finds it appropriate to allow the present M.A. While the offense under Section 326 IPC is non- compoundable under the provisions of the Criminal Procedure Code, 1973, the exceptional circumstances of this case, including the voluntary settlement between the parties, warrant the exercise of this Court's inherent powers to give effect to the compromise.

2025 0 INSC 32; 2025 0 Supreme(SC) 35; Bishwajit Dey vS. The State of Assam; Criminal Appeal No. 87 of 2025 (Arising out of Special Leave Petition (Crl.)No.13370 of 2024); Decided On : 07-01-2025

Though seizure of drugs/substances from conveyances can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. Secondly, where the contraband is recovered from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner. Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle. Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation

by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.

This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

This Court clarifies that the aforesaid discussion should not be taken as laying down a rigid formula as it will be open to the trial Courts to take a different view, if the facts of the case so warrant.

2025 0 INSC 4; 2025 0 KLT(Online) 1008; 2025 0 Supreme(SC) 20; B.N. John vS. State Of U.P. & Anr.; Criminal Appeal No. of 2025 (@ Special Leave Petition (Crl.) No. 2184 of 2024); Decided On : 02-01-2025

We are mindful of the position that where, during the investigation of a cognizable or non-cognizable offence on the basis of an FIR lodged, new facts emerge that will constitute the commission of a non-cognizable offence under IPC, in which event, the police can continue with the investigation of the non-cognizable offence of which there cannot be any dispute.

Thus, even if it is assumed that in the course of the investigation of a cognizable offence, the ingredients of a non-cognizable offence are discovered then the police could have continued the investigation without the written complaint to the court or the order of the court in respect of such non-cognizable offence, as it would also be deemed to be a cognizable offence under Section 155(4) of the CrPC, but where the investigation of the cognizable office itself suffers from legal infirmity and without jurisdiction from the initial stage, the entire investigation would be vitiated. For this reason, the police cannot seek the shield under Section 155 (4) of the CrPC when the FIR did not disclose the commission of a cognizable offence.

2025 0 INSC 27; 2025 0 KLT(Online) 1029; 2025 0 Supreme(SC) 30; Omi @ Omkar Rathore & Anr. Vs The State Of Madhya Pradesh & Anr.; Special Leave Petition (CRL.) No(s). 17781 of 2024; Decided On : 03-01-2025

The principles of law as regards Section 319 of the CrPC may be summarised as under:

a. On a careful reading of Section 319 of the CrPC as well as the aforesaid two decisions, it becomes clear that the trial court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge sheeted, can also be added to face the trial.

b. The trial court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the charge- sheet or the case diary, because such materials contained in the charge sheet or the case diary do not constitute evidence.

c. The power of the court under Section 319 of the CrPC is not controlled or governed by naming or not naming of the person concerned in the FIR. Nor the same is dependent upon submission of the chargesheet by the police against the person concerned. As regards the contention that the phrase 'any person not being the accused' occurred in Section 319 excludes from its operation an accused who has been released by the police under Section 169 of the Code and has been shown in column No. 2 of the charge sheet, the contention has merely to be stated to be rejected. The said expression clearly covers any person who is not being tried already by the Court and the very purpose of enacting such a provision like Section 319(1) clearly shows that even persons who have been dropped by the police during investigation but against whom evidence showing their involvement in the offence comes before the Criminal Court are included in the said expression.

c. It would not be proper for the trial court to reject the application for addition of new accused by considering records of the Investigating Officer. When the evidence of complainant is found to be worthy of acceptance then the satisfaction of the Investigating Officer hardly matters. If satisfaction of Investigating Officer is to be treated as determinative then the purpose of Section 319 would be frustrated.

2025 0 INSC 28; 2025 0 KLT(Online) 1015; 2025 0 Supreme(SC) 31; Edakkandi Dineshan @ P. Dineshan and Others Vs. State of Kerala; Criminal Appeal No. 118 of 2013; Decided On : 06-01-2025

Crime creates a sense of societal fear and it affects adversely the societal conscience. It is inequitable and unjust if such a situation is allowed to perpetuate and continue in the society. In every civilized society, the purpose of criminal administrative system is to protect individual dignity and to restore societal stability and order and to create faith and cohesion in the society. The courts in the discharge of their duties are tasked with balancing of interests of the accused on one hand and the state/society on the other.

Either a partial, untrue version of one of the witnesses or an exaggerated version of a witness may not be a sole reason to discard the entire prosecution case which is otherwise supported by clinching evidence such as truthful version of the witnesses, medical evidence, recovery of the weapons etc.

Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency.

Even if it is assumed that they are interested witnesses there is no such inconsistency in their statements which would raise a reasonable suspicion about their evidence being concocted and untruthful. They were present at the spot where the incident took place and they have delivered a version which is palpable one.

The entire submissions of the appellants were that since there are contradictions, the entire story of the prosecution is false. As we have already mentioned above, the principle of 'falsus in uno, falsus in omnibus' does not apply to the Indian criminal jurisprudence and only because there are some contradictions which in the opinion of this Court are not even that material, the entire story of the prosecution cannot be discarded as false. It is the duty of the Court to separate the grain from the chaff. In a given case, it is also open to the Court to differentiate the accused who had been acquitted from those who were convicted where there are a number of accused persons, like in the present case.

2025 0 INSC 30; 2025 0 KLT(Online) 1011; 2025 0 Supreme(SC) 33; Frank Vitus Vs. Narcotics Control Bureau And Ors.; Criminal Appeal Nos. 2814-2815 of 2024; Decided On : 06-01-2025

Under clause (b) of Section 3(2) of the Act, there is a power vested in the Central Government to issue an order generally or with respect to any particular foreigner or class of foreigners that they shall not depart from India or shall depart subject to observance of such conditions on departure as may be prescribed. The Rules do not impose any such restriction on departure from India. However, as noted earlier, according to clause 5(1)(b) of the Order, no foreigner shall leave India without the leave of the Civil Authority having jurisdiction. When a foreigner's presence is required in India to answer a criminal charge, permission to leave India must be refused. Under the Order, the Civil Authority can impose restrictions on the movements of a foreigner. Therefore, once a foreigner is released on bail, he cannot leave India without the permission of the Civil Authority, as provided in clause 5 of the Order. Under clause 11 and other clauses of the Order, various restrictions can be imposed on a foreigner while he is in India. The said power is

wholly independent of the power to grant bail. As of today, there is no order passed by the Central Government for giving effect to clause (g) of Section 3(2) of the Act. In any event, even if such an order is issued, the power to arrest or detain a foreigner under the Act is independent of the power of the criminal court to grant bail. Notwithstanding the bail granted by a criminal court, the power to arrest and detain a foreigner can be exercised, provided the Central Government makes an order in terms of clause (g) of Section 3(2) of the Act.

All that can be done is that while releasing a foreigner on bail, the Court should direct the investigating agency or the State, as the case may be, to immediately inform the concerned Registration Officer appointed under Rule 3 of the Rules about the grant of bail so that the Registration Officer can bring the fact of the grant of bail to the notice of concerned Civil Authority.

2025 0 INSC 50; 2025 0 Supreme(SC) 59; The State of Punjab Vs. Hari Kesh; Criminal Appeal No. 104 of 2025 (Arising out of SLP(Criminal) No.9114/2019); Decided On : 07-01-2025

In the instant case, it appears that the petition for quashing of Sanction Order was filed by the respondent after the trial court framed the charge and commenced the trial, rather after the prosecution examined five witnesses. It is pertinent to note that whether the Sanction has been granted by the competent authority or not, would be a matter of evidence. Further, as per the Explanation to sub-section (4), for the purpose of Section 19, error includes “competency of the authority to grant Sanction.” Therefore, in view of the settled legal position, the High Court should not have quashed the Sanction Order and the consequent proceedings, unless it was satisfied that the failure of justice had occurred by such error or irregularity or invalidity. There is not a whisper in the impugned order about any failure of justice having occurred on account of the impugned Sanction Order. The High Court also should not have entertained the petition for quashing the Sanction Order when the prosecution had already examined seven witnesses. In that view of the matter, we are of the opinion that the High Court has committed gross error in quashing the Sanction Order and the consequent proceedings vide the impugned order.

2025 0 INSC 47; 2025 0 Supreme(SC) 74; Goverdhan & Anr Vs. State Of Chhattisgarh; Criminal Appeal No. 116 of 2011; Decided on : 09-01-2025

It is also to be noted that the law does not contemplate stitching the pieces of evidence in a watertight manner, for the standard of proof in a criminal case is not proof beyond all doubts but only beyond reasonable doubt. In other words, if a clear picture emerges on piecing together all evidence which indicates beyond reasonable doubt of the role played by the accused in the perpetration of the crime, the court holds the accused criminally liable and punishes them under the provisions of the penal code, in contradistinction to the requirement of proof based on the preponderance of probabilities as in case of civil proceedings.

21. It will be relevant to discuss, at this juncture, what is meant by "reasonable doubt". It means that such doubt must be free from suppositional speculation. It must not be the result of minute emotional detailing, and the doubt must be actual and substantial and not merely vague apprehension. A reasonable doubt is not an imaginary, trivial or a merely possible doubt, but a fair doubt based upon reason and common sense as observed in Ramakant Rai v. Madan Rai, (2003) 12 SCC 395 wherein it was observed as under :

> "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 overly 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."

