Prosecution Replenish

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

CITATIONS

Sec 319 CrPC

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

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

It is evident from the above that the appellants were named in the first information statement, however, in the statement under Section 161 Cr.P.C, PW-1 clarified that the names of appellants were written in the FIR falsely and without full information. She has also stated that the appellants were not involved in the murder of her son. Even in the charge sheet, the names of the appellants were not mentioned as accused. It is only in her deposition before the Trial Court the names of the accused resurfaces again.

Having considered the matter in detail, we are of the opinion that PW-1, not being an eye-witness, her deposition is not sufficient enough to invoke the extra-ordinary jurisdiction under Section 319 to summon the appellants.

2024 0 INSC 368; 2024 0 Supreme(SC) 409; Anees Vs. The State Govt. Of NCT; Criminal Appeal No. 437 of 2015; Decided On : 03-05-2024; (THREE JUDGE BENCH)

However, in the aforesaid context, we would like to sound a note of caution. Although the conduct of an accused may be a relevant fact under Section 8 of the Evidence Act, yet the same, by itself, cannot be a ground to convict him or hold him guilty and that too, for a serious offence like murder. Like any other piece of evidence, the conduct of an accused is also one of the circumstances which the court may take into consideration along with the other evidence on record, direct or indirect. What we are trying to convey is that the conduct of the accused alone, though may be relevant under Section 8 of the Evidence Act, cannot form the basis of conviction.

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

The court cannot suo motu make use of statements to police not proved and ask questions with reference to them which are inconsistent with the testimony of the witness in the court. The words ‘if duly proved’ used in Section 162 Cr.P.C. clearly show that the record of the statement of witnesses cannot be admitted in evidence straightaway, nor can be looked

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

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

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

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

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

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

indifference or adopting an attitude of aloofness, the trial judge must exercise the vast powers conferred under Section 165 of the Evidence Act and Section 311 of the Cr.P.C. respectively to elicit all the necessary materials by playing an active role in the evidence collecting process. (See: Zahira Habibulla H. Sheikh & Anr. vs. State of Gujarat & Ors., (2004) 4 SCC 158).

The judge is expected to actively participate in the trial, elicit necessary materials from the witnesses in the appropriate context which he feels necessary for reaching the correct conclusion. The judge has uninhibited power to put questions to the witness either during the chief examination or cross-examination or even during re-examination for this purpose. If a judge feels that a witness has committed an error or slip, it is the duty of the judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. (See: (para 12) of State of Rajasthan vs. Ani alias Hanif & Ors., AIR 1997 SC 1023).

Where the offender takes undue advantage or has acted in a cruel or an unusual manner, the benefit of Exception 4 cannot be given to him. If the weapon used or the manner of attack by the assailant is disproportionate, that circumstance must be taken into consideration to decide whether undue advantage has been taken. In Kikar Singh v. State of Rajasthan reported in AIR 1993 SC 2426, it was held that if the accused used deadly weapons against an unarmed man and struck a blow on the head it must be held that using the blows with the knowledge that they were likely to cause death, he had taken undue advantage. A fight suddenly takes place, for which both the parties are more or less to be blamed. It might be that one of them starts it, but if the other had not aggravated it by his own conduct, it would not have taken the serious turn it did. There is then mutual provocation and aggravation and it is difficult to apportion the share of blame which attaches to each fighter. It takes two to make a fight. Assuming for the moment that it was the deceased who picked up a fight with the appellant or provoked the appellant in some manner with her conduct or behaviour, still the appellant could be said to have taken undue advantage & acted in a cruel manner.

2024 0 INSC 369; 2024 0 Supreme(SC) 410; Achin Gupta Vs. State of Haryana and Another; Criminal Appeal No. 2379 of 2024, Arising Out of SLP (Crl.) No. 4912 of 2022: 03-05-2024

We request the Legislature to look into the issue as highlighted above taking into consideration the pragmatic realities and consider making necessary changes in Sections 85 and 86 respectively of the Bharatiya Nyaya Sanhita, 2023, before both the new provisions come into force.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History Sheets

2024 0 INSC 383; 2024 0 Supreme(SC) 425; Amanatullah Khan Vs. The Commissioner of Police, Delhi & Ors.; Criminal Appeal No. 2349 of 2024 (Arising out of SLP (Crl.) No.5719 of 2023); 07-05-2024

Having partially addressed the grievance of the appellant, we now, in exercise of our suo motu powers, propose to expand the scope of these proceedings so that the police authorities in other States and Union Territories may also consider the desirability of ensuring that no mechanical entries in History Sheet are made of innocent individuals, simply because they happen to hail from the socially, economically and educationally disadvantaged backgrounds, along with those belonging to Backward Communities, Scheduled Castes & Scheduled Tribes. While we are not sure about the degree of their authenticity, but there are some studies available in the public domain that reveal a pattern of an unfair, prejudicial and atrocious mindset. It is alleged that the Police Diaries are maintained selectively of individuals belonging to Vimukta Jatis, based solely on caste-bias, a somewhat similar manner as happened in colonial times. All the State Governments are therefore expected to take necessary preventive measures to safeguard such communities from being subjected to inexcusable targeting or prejudicial treatment. We must bear in mind that these pre-conceived notions often render them ‘invisible victims’ due to prevailing stereotypes associated with their communities, which may often impede their right to live a life with self-respect.

The value for human dignity and life is deeply embedded in Article 21 of our Constitution. The expression ‘life’ unequivocally includes the right to live a life worthy of human honour and all that goes along with it. Self-regard, social image and an honest space for oneself in one’s surrounding society, are just as significant to a dignified life as are adequate food, clothing and shelter.

