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(Let Noble Thoughts Come To Me from All Directions)

A PAPER PRESENTATION ON REVENUE RECORDS IN TELANGANA AND THEIR EVIDENTIARY VALUE IN DECIDING TITLE

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WHAT IS TITLE

Before going into the revenue records, first we need to know the definition of the word 'Title', which is a major issue to be decided in most of civil cases. The word "Title" includes a right, but is the more general word.

Every right is a title though every title is not such a right for which an action lies. Blackstone defines it to be "The means whereby the owner of lands has the just possession of his property. "TITLE" is the means whereby a person's right to property is established. (See: P.Ramanatha Aiyar's the Law Lexicon -1997 Edition).

Section 13 of the Indian Evidence Act, 1872 provides the mode and proof of title. It states that where the question is as to the existence of any right or custom, following facts are relevant:

(a) any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied or which was inconsistent with its existence;

(b) particular instances in which the right or custom was claimed, recognized or exercised, or in which its exercise was disputed, asserted or departed from.

TYPES OF REVENUE RECORDS

Now we move onto the subject Land records. The land records are a combination of three types of data records:

(i) Textual (RoR),

(ii) Spatial (maps), and

(iii) Transaction details (sale deeds).

Three different state departments are responsible for each of this data on land records. In the presence of multiple agencies responsible for registration and maintenance of records, it is difficult to ensure that survey maps, textual data, and registration records match with each other and are updated. In addition, citizens have to approach several agencies to get complete information on land records. Most of these departments work in silos, and updating of records by any one of them makes the records of the others outdated.

DEPARTMENT	PRIMARY DUTY RELATING TO LANDS	PRIMARY DOCUMENTS	PRIMARY AUTHORITIES
REVENUE DEPARTMENT (in respect of agricultural lands)	Collection of land revenue(now dispensed) Updating and maintaining revenue records Maintenance of Dharani online records Under new ROR Act, presently the power to registration of agriculture lands now conferred on Tahasildars	Record of Rights (RoR) Mutation Register	District Level – District Collector and Joint Collector Division Level – RDO Mandal Level - Tahasildar Mandal - Tahsildar Village – VRO

SURVEY AND SETTLEMENT DEPARTMENT	Maintaining spatial land records	Village map City survey maps	District Level - Deputy Inspector Manda Level - Mandal Surveyor Village - Village Administrative Officer
STAMPS AND REGISTRATION DEPARTMENT In respect of open plots and residential properties	Registration of property documents and deeds Evaluation and collection of stamp duty	Encumbrance Certificates, Sale Deeds	District Level - District Registrar Division Level - Sub-Registrar

Before independence, the Hyderabad Record of Rights in Land Regulation 1358 Fasli Act (for short 1358 Fasli Regulation) governed the preparation and maintenance of record of rights in land in Hyderabad State.

Section 3(c) defined land records to mean the records under the provisions of, or for the purposes of that Regulation and the Hyderabad Land Revenue Act 1317 Fasli. Section 4 mandates preparation and maintenance of records in all lands and the record of rights shall include the names of all persons who are holders, occupants, owners and mortgagees of land or assignees of the rent or revenue thereof, the nature and its extent and the respective interests of such persons and the conditions or liabilities (if any) payable by or to any of such persons and such other particulars as may be prescribed.

Such record is to be prepared after due enquiry. Section 6 deals with mutation and enquiries thereof and publication of records. Under Section 13, any entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. The note on Rule 3 of Hyderabad Record of Rights Rules, 1956 made under the Hyderabad Land Revenue Act, 1317 Fasli reads "The pahani patrika now in use, contains besides columns 1 to 19 of Form No.1, several other columns pertaining to agricultural statistics; and columns 1 to 19 of pahani patrika which corresponds to Form-I shall be deemed to be the Record of Rights"

In Telangana area, Sethwar Register, Supplementary Sethwar, Wasool Baqui Register, Khasra**Pahani** (prepared under the Land Census 1954 under the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950), **Pahani**, Chowfasla and Faisal Patti constitute the core revenue record.

After integration of records of both the Andhra and Telangana areas, the following constitute the core relevant revenue record :

(i) Printed Diglot or A-Register;
(ii) Village Account No.1,
(iii) Village Account No.2;
(iv) No.3 Register; and
(v) Village Account No.4 Register of holdings

Consequent to the merger of Hyderabad State with India in 1948 the Jagirs were abolished by the Andhra Pradesh (Telangana Area) Abolition of Jagirs Regulation, 1358 fasli. 'KhasraPahani' is the basic record of rights prepared by the Board of Revenue Andhra Pradesh in the year 1954-55. It was gazetted under Regulation 4 of the A.P. (Telangana Area) Record of Rights in Land Regulation 1358F. As per Regulation No.13 any entry in the said record of rights shall be presumed to be true until the contrary is proved. The said Regulation of 1358-F was in vogue till it was repealed by the A.P. Rights in Land and Pattadar Pass Books Act, 1971, which came into force on 15.8.1978. In the 2nd edition (1997) of "The Law Lexicon" by P. RamanathaAiyer (at page 1053) 'Khasra' is described as follows: "Khasra is a register recording the incidents of a tenure and is a historical record. Khasra would serve the purpose of a deed of title, when there is no other title deed."