22. While applying this principle of proof beyond reasonable doubt the Court has to undertake a candid consideration of all the evidence in a fair and reasonable manner as observed by this Court in State of Haryana v. Bhagirath (1999) 5 SCC 96 as follows:

> "8. It is nearly impossible in any criminal trial to prove all the elements with a scientific precision. A criminal court could be convinced of the guilt only beyond the range of a reasonable doubt. Of course, the expression 'reasonable doubt' is incapable of definition. Modern thinking is in favour of the view that proof beyond a reasonable doubt is the same as proof which affords moral certainty to the Judge.
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> 9. Francis Wharton, a celebrated writer on criminal law in the United States has quoted from judicial pronouncements in his book Wharton's Criminal Evidence (at p. 31, Vol. 1 of the 12th Edn.) as follows:
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> 'It is difficult to define the phrase "reasonable doubt". However, in all criminal cases a careful explanation of the term ought to be given. A definition often quoted or followed is that given by Chief Justice Shaw in the Webster case [Commonwealth v. Webster, 5 Cush 295 : 59 Mass 295 (1850)] . He says: "It is not mere possible doubt, because everything relating to human affairs and depending upon moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that consideration that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge."'
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> 10. In the treatise The Law of Criminal Evidence authored by H.C. Underhill it is stated (at p. 34, Vol. 1 of the 5th Edn.) thus:
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> 'The doubt to be reasonable must be such a one as an honest, sensible and fair-minded man might, with reason, entertain consistent with a conscientious desire to ascertain the truth. An honestly entertained doubt of guilt is a

reasonable doubt. A vague conjecture or an inference of the possibility of the innocence of the accused is not a reasonable doubt. A reasonable doubt is one which arises from a consideration of all the evidence in a fair and reasonable way. There must be a candid consideration of all the evidence and if, after this candid consideration is had by the jurors, there remains in the minds a conviction of the guilt of the accused, then there is no room for a reasonable doubt.'

23. The concept of reasonable doubt has to be also understood in the Indian context, keeping in mind the social reality and this principle cannot be stretched beyond a reasonable limit to avoid generating a cynical view of law as observed by this Court in Shivaji Sahebrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 as follows:

"6. Even at this stage we may remind ourselves of a necessary social perspective in criminal cases which suffers from insufficient forensic appreciation. The dangers of exaggerated devotion to the rule of benefit of doubt at the expense of social defence and to the soothing sentiment that all acquittals are always good regardless of justice to the victim and the community, demand especial emphasis in the contemporary context of escalating crime and escape. The judicial instrument has a public accountability. The cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose credibility with the community. The evil of acquitting a guilty person light heartedly as a learned Author [Glanville Williams in 'Proof of Guilt'.] has sapiently observed, goes much beyond the simple fact that just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicted "persons" and more severe punishment of those who are found guilty. Thus, too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless. For all these reasons it is true to say, with Viscount Simon, that "a miscarriage of justice may arise from the acquittal of the guilty no less than from the conviction of the innocent …." In short, our jurisprudential enthusiasm for presumed innocence must be moderated by the pragmatic need to make criminal justice potent and realistic. A balance has to be struck between chasing chance possibilities as good enough to set the delinquent free and chopping the logic of preponderant probability to punish marginal innocents. We have adopted these cautions in analysing the evidence and appraising the soundness of the contrary conclusions reached by the courts below. Certainly, in the last analysis

reasonable doubts must operate to the advantage of the appellant. In India the law has been laid down on these lines long ago."

24. Further, what would be the standard degree of "proof" which would be required in any particular case was also discussed in the aforesaid case of Ramakant Rai (supra) in the following words:

"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. ……..

……..

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] ."

25. At this point, it may be also relevant to mention an observation made by Lord Denning, J. in Miller v. Miller of Pensions (1947) 2 All ER 372, 373 H:

"That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof

beyond the shadow of a doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the court of justice…."

26. Thus, the requirement of law in criminal trials is not to prove the case beyond all doubt but beyond reasonable doubt and such doubt cannot be imaginary, fanciful, trivial or merely a possible doubt but a fair doubt based on reason and common sense. Hence, in the present case, if the allegations against the appellants are held proved beyond reasonable doubt, certainly conviction cannot be said to be illegal.

We must also remember that the scene of the crime was in a rural area and the witness being rustic, their evidence has to be appreciated in the light of the behavioral pattern in the rural environment.

We must also keep in mind that in a trial, the assessment of evidence cannot be made in a technical manner and the realities of life must be kept in mind for arriving at the truth as observed by this Court in State of H.P. v. Lekh Raj (2000) 1 SCC 247 as follows;

"10. The High Court appears to have adopted a technical approach in disposing of the appeal filed by the respondents. This Court in State of Punjab v. Jagir Singh [(1974) 3 SCC 277 : 1973 SCC (Cri) 886] held: (SCC pp. 285-86, para 23)

'23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.'

The criminal trial cannot be equated with a mock scene from a stunt film. The legal trial is conducted to ascertain the guilt or innocence of the accused arraigned. In arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The hypertechnicalities or figment of imagination should not be allowed to divest the court of its responsibility of sifting and weighing the evidence to arrive at the conclusion regarding the existence or otherwise of a particular circumstance keeping in view the peculiar facts of each case, the social position of the victim and the accused, the larger interests of the society particularly the law and order problem and degrading values of life inherent in the prevalent system. The realities of life have to be kept in mind while appreciating the evidence for arriving at the truth. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely

construe the law in favour of the accused. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial. Criminal jurisprudence cannot be considered to be a utopian thought but have to be considered as part and parcel of the human civilisation and the realities of life. The courts cannot ignore the erosion in values of life which are a common feature of the present system. Such erosions cannot be given a bonus in favour of those who are guilty of polluting society and mankind."

Though both the witnesses have denied having any knowledge of the actual recovery of the weapons at the instance of the appellants, their denials do not appear convincing. However, since the IO of the case, PW-15 had proved the said seizure memos, we find no reason to hold that there was no seizure that was affected merely because the two seizure witnesses had turned hostile.

For convicting an accused recovery of the weapon used in commission of offence is not a sine qua non.

in Karamjit Singh v. State (Delhi Admn.), (2003) 5 SCC 291 in which it was observed that the testimony of the police personnel involved in recovery of articles need not be disbelieved and testimony of police personnel is to be treated similarly as testimony of any other witness. It was held that,

"8. Shri Sinha, learned Senior Counsel for the appellant, has vehemently urged that all the witnesses of recovery examined by the prosecution are police personnel and in the absence of any public witness, their testimony alone should not be held sufficient for sustaining the conviction of the appellant. In our opinion the contention raised is too broadly stated and cannot be accepted. The testimony of police personnel should be treated in the same manner as testimony of any other witness and there is no principle of law that without corroboration by independent witnesses their testimony cannot be relied upon.The presumption that a person acts honestly applies as much in favour of a police personnel as of other persons and it is not a proper judicial approach to distrust and suspect them without good grounds. It will all depend upon the facts and circumstances of each case and no principle of general application can be laid down. "

(emphasis added)

Thus, we do not find any reason to doubt the testimony of the police/I.O. (PW-15). we are of the opinion that even if there are certain embellishments and improvements and contradictions which are of minor nature, the evidence of PW-10 on the whole does appear to be consistent and we do not see any cogent reason to disbelieve her claim that she had witnessed the incident. Thus, we are of the opinion that there appears to be no patent illegality in the view taken by the trial court and the High Court.

the evidence of the sole eye witness, a hapless rustic illiterate woman visited with the vicissitude and tragedy of her son being fatally assaulted by co- villagers before her own eyes, has withstood intensive cross examination and judicial scrutiny. She

has answered the questions put to her during her cross examination with spontaneity without any jitteriness and her response was natural and not elusive and prevaricating, which all are signs of truthfulness of the witness. We, therefore, have no hesitation to hold that her testimony is trustworthy and reliable. Her evidence finds corroboration from the admissible part of the evidence of the complainant, and her husband even though they had turned hostile, and the medical evidence, evidence of the Investigating Officer and other official witnesses.

https://indiankanoon.org/doc/156655158/; Chalivendra Ramakrishna Salivendra vs The State Of Andhra Pradesh; CRIMINAL PETITION Nos.5197, 4896, 5230, 5256, 5367, 5475, 5487, 5503, 5550, 5553, 5585, 5652, 5718, 5724, 5752, 5839, 5920 and 9083 of 2024 Date: 06.01.2025

Informant would only put forth the facts before the registering officer and the Station House Officer on receiving such information using his own diligence incorporates the relevant penal provisions in the F.I.R. During investigation certain facts may be found incorrect and certain new facts may have been discovered and certain new accused may have been found having connection with the crime. There can be no legal hurdle in that regard since investigation is a voyage of truth. Therefore, the argument of the learned counsels for petitioners that provisions under the Act, 1989 were brought into effect during investigation and therefore have to be discarded is an argument that cannot be sustained. It may be recorded here that even to begin with in the case at hand the F.I.R. mentioned certain penal provisions of the Act, 1989. At the present also certain penal provisions of the Act, 1989 are alleged by the prosecution. Simply because at one stage such penal provisions were dropped does not mean that at a later stage they cannot be brought in. The argument that the new addition was not granted by the Superintendent of Police cannot be countenanced since the method of investigation is sole prerogative of the investigation officer. For the above reasons, the point is answered against the petitioners.

https://indiankanoon.org/doc/48881659/; Kalvakuntla Taraka Ram Rao vs The State Acb, Ciu on 7 January, 2025; CRLP No. 15847/2024

Section 13 of the PCA deals with criminal misconduct by a public servant. The essential ingredients of criminal misconduct are fraudulent or dishonest misappropriation or converting the property to one's own use. Further, such property needs to be entrusted to the public servant or such property should be in the public servant's control. From the facts, it is prima facie clear that HMDA's funds were under the control of the Petitioner. Whether the Petitioner dishonestly misappropriated the same or not is a factual aspect to be investigated. Therefore, a prima facie case is made out against the Petitioner.