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

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

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

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

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

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

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

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

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

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

2024 0 INSC 385; 2024 0 Supreme(SC) 429; Sukhpal Singh Vs. NCT Of Delhi; Criminal Appeal No(s).55 of 2015; 07-05-2024

This Court in the case of Nirmal Singh v. State of Haryana, (2000) 4 SCC 41 while considering the issue that under what circumstances and by what method, the statement of a witness under Section 299 of CrPC could have been tendered in the case for being admissible under Section 33 of the Indian Evidence Act, 1872 and whether they can form the basis of conviction, held as follows:

"4. …..Section 299 of the Code of Criminal Procedure consists of two parts. The first part speaks of the circumstances under which witnesses produced by the prosecution could be examined in the absence of the accused and the second part speaks of the circumstances when such deposition can be given in evidence against the accused in any inquiry or trial for the offence with which he is charged. This procedure contemplated under Section 299 of the Code of Criminal Procedure is thus an exception to the principle embodied in Section 33 of the Evidence Act inasmuch as under Section 33, the evidence of a witness, which a party has no right or opportunity to cross-examine is not legally admissible. Being an exception, it is necessary, therefore, that all the conditions prescribed, must be strictly complied with. In other words, before recording the statement of the witnesses produced by the prosecution, the court must be satisfied that the accused has absconded or that there is no immediate prospect of arresting him, as provided under the first part of Section 299(1) of the Code of Criminal Procedure….

…..There possibly cannot be any dispute with the proposition of law that for taking the benefits of Section 299 of the Code of Criminal Procedure, the conditions precedent therein must be duly established and the prosecution, which proposes to utilise the said statement as evidence in trial, must, therefore, prove about the existence of the preconditions before tendering the evidence. ….

….On a mere perusal of Section 299 of the Code of Criminal Procedure as well as Section 33 of the Evidence Act, we have no hesitation to come to the conclusion that the preconditions in

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

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

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

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

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

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

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

Bail

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

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

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

NDPS sample

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

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

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

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

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

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

41A CrPC notice directed to be issued

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

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

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

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

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

https://indiankanoon.org/doc/149358150/; Mukesh Mahtha vs The State Of Telangana on 16 May, 2024; WP No. 7524/2024

It is settled law that the bank account of the accused/petitioner or any of his relation constitutes 'property' within the meaning of Section 102 Cr.P.C. and during the course of investigation, the Investigating Officer concerned can seize operation of the said account if such assets have direct link with commission of offence.

https://indiankanoon.org/doc/75305047/; Cheguri Ramesh vs The State Of Telangana on 16 May, 2024; CRLP No. 5571/2024

though the petitioners are charged with the offences under Sections 420, 467, 468 and 471 read with 34 of IPC, prima facie Section 467 of IPC is not applicable to the petitioners/accused Nos.1 to 3 herein and without going into the merits of the case, the petitioners/accused Nos.1 to 3 are directed to appear before the concerned Investigating Officer on or before 24.05.2024 between 02.00 P.M. and 04.00 P.M., and in turn, the Investigating Officer is directed to follow the procedure laid down under Section 41-A of Cr.P.C. and also the guidelines formulated by the Hon'ble Supreme Court in Arnesh Kumar (supra), scrupulously.

https://indiankanoon.org/doc/173074633/; New Lucky Kirana And General Store vs The State Of Telangana on 16 May, 2024;WP 13401/2024

In Ganesh Trader's case (2002 (1) ALD 210) a Full Bench of this Court observed as under:

"41. We may, however, hasten to add that unless the Commissioner, Collector, Police Officer or competent Excise Officer "has reason to believe" that black jaggery is intended to manufacture ID liquor mere keeping and/or transporting any other material cannot be violation of law. In such an event, it is always open to the accused to prove before the

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

https://indiankanoon.org/doc/81516669/; Baba Khan vs The State Of Telangana on 16 May, 2024; WP No. 13355/2024

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

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

https://indiankanoon.org/doc/62991323/; I.A.No. 1 of 2024 in Crl.P.No.3778 of 2024 and I.A.No.1 of 2024 in Crl.P.No.3789 of 2024 and I.A.No.1 of 2024 in Crl.P.No.3790 of 2024 COMMON ORDER 28.05.2024; Pinnelli Ramakrishna Reddy vs The State Of Andhra Pradesh on 28 May, 2024; APHC010243282024

It is relevant to mention that observations made by the Court during the course of hearing bail applications, be it regular or anticipatory, are not conclusions on the prosecutions launched.

https://indiankanoon.org/doc/147840844/; Rathod Ravi vs The State Of Telangana on 23 May, 2024; CRLP 5555/2024

In view of the allegations of criminal trespass, kidnapping, extortion and causing attack on person and property, this Court is not inclined to grant anticipatory bail. However, on perusal of the medical certificate issued from the Continental Hospital, it appears that the victim was assaulted by few known men with bat, bare hands and legs. There are three injuries shown in the certificate which are on nose, right shoulder and lower back. Thus in the opinion of this Court, prima facie, offence under Section 307 of

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

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

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

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

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

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

Exception 4 to Sec 300 IPC

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

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

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

(Emphasis supplied)

Sec 27 & 8 of IEA

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

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

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

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

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

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

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

***

(i) A is accused of a crime.

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

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

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

(Emphasis supplied)

Discovery U/s 27 IEA basing on evidence of Police

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

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

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

"prima facie case"

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

Criminal Intimidation

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

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

NEWS

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

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ON A LIGHTER VEIN

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

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