In the present case, the allegations indicate that the Petitioner herein without any approval from the State Cabinet or the finance department directed the HMDA to

pay huge sums of money to a foreign company. Whether the Petitioner directed the said payments with a dishonest intention to cause gain to himself or third parties is required to be investigated. The allegations when read together make out a prima facie case of wrong doing and misappropriation of funds of the HMDA. The same are enough to warrant an investigation.
In the present case too, the Complaint was lodged on 18.12.2024 and the FIR was registered on 19.12.2024. Immediately and on the very next day i.e., on 20.12.2024, the Petitioner herein filed the present criminal petition. The investigating agency should have a reasonable opportunity to investigate and collect evidence. Therefore, this Court cannot haste and thwart the investigation in the present case.

https://indiankanoon.org/doc/5011470/; Kanthi Rana Tata Ips vs The State Of Andhra Pradesh; CRIMINAL PETITION Nos.6640, 6702, 6734, 6802 and 6934 of Date: 07.01.2024

it is relevant to see the purport of "such offence is alleged to have been committed in, or in relation to, any proceeding in any Court." The real meaning of any proceeding in any Court requires an elaboration. The word proceeding in the above provision is used in a wider sense. It is not confined to proceedings that come into existence only after a learned Magistrate takes cognizance of an offence. It includes a proceeding held by a Magistrate on receipt of an investigating officer's report made under Section 167(1) Cr.P.C. which is covered by the provision proceeding mentioned in Section 195(1)(b) Cr.P.C. where a person makes a false report to the police against certain persons resulting in they being arrested and being remanded to custody and leading to an application for bail being made by them, the remand proceedings and the bail proceedings are connected with the false report made by the person and the offence committed by him by making it. Then it must be held to be an offence committed in relation to those proceedings. As the proceedings are related to the offence in the manner mentioned above, the offence must be said to have been committed in relation to them. Section 195(1)(b) Cr.P.C. is therefore applicable and no cognizance of the offence can be taken without a complaint by the Magistrate. A complaint by a private person cannot lead to prosecution for such offences. This question at one point of time arose before their Lordships of the Hon'ble Supreme Court of India in M.L.Sethi v. R.P.Kapur10. However, their Lordships in the light of the case available therein did not choose to decide it and left it open. Subsequently, similar question came up before their Lordships. After considering the entire catena of precedent, their Lordships were pleased to AIR 1967 SC 528 emphatically laid down the law in Abdul Rehman's case cited above. That was a case where on a complaint, F.I.R. was registered for the offence under Section 406 read with 34 I.P.C. and the Dowry Prohibition Act. The accused arraigned therein applied for anticipatory bail and the same was granted by a learned Sessions Judge. Thereafter the accused therein filed a complaint alleging offence under Section

211 I.P.C. and other provisions of Indian Penal Code contending that the F.I.R. registered against him was a false accusation. It was in such circumstances, the complainant in the first registered crime who was arraigned as accused in the second registered crime had raised a question concerning maintainability of the second F.I.R. and argued the law based on Section 195 Cr.P.C. Answering it their Lordships held that the accused in the first crime having moved the learned Sessions Judge praying for anticipatory bail and having been granted the prayer of anticipatory bail there existed proceedings before that Court. Thereafter, at the behest of the said accused on the allegation of false complaint the second crime emerged. Thus, the second crime is in connection with the proceedings taken up before the Sessions Court. Therefore, the bar contained in Section 195 Cr.P.C. is clearly attracted. It was further recorded that any offence punishable under Section 211 I.P.C. could be taken cognizance of only at the instance of the Court in relation to whose proceedings the same was committed. In the case at hand, this Court in the earlier paragraphs detailed the facts and legal events concerning Crime No.90 of 2024. Pursuant to registration of Crime No.90 of 2024 accused were arrested and a competent Magistrate passed a remand order, thereafter a police custody order and thereafter a bail order. Thus, they are all proceedings before that Court. What is alleged in Crime No.90 of 2024 is to be stated as a false case to frame an innocent then that being an offence effecting public justice, it is only for that Court or any other Court as specified in Section 195 Cr.P.C. to initiate a complaint and prosecute the accused. Therefore, registering Crime No.469 of 2024 at the behest of accused in Crime No.90 of 2024 suffers from serious legal flaw.

https://indiankanoon.org/doc/136822977/; Divakar Atluri vs The State Of Andhra Pradesh; CRIMINAL REVISION CASE No.1277 of 2024 Date: 03.01.2025

The question whether a summoning order is interlocutory or intermediatory and whether revision under section 397 CrPC or a petition under section 482 CrPC was considered by the Hon'ble Supreme Court of India in Urmila Devi V. Yudhvir Singh7. After a detailed analysis of law, their Lordships held that a summoning order is intermediatory. For the aggrieved dual remedy is available and he can maintain a revision under section 397 CrPC and in the alternative, he can also invoke the inherent jurisdiction under section 482 CrPC.

Whether the summoning order could be questioned by the accused before the court which issued summons. This question has arisen because of the submissions of the learned standing counsel for the respondents. This contention has no merit. In Adalat Prasad V. Rooplal Jindal8, the Hon'ble Supreme Court of India held that a learned Magistrate who issued summons as against an accused has not been empowered by the Statute to review and recall the process. For the aggrieved the only remedy is before a superior court.

https://indiankanoon.org/doc/143902647/; Bandi Raghava Reddy vs The State Of Andhra Pradesh on 7 January, 2025 CRIMINAL PETITION No.9110 of 2024

Earlier on 23.07.2024 in Criminal Petition No.3807 of 2024 and on 13.08.2024 in Criminal Petition No.10005 of 2023 this Court entertained and granted pre-arrest bails in cases where caste atrocities were alleged. It must be made clear here that in those cases Section 14A of the Act, 1989 was not noticed since that was never contested. Subsequently, this Court had the occasion to consider the jurisdictional aspect in terms of Section 14A of the Act, 1989 and consistently took the view that this Court holds no original concurrent jurisdiction in bails as well as anticipatory bails. In this regard reference can be made to the prosecution cited ruling in Nakka Nagireddy's case decided on 11.11.2024. Further this Court in Deepak Kumar Tala's case decided on 22.10.2024 in Criminal Petition No.6487 of 2024 also reached to the same view. For all these reasons, it is recorded that the prayer made before this Court is misplaced and cannot be considered.

https://indiankanoon.org/doc/187984743/; Mohammed Shafi vs The State Of Telangana on 7 January, 2025; CRLP 16117/2024

it is evident that the proceedings against the petitioners for the offence under Section 188 of IPC 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. Therefore, the proceedings against the petitioners for the offence under Section 188 of IPC are liable to be quashed. Insofar as other offences i.e., 271 and 505(1) of IPC and Section 3 of Epidemic Diseases Act, 1897 are concerned, as per the judgment of Hon'ble Supreme Court in Hemareddy's case (supra), as it is clear that if the offences formed part of the same transaction of the offences contemplated under Section 191 of Cr.P.C., it is not possible to split up and hold the prosecution of the petitioners. Hence, the FIR culminating in taking cognizance of the aforesaid offences against the petitioners stands vitiated and the continuation of criminal proceedings against the petitioners amounts to abuse of process of law.

https://indiankanoon.org/doc/141650894/; Bidhan Mandal Bhola vs The State Of Telangana; CRIMINAL PETITION No.16159 OF 2024 DATE: 08.01.2025

it is clear that 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. Given the serious set of allegations against the petitioner, this Court is not satisfied that conditions for granting bail under Section 37 are met.

https://indiankanoon.org/doc/15232767/; Shafi vs State Of Telangana on 2 January, 2025: CRLP 15877/2024

As seen from the entire case record, including the statement of the victim recorded under Section 161 of Cr.P.C., discloses that petitioner-accused No.2 is a customer and she clearly stated that due to poverty and other family backgrounds she joined brothel house and given her willingness to do sex with the customers and she collected money from the petitioner herein. Furthermore, there is no allegation in the FIR that the petitioner herein had knowledge and/or the reason to believe that the woman was trafficked for the purpose of prostitution. Therefore, the ingredients required to constitute the offence under Section 370(A) (2) of IPC is not made out against the petitioner.

(A customer to a brothel house should have knowledge that the victim is trafficked to attract Sec 370A IPC)

2025 0 INSC 94; 2025 0 Supreme(SC) 162; State of Jharkhand Vs. Dr. Nishkant Dubey & Ors.; Criminal Appeal No. 5476 of 2024 (Arising out of Special Leave Petition (Crl.) No.7816 of 2023 And Criminal Appeal No. 5477 OF 2024 (Arising out of Special Leave Petition (Crl.) No.7706/2023, Criminal Appeal No. 5475 of 2024 (Arising out of Special Leave Petition (Crl.) No.7844/2023; Decided on : 21-01-2025

This Court is further of the view that the Aircraft Act, 1934 as well as the Rules framed thereunder [including Rule 14(ix) of Airport (Security) Rules, 2011] is a complete Code which deals with safety and security of civil aviation and aerodrome. The Aircraft Act, 1934 also prescribes a special procedure for taking cognizance of any offence punishable under the Aircraft Act, 1934 i.e, the complaint must be made by or with the prior sanction of the Aviation authorities. Section 12B is in the nature of a pre-condition for taking cognizance by a Court.

2025 0 INSC 97; 2025 0 Supreme(SC) 165; Baban Shankar Daphal & Ors. Vs. The State of Maharashtra; Criminal Appeal No. 1675 of 2015; Decided On : 22-01-2025

In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinized. However, being a relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

The High Court emphasized that eyewitnesses are often subjected to intense trauma during violent incidents, which can lead to minor lapses in their recollection

of specific details. In this case, the testimony of the eyewitnesses was consistent on the critical facts: the presence of the accused at the scene, their involvement in the attack, and the victim being beaten with sticks. The High Court underscored that the core elements of their testimony remained unshaken under cross-examination and were supported by other evidence.

The Trial Court gave undue weight to minor discrepancies in the eyewitness accounts, such as variations in their descriptions of the sequence of events or the exact number of blows inflicted. It is a well-established principle of law that minor contradictions or inconsistencies in testimony do not necessarily render it unreliable, as long as the core facts remain intact. The role of the court is to discern the truth by considering the evidence in its totality and not by isolating individual inconsistencies to discredit an entire narrative. The Trial Court erred by focusing excessively on trivial discrepancies, thereby losing sight of the broader picture and the compelling evidence against the accused.

In the present case, there were some variations in the statement of eyewitnesses. PW3 had failed to mention about the injuries caused to her while she was trying to protect her husband from the attack, instead it was PW4 who had mentioned about the assault made on PW3. There was also a variance regarding the actual time during which the hand of the deceased was twisted, which resulted in a fracture.

In order to render any witnesses' testimony as unreliable, the inconsistencies shall be material ones and of such a nature that they create substantive doubts in the mind of the court towards the story or the chain of events as sought to be established by the prosecution.

The medical evidence confirmed the presence of a fatal injury to the head caused by a blunt object, which was sufficient to cause death in the ordinary course of nature. The absence of additional head injuries does not negate the possibility of multiple blows being inflicted; rather, it reflects the limitations of forensic science in capturing the full extent of injuries in certain cases. Thus, the medical evidence did not contradict but, in fact, supported the substance of the eyewitness accounts, as has been observed by the High Court as well.

The High Court also correctly highlighted that the Trial Court's approach was contrary to the well-settled principle that the benefit of the doubt must be based on rational and cogent grounds. Mere conjectures or hypothetical inconsistencies cannot form the basis for acquittal when the evidence, viewed as a whole, points to the guilt of the accused.

This Court has repeatedly held that minor inconsistencies in witness testimony should not overshadow the truth of their statements. Similarly, it has been emphasized that medical evidence should be viewed as an aid to corroborate eyewitness accounts rather than as the sole determinant of facts. The High Court adhered to these principles while assessing the evidence in this case, ensuring that its findings were grounded in sound legal reasoning.

The brutal nature of the attack and the coordinated actions of the accused demonstrated clear intent to cause grievous harm, leading to the victim's death.

The Trial Court's acquittal of the accused not only undermined the credibility of the justice system but also sent a troubling message about the consequences of such heinous acts.

2025 0 INSC 106; 2025 0 Supreme(SC) 173; M. Venkateswaran Vs. The State Rep. by the Inspector of Police; Criminal Appeal No. 379 of 2025 [SLP Criminal No. 9885 of 2023]; Decided On : 24-01-2025

Admittedly, the incident pertains to the year 2006. The marriage was solemnized on 31.03.2006 and the couple lived together exactly for three days. As noticed from the High Court order, the de facto complainant is married and settled abroad. The case has been prolonged for a period of nearly 19 years. Both the appellant and PW-4 have moved on in life.

On the special facts of the case, we think the ends of justice will be met if we adopt the course followed by this Court in the case of Samaul Sk. vs. State of Jharkhand and Another, 2021 INSC 429. This Court, in that case, while reducing the sentence to that of the period already undergone recorded the voluntary offer of the appellant to pay a monetary compensation of Rs. 3,00,000/- (Three lakhs) to the de facto complainant for the benefit of her children. No doubt in the present case, there is no voluntary offer, but we propose to direct payment of compensation.

While the conviction of the appellant under Section 498-A of IPC and Section 4 of DP Act are confirmed, the sentence is modified. The appellant is sentenced to the period already undergone and is further directed to pay a sum of Rs. 3,00,000/- (Three Lakhs) within a period of four weeks in the Trial Court as compensation as directed hereinabove, to be payable to PW-4.

2025 0 Supreme(SC) 127; Dalip Kumar @ Dalli Vs. State of Uttaranchal; Criminal Appeal No. 1005 of 2013; Decided On : 16-01-2024

It is a common myth that sexual assault must leave injuries. Victims respond to trauma in varied ways, influenced by factors such as fear, shock, social stigma or feelings of helplessness. It is neither realistic nor just to expect a uniform reaction. The stigma associated with sexual assault often creates significant barriers for women, making it difficult for them to disclose the incident to others. In the present case however, the prosecutrix herself had clearly indicated that she was not forcibly taken away by the appellant. The above evidence indicates that the ingredients for sustaining a charge under Section 366-A of the IPC of abductions with the intent to illicit intercourse of the prosecutrix, was totally absent in the present case. Therefore, the conviction of the appellant under Section 366-A IPC cannot be sustained.

The age of the prosecutrix as per the opinion of the Doctor as earlier noted ranged between 16-18 years and in the absence of any contrary evidence, the possibility of the prosecutrix, being of 18 years age, cannot entirely be ruled out.

2025 0 INSC 85; 2025 0 Supreme(SC) 130; Biswajit Das Vs. Central Bureau of Investigation; Criminal Appeal No. 2052 of 2014; Decided On : 16-01-2025

We may now summarize the principles in view of the precedents noticed above. When a limited notice is issued by a bench on an appeal/petition, more often than not, the view taken is tentative. There could be occasions when the claim of the party succeeding before the court below is demonstrated to be untenable because of a patent infirmity in the findings recorded in the impugned judgment, or a glaring error in the procedure followed having the effect of vitiating the proceedings is shown to exist, at any subsequent stage of the proceedings, which might have been overlooked by the Bench when it issued limited notice. Justice could be a real casualty if the same or the subsequent Bench, in all situations of limited notice having been issued initially, is held to be denuded of its jurisdiction to rule on the merits of the contentions relatable to points not referred to in the notice issuing order. As it is, since exercise of jurisdiction under Article 136 is discretionary, notices on appeals/petitions are not frequently issued by this Court. Nonetheless, if in a given case, notice is issued which is limited on terms but the party approaching the Court is otherwise persuasive in pointing out that the case does involve a substantial question of law deserving consideration and the Bench is so satisfied, we see no reason why the case may not be heard on such or other points. In such a case, the jurisdiction to decide all legal and valid points, as raised, does always exist and would not get diminished or curtailed by a limited notice issuing order. However, whether or not to exercise the power of enlarging the scope of the petition/appeal is essentially a matter in the realm of discretion of the Bench and the discretion is available to be exercised when a satisfaction is reached that the justice of the case so demands. If this position is not accepted, Order LV Rule 6 of the Supreme Court Rules, 2013 read with Article 142 of the Constitution will lose much of its significance.

2025 0 INSC 96; 2025 0 Supreme(SC) 164; Rakesh Kumar Raghuvanshi Vs. The State Of Madhya Pradesh; Criminal Appeal No. 1953 of 2014; 16-01-2025

Therefore, as envisaged by the provision itself, unless and until the contrary is proved in trials of cases involving offences coming within the purview of the NDPS Act, it may be presumed that the accused has committed an offence under the Act in respect of any articles prohibited to be possessed by him and for the possession of which, he failed to account satisfactorily. Therefore, it is the burden of the prosecution to establish that the contraband was seized from the conscious possession of the accused. Only when that aspect has been successfully proved by the prosecution, the onus will shift to the accused to account for the possession legally and satisfactorily.

Section 35 of the NDPS Act deals with the presumption of culpable mental state. It states that in any prosecution under the NDPS Act, the court shall presume that the accused had the requisite mental state, including intention, knowledge, and motive, unless the accused can prove otherwise. This shifts the burden of proof

onto the accused to demonstrate that they lacked knowledge or intent regarding the possession of the drugs.

Conscious possession refers to a scenario where an individual not only physically possesses a narcotic drug or psychotropic substance but is also aware of its presence and nature. In other words, it requires both physical control and mental awareness. This concept has evolved primarily through judicial interpretation since the term “conscious possession” is not explicitly defined in the NDPS Act. This Court through various of its decisions has repeatedly underscored that possession under the NDPS Act should not only be physical but also conscious. Conscious possession implies that the person knew that he had the illicit drug or psychotropic substance in his control and had the intent or knowledge of its illegal nature.

2025 0 INSC 119; 2025 0 Supreme(SC) 242; Vinobhai Vs. State of Kerala; Criminal Appeal No. 1730 Of 2017; Decided On : 29-01-2025

The law relating to the evidentiary value of recovery made under Section 27 of the Indian Evidence Act, 1872 is settled by this Court in the case of Manoj Kumar Soni v. State of M.P., 2023 SCC OnLine SC 984. Paragraph 22 of the said decision reads thus :-

> “22. A doubt looms: can disclosure statements per se, unaccompanied by any supporting evidence, be deemed adequate to secure a conviction? We find it implausible. **Although disclosure statements hold significance as a contributing factor in unriddling a case, in our opinion, they are not so strong a piece of evidence sufficient on its own and without anything more to bring home the charges beyond reasonable doubt.”**
> (emphasis added)

2025 0 INSC 120; 2025 0 Supreme(SC) 243; Mahabir & Ors. Vs. State Of Haryana; Criminal Appeal Nos. 5560-5561 Of 2024; Decided On : 29-01-2025

Comparing Section 404 of CrPC 1898 with Section 372 of CrPC, would indicate that the main provision is intact, insofar it provides that no appeal shall lie from any judgment or order of a criminal court, except as provided by this Code or by any other law for the time being in force. The significant development that has taken place in this provision is that a ‘proviso’ was added by the Amending Act No. 5 of 2009, which provides that ‘the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction passed by such Court’.

53. Therefore, by the aforesaid provision a right has been created in favour of the victim, which was not existing earlier in the Code, i.e., that a victim shall have a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation .The plain reading of the statement of objects and reasons for introducing the

proviso to Section 372 CrPC makes it clear that it wanted to confer certain rights on the victims. It has been noted therein that the victims are the worst sufferers in a crime, and they don't have much role in the court proceedings. They need to be given certain “rights” and compensation, so that there is no distortion of the criminal justice system. This, by itself, is clear that the object of adding this proviso is to create a right in favour of the victim to prefer an appeal as a matter of right. It not only extends to challenge the order of acquittal, but such appeal can also be filed by the victim if the accused is convicted for a lessor offence or if the inadequate compensation has been imposed.

54. Thus, it is clear as per the golden rule of interpretation, that the ‘proviso’ is a substantive enactment, and is not merely excepting something out of or qualifying what was excepting or goes before. Therefore, by adding the ‘proviso’ in Section 372 of CrPC by this amendment, a right has been created in favour of the victim.

The Court summed up the legal position with regard to the procedural law being retrospective in its operation and the right of a litigant to claim that he be tried by a particular Court, in the following words:

> “(i) A statute which affects substantive rights is presumed to be prospective in operation unless made retrospective, either expressly or by necessary intendment, whereas a statute which merely affects procedure, unless such a construction is textually impossible, is presumed to be retrospective in its application, should not be given an extended meaning and should be strictly confined to its clearly defined limits.
>
> (ii) Law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature.
>
> (iii) Every litigant has a vested right in substantive law but no such right exists in procedural law.
>
> (iv) A procedural statute should not generally speaking be applied retrospectively where the result would be to create new disabilities or obligations or to impose new duties in respect of transactions already accomplished.
>
> (v) A statute which not only changes the procedure but also creates new rights and liabilities shall be construed to be prospective in operation, unless otherwise provided, either expressly or by necessary implication.”
>
> (Emphasis supplied)

the amendment so made in Section 372 CrPC by adding a proviso in the year 2009 creating a substantive right of appeal is not retrospective in nature. A statute which creates new rights shall be construed to be prospective in operation unless otherwise provided, either expressly or by necessary implication.

this Court took a serious notice of lack of thorough cross-examination by Public Prosecutors in criminal appeals, specifically with hostile witnesses. The prosecutors often only confront them with their police statement, aiming to highlight contradictions but not fully explore the witness's testimony. The Court emphasized

that the purpose of cross-examination is to challenge the accuracy and credibility of the witness's statement, uncover hidden facts, and establish if the witness is lying. Public Prosecutors should conduct detailed cross- examinations to reveal the truth and establish the witness's first hand knowledge of the incident described in their police statement.

In the decision referred to above the Court noted that after the witness was declared hostile, all that the Public Prosecutor had done was to put few suggestions to her for the purposes of cross-examination. Even proper contradictions were not brought on record.

This Court explained that the trial courts cannot independently use statements made to the police that have not been proven, nor can it base its questions on such statements if they conflict with the witness's testimony in court. The phrase 'if duly proved' in Section 162 of the CrPC indicates that the statements of witnesses recorded by the police cannot be immediately admitted as evidence or examined. They must first be proven through eliciting admissions from the witness during cross-examination and also during the cross-examination of the Investigating Officer. While statements made to the Investigating Officer can be used for contradiction, this can only be done after strict compliance with Section 145 of the Evidence Act. This requires drawing attention to the specific parts of the statement intended for contradiction. This is what is required under Section 145 of the Evidence Act but even where a witness is confronted by his previous statement and given an opportunity to explain that part of the statement that is put to him does not constitute substantive evidence.

There is a catena of decisions laying down the principle in law that the material elicited as contradiction by use of Section 145 of the Indian Evidence Act is not substantive evidence. Even in regard to the statement recorded under Section 164 of the CrPC by authorised Magistrate, it has been held accordingly. Therefore, the fact that the contradictions are proved through the investigating officers though the witnesses have denied having made such statements, does not translate the contradictions into substantive evidence. Unless there is substantive evidence, it cannot be acted upon legally particularly to base a conviction.

The Public Prosecutor instead of assisting the learned Judges in the right direction by pointing out the correct position of law went to the extent of praying before the Court that the appellants herein deserved capital punishment. It is a different thing that the High Court rejected the prayer of the Public Prosecutor.

Such is the standard of the Public Prosecutors in the High Courts of the country. This is bound to happen when the State Governments across the country appoint AGPs and APPs in their respective High Courts solely on political considerations. Favouritism and nepotism is one additional factor for compromising merit. This judgement is a message to all the State Governments that the AGPs and APPs in respective High Courts should be appointed solely on the merit of the person. The State Government owes a duty to ascertain the ability of the person; how proficient the person is in law, his overall background, his integrity etc.

Time and again this Court has observed in so many of its decisions that such appointments be it in the High Court or in the district judiciary should be only taking into consideration the merit of the candidate and no other consideration should weigh in such appointments.

Public Prosecutor holds a "Public Office". The primacy given to him under the Scheme of CrPC has a "special purpose". Certain professional, official obligations and privileges are attached to his office. His office may also be termed as an office of profit as he remains disqualified to contest the election so long he holds the office though permanency is attached to the office and not to the term of his office. His duties are of public nature. He has an "independent and responsible character". He holds the public office within the scope of a "quo warranto proceedings". Prosecutor is not a part of investigating agency but is an "independent statutory authority". He performs statutory duties and functions. He holds an office of responsibility as he has been enclothed with the power to withdraw the prosecution of a case on the directions of the State Government.

The Criminal law enforcement system investigates crimes and prosecutes offenders. It must also protect valued rights and freedoms, and convict only the guilty. The prosecutor must recognize these different and competing interests. He should strike a fair balance between the competing interests of convicting the guilty, protecting citizens' rights and freedoms and protecting the public from criminals. Prosecutors should ensure that prosecutions are conducted in a diligent, competent and fair manner. The importance of the office of the Public Prosecutor cannot be overemphasized. The Public Prosecutor must be a person of high merit, fair and objective, because upon him depends to a large extent the administration of criminal justice. The office of the Public Prosecutor is a public office and the incumbent has to discharge statutory duties. The person appointed as Public Prosecutor must, therefore, be one who is not only able and efficient, but also enjoys a reputation and prestige which satisfy his appointment as a Public Prosecutor. The duty of the prosecutor is to assist the Court in reaching a proper conclusion in regard to the case which is brought before it for trial. The prosecutor has to be fair in the presentation of the prosecution case. He must not suppress or keep back from the court evidence relevant to the determination of the guilt or innocence of the accused. He must present the complete picture, and not a one sided picture. He must not be partial to the prosecution or to the accused. He has to be fair to both sides in the presentation of the case.

A Public Prosecutor is not expected to show a thirst to reach the case in the conviction of the accused somehow or the other irrespective of the true facts of the case. The expected attitude of the Public Prosecutor while conducting prosecution must be couched in fairness not only to the Court to the investigation agencies but to the accused as well. If an accused is entitled to any legitimate benefit during trial, the Public Prosecutor should not scuttle/conceal it. On the contrary, it is the duty of the Public Prosecutor to winch it to the fore and make it available to the accused. Even if the court or defence counsel overlooked it, the Public Prosecutor

has the added responsibility to bring it to the notice of the Court, if it comes to his knowledge.

Law Officers are one of the important wheels of the chariot, driven by the Judges to attain the cherished goal of human being to secure justice against the wrong doers. The main object of the State is to curb the crime, investigate and prosecute the offenders and punish them, with a view to maintain law and order, amity and harmony, tranquillity and peace. The various provisions of the CrPC and the Rules provide the manner and procedure by which the Public Prosecutor should be appointed and provide assistance to the Courts. The object of the CrPC and the Rules is to appoint the best among the lawyers as the Public Prosecutor to provide assistance to the Court. The people have the vital interest in the matter.

Judges are human beings and at times they do commit mistakes. The sheer pressure of work at times may lead to such errors. At the same time, the defence counsel as well as the Public Prosecutor owes a duty to correct the Court if the Court is falling in some error and for all this, we hold the State Government responsible. It is the State Government who appointed the concerned Public Prosecutor. The State Government should be asked to pay compensation to the three appellants herein.

2025 0 INSC 127; 2025 0 Supreme(SC) 249; M/s. JM Laboratories And Others Vs. State Of Andhra Pradesh And Another; Criminal Appeal No. 487 of 2025 (Arising out of SLP (Crl.) No. 5067 of 2024); Decided On : 30-01-2025

This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

2025 0 INSC 132; 2025 0 Supreme(SC) 251; Karuppudayar Vs. State Rep. By The Deputy Superintendent Of Police, Lalgudi Trichy & Ors.; Criminal Appeal Nos. 496-497 of 2025 [Arising out of Special Leave Petition (Criminal) No.8778- 8779 of 2024]; Decided On : 31-01-2025

Taking the allegations in the FIR at their face value, it would reveal that what is alleged is that when the complainant was in his office the accused came there; enquired with the complainant; not being satisfied, started abusing him in the name of his caste; and insulted him. Thereafter, three colleagues of the complainant came there, pacified the accused and took him away.

It is thus clear that even as per the FIR, the incident has taken place within the four corners of the chambers of the complainant. The other colleagues of the complainant arrived at the scene after the occurrence of the incident.
We are, therefore, of the considered view that since the incident has not taken place at a place which can be termed to be a place within public view, the offence would not come under the provisions of either Section 3(1)(r) or Section 3(1)(s) of the SC-ST Act.

https://indiankanoon.org/doc/7089264/; Sri N Sanjay Ips vs The State Of Andhra Pradesh on 30 January, 2025; CRIMINAL PETITION No. 58 OF 2025
Going by the averments contained in the First Information Report, there is absolutely no doubt that the petitioner is a public servant. In Common Cause's case (2 supra), a discussion has cropped up with regard to „entrustment of property" and „with any dominion over property", used in Section 405 IPC, which came to be considered by the Hon"ble Apex Court in CBI v. Duncans Agro Industries Limited {(1996) 5 SCC 591}, wherein it is held that the expression „entrusted" has wide and different implication in different contexts and the express „trust" has been used to denote various kinds of relationships like trustee and beneficiary, bailor and bailee, master and servant, pledger and pledgee, and it was held that mere exercise of „power to allot" cannot be treated as „property" within the meaning of Section 405 IPC, capable of being mis-utilized or misappropriated. Merely because certain procedural violations alleged have taken place with regard to disbursement of amounts in favour of the companies, prima facie, would not in any way come within the purview of Section 409 IPC. In view of the aforesaid judgment, it can be inferred that mere power to allot the work to other companies, would not in any way come within the purview of entrustment of property.

https://indiankanoon.org/doc/37567761/; Kolluru Sridhar, vs State Rep By Its Public Prosector on 27 January, 2025; CRIMINAL PETITION No: 1155 OF 2022
Further, as rightly put by the learned counsel for the Petitioners, in view of the bar under Section 195 Cr.P.C., the Police are not empowered to investigate into the offence punishable under Section 188 of IPC and file charge sheet basing on a police report.

https://indiankanoon.org/doc/155360650/; The New India Assurance Co.Ltd. vs D.Subramanyam, on 28 January, 2025; MACMA 490/2021
the Hon'ble Supreme Court in Ravi v. Badrinarayan and others1 in support of his claim that the delay in lodging the F.I.R. is not fatal as the primary concern of the near and dear of the Claimant is to see that the best medical attention is given to him rather than to go to Police Station and give complaint.
In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been

concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

https://indiankanoon.org/doc/125863129/; Poduri Ranjith vs The State Of Telangana on 28 January, 2025; CRLP 608/2025

As seen from the entire case record, the victim joined brothel house and given her willingness to do sex with the customers. Furthermore, at the stage of filing of the FIR or during the course of investigation or through the averments of the charge sheet, the Police could not putforth any material to substantiate that the petitioner 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 offence under Section 370(A)(2) of IPC are not made out against the petitioner.

(A customer to a brothel house should have knowledge that the victim is trafficked to attract Sec 370A IPC)

NOSTALGIA

Contradiction

The law relating to material contradiction in witness testimony has been discussed by this Court in the judgment of Rammi vs. State of M.P., (1999) 8 SCC 649. It was held that:

> "(25) It is common practice in trial court to make out contradictions from the previous statements. Merely Because there is inconsistency in evidence it is not sufficient to impair the credit of the witness. No Doubt Section 155 of the Evidence Act provides scope for impeaching the credit of a witness by proof of an inconsistent former statement. But a reading of the section would indicate that all inconsistent statements are not sufficient to impeach the credit of the witness. Only such of the inconsistent statement which is capable to be "contradicted" would affect the credit of the witness."
>
> The abovementioned settled position of law was again reiterated by this Court in the judgment of Birbal Nath vs. State of Rajasthan, 2023 INSC 957 wherein it was held as under:
>
> "(19) No doubt statement given before police during investigation under section 161 are "previous statements" under section 145 of the Evidence Act and therefore can be used to cross examine a witness. But this only for a limited purpose, to "contradict" such a witness. Even if the defense is successful in contradicting a witness, it would not always mean that the contradiction in her two statements would result in totally discrediting this witness. It is ere that we feel that the learned judges of the High Court have gone wrong.
>
> (21) In the landmark case of Tehshildar Singh vs. State of U.P., AIR 1959 SC 1012 this Court has held that to contradict a witness would mean to "discredit" a

witness. Therefore, unless and until the former statement of this witness is capable of "discrediting" a witness, it would have little relevance. A mere variation in the two statements would not be enough to discredit a witness. This has been followed consistently by this Court in its later judgment, including Rammi (Supra)."

Falsus in uno is not falsus in omnibus

It is a settled position that 'falsus in uno, falsus in omnibus' (false in one thing, false in everything) that the above principle is foreign to our criminal law jurisprudence. This aspect has been considered by this Court in a plethora of judgments. In the case of Ram Vijay Singh vs. State of U.P., 2021 SCC Online SC 142, a Three Judge bench of this Hon'ble Court had held that:

"..(20) We do not find any merit in the arguments raised by the learned counsel for the Appellant. A part statement of a witness can be believed even though some part of the statement may not be relied upon by the Court. The maxim falsus in uno, falsus in omnibus is not the rile applied by the courts in India. This Court recently in a judgment IIangovan vs. State of Tamil Nadu held that Indian Courts have always been reluctant to apply the principle as it is only a rile of caution. It was held as under: (SCC Pg 536, Para 11)"

"..(11) The Counsel for the Appellant lastly argued that once the witnesses had been disbelieved with respect to the co accused, their testimonies with respect to the present accused must also be discarded. The Counsel is, in effect, relying on the legal maxim "falsus in uno, falsus in omnibus", which Indian Courts have always been reluctant to apply. A three Judge bench of this Court, as far back as in 1957, in Nisar Ali vs. State of U.P. held on this point as follows (AIR p 368, Para 9-10)

"(9) This maxim has not received general acceptance in different jurisdictions in India nor has this maxim come to occupy the status of a rule of law. It is merely a rule of Caution. All that it amounts to is that in such cases the testimony may be disregarded and not that it must be disregarded.

(10) The Doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called "a mandatory rule of Evidence"

(21) Therefore, merely because a prosecution witness was not believed in respect of another accused, the testimony if the said witness cannot be disregarded qua the present Appellant. Still, further it is not necessary for the prosecution to examine all the witnesses who might have witnessed the occurrence. It is the quality if evidence which is relevant in criminal trial and not the quantity."

Hence, as can be seen from above, it has being a consistent stand of this Hon'ble Court that the principle 'falsus in uno, falsus in omnibus' is not a rule of evidence and if the court inspires confidence from the rest of the testimony of such a witness, it can very well rely on such a part of the testimony and base a conviction upon it.

Defective investigation

In the case of Paras Yadav and Others vs. State of Bihar, 1999 (2) SCC 126 the Apex Court observed as under:

> "Para 8 - the lapse on the part of the Investigating Officer should not be taken in favour of the accused, may be that such lapse is committed designedly or because of negligence. Hence, the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not. For this purpose, it would be worthwhile to quote the following observations of this Court from the case of Ram Bihari Yadav vs. State of Bihar and Others, J.T. (1998) 3 SC 290.
>
> "In such cases, the story of the prosecution will have to be examined de hors such omissions and contaminated conduct of the officials otherwise the mischief which was deliberately done would be perpetuated and justice would be denied to the complainant party and this would obviously shake the confidence of the people not merely in the law enforcing agency but also in the administration of justice."
>
> in State of U.P. v. M.K. Anthony [(1985) 1 SCC 505 : 1985 SCC (Cri) 105].
>
> In para 10 of the Report, this Court observed : (SCC pp. 514-15)
>
> '10. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hypertechnical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals.'
>
> In a very recent decision in Rammi v. State of M.P. [(1999) 8 SCC 649 : 2000 SCC (Cri) 26] this Court observed : (SCC p. 656, para 24)

'24. When an eyewitness is examined at length it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps an untrue witness who is well tutored can successfully make his testimony totally non-discrepant. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence. But too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.'

This Court further observed : (SCC pp. 656-57, paras 25-27)

'25. It is a common practice in trial courts to make out contradictions from the previous statement of a witness for confronting him during cross-examination. Merely because there is inconsistency in evidence it is not sufficient to impair the credit of the witness. No doubt Section 155 of the Evidence Act provides scope for impeaching the credit of a witness by proof of an inconsistent former statement. But a reading of the section would indicate that all inconsistent statements are not sufficient to impeach the credit of the witness. The material portion of the section is extracted below:

"155. Impeaching credit of witness.—The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the court, by the party who calls him—

(1)-(2) ***

(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;"

26. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Only such of the inconsistent statement which is liable to be "contradicted" would affect the credit of the witness.

Section 145 of the Evidence Act also enables the cross-examiner to use any former statement of the witness, but it cautions that if it is intended to "contradict" the witness the cross-examiner is enjoined to comply with the formality prescribed therein. Section 162 of the Code also permits the cross-examiner to use the previous statement of the witness (recorded under Section 161 of the Code) for the only limited purpose i.e. to "contradict" the witness.

27. To contradict a witness, therefore, must be to discredit the particular version of the witness. Unless the former statement has the potency to discredit the present statement, even if the latter is at variance with the former to some extent it would not be helpful to contradict that witness (vide Tahsildar Singh v. State of U.P. [AIR 1959 SC 1012 : 1959 Cri LJ 1231])."'

52. Further, this Court also cautioned about attaching too much importance on minor discrepancies of the evidence of the witnesses in Bharwada Bhoginbhai Hirjibhai v. State of Gujarat (1983) 3 SCC 217 as follows:

"5. … We do not consider it appropriate or permissible to enter upon a reappraisal or reappreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by the learned counsel for the appellant. Overmuch importance cannot be attached to minor discrepancies. The reasons are obvious:
(1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.
(2) Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.
(3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.
(4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.
(5) In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.
(6) Ordinarily a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.
(7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross- examination made by the counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him—perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment."

53. To the same effect it was also observed in Appabhai v. State of Gujarat (1988) Supp SCC 241 as follows:

"13. … The court while appreciating the evidence must not attach undue importance to minor discrepancies. The discrepancies which do not shake the basic version of the prosecution case may be discarded. The discrepancies which are due to normal errors of perception or observation should not be given importance. The errors due to lapse of memory may be given due allowance. The court by calling into aid its vast experience of men and matters in different cases

must evaluate the entire material on record by excluding the exaggerated version given by any witness. When a doubt arises in respect of certain facts alleged by such witness, the proper course is to ignore that fact only unless it goes into the root of the matter so as to demolish the entire prosecution story. The witnesses nowadays go on adding embellishments to their version perhaps for the fear of their testimony being rejected by the court. The courts, however, should not disbelieve the evidence of such witnesses altogether if they are otherwise trustworthy. Jaganmohan Reddy, J. speaking for this Court in Sohrab v. State of M.P. [(1972) 3 SCC 751 : 1972 SCC (Cri) 819] observed :

[SCC p. 756, para 8 : SCC (Cri) p. 824, para 8]

in Shivaji Sahebrao Bobade v. State of Maharashtra, (supra) wherein it was held that:

"8. Now to the facts. The scene of murder is rural, the witnesses to the case are rustics and so their behavioural pattern and perceptive habits have to be judged as such. The too sophisticated approaches familiar in courts based on unreal assumptions about human conduct cannot obviously be applied to those given to the lethargic ways of our villages. When scanning the evidence of the various witnesses we have to inform ourselves that variances on the fringes, discrepancies in details, contradictions in narrations and embellishments in inessential parts cannot militate against the veracity of the core of the testimony provided there is the impress of truth and conformity to probability in the substantial fabric of testimony delivered. The learned Sessions Judge has at some length dissected the evidence, spun out contradictions and unnatural conduct, and tested with precision the time and sequence of the events connected with the crime, all on the touchstone of the medical evidence and the post-mortem certificate. Certainly, the court which has seen the witnesses depose, has a great advantage over the appellate Judge who reads the recorded evidence in cold print, and regard must be had to this advantage enjoyed by the trial Judge of observing the demeanour and delivery, of reading the straightforwardness and doubtful candour, rustic naiveté and clever equivocation, manipulated conformity and ingenious inveracity of persons who swear to the facts before him. Nevertheless, where a Judge draws his conclusions not so much on the directness or dubiety of the witness while on oath but upon general probabilities and on expert evidence, the court of appeal is in as good a position to assess or arrive at legitimate conclusions as the court of first instance. Nor can we make a fetish of the trial Judge's psychic insight."

55. This Court also reminded that while dealing with the evidence of witnesses who are rustic, because of minor inconsistencies, the evidence should not be ignored. It was held in Prabhu Dayal v. State of Rajasthan, (2018) 8 SCC 127 wherein dealing with witnesses from rustic background it was observed as follows;

"18. It is a common phenomenon that the witnesses are rustic and can develop a tendency to exaggerate. This, however, does not mean that the entire testimony of such witnesses is falsehood. Minor contradictions in the testimony of the

witnesses are not fatal to the case of the prosecution. This Court, in State of U.P. v. M.K. Anthony [State of U.P. v. M.K. Anthony, (1985) 1 SCC 505 : 1985 SCC (Cri) 105], held that inconsistencies and discrepancies alone do not merit the rejection of the evidence as a whole. It stated as follows : (SCC p. 514-15, para 10)

"10. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinise the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancies on trivial matters not touching the core of the case, hyper-technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole. If the court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details. Even honest and truthful witnesses may differ in some details unrelated to the main incident because power of observation, retention and reproduction differ with individuals. Cross-examination is an unequal duel between a rustic and refined lawyer. Having examined the evidence of this witness, a friend and well-wisher of the family carefully giving due weight to the comments made by the learned counsel for the respondent and the reasons assigned to by the High Court for rejecting his evidence simultaneously keeping in view the appreciation of the evidence of this witness by the trial court, we have no hesitation in holding that the High Court was in error in rejecting the testimony of witness Nair whose evidence appears to us trustworthy and credible." (emphasis supplied)

19. ……..

20. The Court can separate the truth from the false statements in the witnesses' testimony. In Leela Ram v. State of Haryana [Leela Ram v. State of Haryana, (1999) 9 SCC 525 : 2000 SCC (Cri) 222], this Court held as follows : (SCC p. 534, para 12)

"12. It is indeed necessary to note that one hardly comes across a witness whose evidence does not contain some exaggeration or embellishment — sometimes there could even be a deliberate attempt to offer embellishment and sometimes in their overanxiety they may give a slightly exaggerated account. The court can sift the chaff from the grain and find out the truth from the testimony of the witnesses. Total repulsion of the evidence is unnecessary. The evidence is to be considered

from the point of view of trustworthiness. If this element is satisfied, it ought to inspire confidence in the mind of the court to accept the stated evidence though not however in the absence of the same."

21. Moreover, it is not necessary that the entire testimony of a witness be disregarded because one portion of such testimony is false. This Court observed thus in Gangadhar Behera v. State of Orissa [Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381 : 2003 SCC (Cri) 32] : (SCC p. 392, para 15)

"15. To the same effect is the decision in State of Punjab v. Jagir Singh [State of Punjab v. Jagir Singh, (1974) 3 SCC 277 : 1973 SCC (Cri) 886 : AIR 1973 SC 2407] and Lehna v. State of Haryana [Lehna v. State of Haryana, (2002) 3 SCC 76 : 2002 SCC (Cri) 526] . Stress was laid by the appellant-accused on the non- acceptance of evidence tendered by some witnesses to contend about desirability to throw out the entire prosecution case. In essence prayer is to apply the principle of falsus in uno, falsus in omnibus (false in one thing, false in everything). This plea is clearly untenable. Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of a number of other co- accused persons, his conviction can be maintained. It is the duty of the court to separate the grain from the chaff. Where chaff can be separated from the grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of a particular material witness or material particular would not ruin it from the beginning to end. The maxim falsus in uno, falsus in omnibus has no application in India and the witnesses cannot be branded as liars. The maxim falsus in uno, falsus in omnibus has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded."

Possession

in the case of Avtar Singh v. State of Punjab reported in (2002) 7 SCC 419. The relevant observations are as under:

"The word 'possession' no doubt has different shades of meaning and it is quite elastic in its connotation. Possession and ownership need not always go together but the minimum requisite element which has to be satisfied is custody or control over the goods. Can it be said, on the basis of the evidence available on record, that the three appellants one of whom was driving the vehicle and other two sitting on the bags, were having such custody or control? It is difficult to reach such conclusion beyond reasonable doubt. It transpires from evidence that the appellants were not the only occupants of the vehicle. One of the persons who was sitting in the cabin and another person sitting at the back of the truck made themselves scarce after seeing the police and the prosecution could not establish their identity. It is quite probable that one of them could be the custodian of goods

whether or not he was the proprietor. The persons who were merely sitting on the bags, in the absence of proof of anything more, cannot be presumed to be in possession of the goods. For instance, if they are labourers engaged merely for loading and unloading purposes and there is nothing to show that the goods were at least in their temporary custody, conviction under Section 15 may not be warranted. At best, they may be abettors, but, there is no such charge here. True, their silence and failure to explain the circumstances in which they were traveling in the vehicle at the odd hours, is one strong circumstance that can be put against them. A case of drawing presumption under Section 114 of the Evidence Act could perhaps be made out then to prove the possession of the accused, but, the fact remains that in the course of examination under Section 313 Cr.P.C, not even a question was asked that they were the persons in possession of poppy husk placed in the vehicle. The only question put to them was that as per the prosecution evidence, they were sitting on the bags of poppy husk. Strangely enough, even the driver was questioned on the same lines. The object of examination under S. 313, it is well known, is to afford an opportunity to the accused to explain the circumstances appearing in the evidence against him. It is unfortunate that no question was asked about the possession of goods. Having regard to the charge of which appellants were accused, the failure to elicit their answer on such a crucial aspect as possession, is quite significant. In this state of things, it is not proper to raise a presumption under Section 114 of Evidence Act nor is it safe to conclude that the prosecution established beyond reasonable doubt that the appellants were in possession of poppy husk which was being carried by the vehicle. The High Court resorted to the presumption under Section 35 which relates to culpable state of mind, without considering the aspect of possession. The trial court invoked the presumption under S. 54 of the Act without addressing itself to the question of possession. The approach of both the courts is erroneous in law. Both the courts rested their conclusion on the fact that the accused failed to give satisfactory explanation for travelling in the vehicle containing poppy husk at an odd hour. But, the other relevant aspects pointed out above were neither adverted to nor taken into account by the trial court and the High Court. Non- application of mind to the material factors has thus vitiated the judgment under appeal."
(Emphasis supplied)

Newspaper

In the case of Laxmi Raj Shetty vs. State of T.N., (1988) 3 SCC 319, this Court held as under: -

"26. It is now well settled that a statement of fact contained in a newspaper is merely hearsay that therefore inadmissible in evidence in absence of the maker of the statement appearing in court and deposing to have perceived the fact reported. The accused should have therefore produced the persons in whose presence the seizure of the stolen money from Appellant 2's house at Mangalore

was effected or examined the press correspondents in proof of the truth of the contents of the news item…"

Role of Prosecutor in Hostile witness cases

the observations made by a 3- Judge Bench speaking through J. B. Pardiwala, J. in Anees v. State Government of NCT reported in 2024 SCC OnLine SC 757, in paras 62 and thereafter from 63 onwards till 69:

"62. … There could be innumerable reasons for a witness to resile from his/her police statement and turn hostile. Here is a case in which a five-year-old daughter might have resiled thinking that having lost her mother, the father was the only person who may take care of her and bring her up. However, why she turned hostile is not important. What is important is the role of the public prosecutor after a prime witness, more particularly a child witness of tender age, turns hostile in a murder trial. When any prosecution witness turns hostile and the public prosecutor seeks permission of the trial court to cross-examine such witness then that witness is like any other witness. The witness no longer remains the prosecution witness.

xxx xxx xxx

63. Section 162 Cr.P.C. bars the use of statement of witnesses recorded by the police except for the limited purpose of contradiction of such witnesses as indicated therein. The statement made by a witness before the police under Section 161(1) Cr. P.C. can be used only for the purpose of contradicting such witness on what he has stated at the trial as laid down in the proviso to Section 162(1) Cr.P.C. The statements under Section 161 Cr. P.C. recorded during the investigation are not substantive pieces of evidence but can be used primarily for the limited purpose : (i) of contradicting such witness by an accused under Section 145 of the Evidence Act; (ii) the contradiction of such witness also by the prosecution but with the leave of the Court; and (iii) the re- examination of the witness if necessary.

64. The court cannot suo motu make use of statements to police not proved and ask questions with reference to them which are inconsistent with the testimony of the witness in the court. The words 'if duly proved' used in Section 162 Cr. P.C. clearly show that the record of the statement of witnesses cannot be admitted in evidence straightaway, nor can be looked into, but they must be duly proved for the purpose of contradiction by eliciting admission from the witness during cross-examination and also during the cross-examination of the Investigating Officer. The statement before the Investigating Officer can be used for contradiction but only after strict compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction.

65. Section 145 of the Evidence Act reads as under:

"145. Cross-examination as to previous statements in writing.— A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing

being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."

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

67. In the case at hand, not only proper contradictions were not brought on record in the oral evidence of the hostile witnesses, but even those few that were brought on record, were not proved through the evidence of the Investigating Officer. Does the State expect Section 106 of the Evidence Act to come to its aid in every criminal prosecution. At times, such procedural lapses may lead to a very serious crime going unpunished. Any crime committed against an individual is a crime against the entire society. In such circumstances, neither the public prosecutor nor the presiding officer of the trial court can afford to remain remiss or lackadaisical in any manner. Time and again, this Court has, through its judgments, said that there should not be any element of political consideration in the matters like appointment to the post of public prosecutor, etc. The only consideration for the Government should be the merit of the person. The person should be not only competent, but he should also be a man of impeccable character and integrity. He should be a person who should be able to work independently without any reservations, dictates or other constraints. The relations between the Public

Prosecution Service and the judiciary are the very cornerstone of the criminal justice system. The public prosecutors who are responsible for conducting prosecutions and may appeal against the court decisions, are one of judges' natural counterparts in the trial proceedings and also in the broader context of management of the system of criminal law.

68. A criminal case is built upon the edifice of evidence (whether it is direct evidence or circumstantial evidence) that is admissible in law. Free and fair trial is the very foundation of the criminal jurisprudence. There is a reasonable apprehension in the mind of the public at large that the criminal trial is neither free nor fair with the Prosecutor appointed by the State Government conducting the trial in a manner where frequently the prosecution witnesses turn hostile.

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

(Emphasis supplied)

NEWS

- ARMS ACT - EXTENDING BAN ON CARRYING OF CERTAIN SHARP EDGED WEAPONS IN THE DISTRICTS OF KURNOOL, YSR (KADAPA), CHITTOOR, ANANTAPURAMU, ANNAMAYYA, NANDYALA, SRI SATHYA SAI AND TIRUPATI DISTRICTS (RAYALASEEMA REGION), KRISHNA, GUNTUR, PRAKASAM, NTR, PALNADU & BAPATLA DISTRICTS (ANDHRA REGION), FOR A FURTHER PERIOD OF SIX MONTHS BEYOND 15.01.2025.
- ANDHRA PRADESH STATE JUDICIAL SERVICE - AMENDMENT TO RULE 6(e), 6(f) AND 6(g) OF THE ANDHRA PRADESH STATE JUDICIAL (SERVICE & CADRE) RULES, 2007. [G.O.Ms.No.3, Law (L.A. & J - SC.F), 28th January, 2025.]

- CANCELLATION OF RETIREMENT OF SMT. A. BHARATHI, PRINCIPAL DISTRICT AND SESSIONS JUDGE, PRAKASAM AT ONGOLE ON 30.11.2024.
- TSHC- High Court for the State of Telangana -e-Courts Project - Implementation of Electronic Transmission of Criminal Process through NSTEP portal via ICJS to CCTNS - Certain instructions issued
- TSHC- Guidelines for Recording of Evidence of Vulnerable Witnesses
- TSHC- - High Court for the State of Telangana - Letter received Assistant Registrar, Supreme Court of India - Forwarded copy of the judgment dated 23.10.2024 in Wit Petition (Civil) No 1082 of 2020 between Suhas Chakma Vs Union of India & Ors - Regarding issuing of Practice Directions appending certain information to the Judgment - Practice Directions issued - Reg.

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ON A LIGHTER VEIN

Two elderly couples were enjoying friendly conversation when one of the men asked the other: "Fred, how was the memory clinic you went to last month?"
"Outstanding", Fred replied. "They taught us all the latest psychological techniques – visualization, association – it has made a big difference for me".
"That's great! What about the name of the clinic?"
Fred went blank. He thought and thought but couldn't remember. Then a smile broke across his face and he asked, "What do you call that flower with the long stem and thorns?"
"You mean a rose?"
"Yes, that's it!"
Then he turned to his wife and asked: "Rose, what was the name of that clinic?"

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