For the first time, the record of rights in Andhra Area was brought under a statutory enactment viz., the 1971 Act. It has been enacted for the entire State of Andhra Pradesh. It has repealed the 1358 Fasli Regulation and all standing orders and any other provisions of law relating to the record of rights in the land in force in the State. Sub- Section (6) of Section 2 thereof defined Occupant as a person in actual possession of land, other than a tenant or a usufructory mortgagee. Sub- section (6)(a) defined owner as a person who has permanent and heritable rights of possession on the land which can be alienated and includes the holder of a patta issued to him as a landless poor person. Sub-section (7) defined pattadar as including every person who holds land directly under the Government under a patta whose name is registered in the land revenue accounts of the Government as pattadar and who is liable to pay land revenue. Sub-section (9) defined record of rights (ROR) as records prepared and maintained under the provisions or for the purposes of the Act. Section 3 envisages preparation and updating of ROR in all lands. Section 4 obligates every person acquiring rights as owner, pattadar, mortgagee, occupant or tenant of the land or otherwise to intimate such acquisition of rights to the Mandal Revenue Officer (Tahsildar). Section 5 provides for amendment and updating of ROR. This provision also provides for the remedy of appeal by an aggrieved party. Section 5-A provides for regularisation of certain alienations. Under Section 5-B, an aggrieved party is entitled to file an appeal against the order passed under Section 5-A. Under Section 6, every entry in the ROR is presumed to be true until the contrary is proved or until it is otherwise amended in accordance with the provisions of the Act. Section 6-A, which was introduced by Act 11 of 1980, provided for issue of pattadar passbook and title deed to every owner, pattadar, mortgagee or tenant of any land. SubSection (5) of Section 6-A declared that the title deed so issued shall be the title deed in respect of owner-

pattadar and it shall have the same evidentiary value with regard to the title for the purpose of creation of equitable mortgage under the provisions of the Transfer of Property Act, 1882 as a document registered in accordance with the provisions of the 1908 Act.

Section 9 empowers the Collector to revise the orders of the lower authorities passed under Sections 3, 5, 5-A or 5-B in respect of any ROR prepared and maintained or to satisfy himself as to the regularity, correctness, legality or propriety of any order passed by the recording authority i.e., the Mandal Revenue Officer of Revenue Divisional Officer.

The A.P. Rights in Land and Pattadar Passbooks Rules, 1989 were made under the rule making power of the State Government under Section 11 of the 1971 Act. Rule 3 ordains that an ROR shall be prepared and maintained in Form-I for every separate revenue village. Under the Note to the said Rule, it is mentioned that pahani/adangal does not constitute the ROR for the village and that it reflects the ground position including the name of the cultivator who actually cultivates the land; and whether the person in occupation of the land has violated any law and if so, the details of the same. The Rules provided for elaborate procedure for preparation of ROR which shall be prepared in Forms-1 and 1-B in triplicate. After finalization of such ROR, the pattadar passbook and title deed shall be issued in favour of the persons in whose names the ROR is prepared.

Now let us have a glance at some of the Revenue Records:

1. **VILLAGE ACCOUNT NO-1**: This register showing Government lands, land on lease, assignments, encroachments, alienations and Area Available for Assignment (Permanent Register). It contains 20 columns. It has to be prepared basing on R.S.R or Permanent A-Register/Sethwar.

2. **VILLAGE ACCOUNT NO-2: REGISTER OF CHANGES IN THE VILLAGE (ANNUAL REGISTER/ MUTATION REGISTER:** It contains 12 columns.- Mutation or changes are also effected in ROR Accounts ROR-I and ROR-IB. The mutations taken place in a Fasli both in patta lands and Govt lands are recorded and are available at one glance in Village Account, Mutations arise due transfer through registration(SALE, GIFT, REGISTRATION ETC), Assignment of Govt land-Acquisition of patta land, taking possession of surplus land, succession and partition. All these have to be recorded in this Account etc. The status before and after change are shown. Orders of competent Authority are shown

3. **VILLAGE ACCOUNT NO.3 PAHANI/ADANGAL:** This register is called "ADANGAL". This register represents the details of Pattadars/Occupiers of land in particular Sy.No. with extent and cultivation on the lands in village. It is a very important account. It contains 31 Columns. The Columns in Account No.-3 area divided into Four parts : Part-I: Cols.1 to 10 - meant for recording Sy.No /Settlement Bandobust/Sy.No. Sub-divn. Part-II: Cols.11 to 15 -meant for recording of ROR. Part-III: Cols.16 to 18-meant for recording utilization of land for cultivation. Part-IV: Cols.19 to 31- meant for recording seasonal cultivation,

area for mixed crops, area utilised with water for irrigation and estimated yield of crop in Kgs, and inspection reports of VRO/MRI/Tahsildar, Other officers and remarks respectively.

Apart from the above Registers the following documents bear importance in resolving land disputes.

KHASRA PAHANI: The Telangana Area Land Census Rules, 1954: These rules were made under Section 97 of the Tenancy Act. Under these Rules, land census, as defined by Rule 2(f) of the Rules, was taken up by the Government. The important record i.e., Khasra**Pahani** is a document prepared under these Rules. Rules 8 to 13 speak of provisional Khasra**Pahani** and Rule 14 speaks of fair copy of Khasra**Pahani**. The said record is an important record and entry as pattadar in the same would confer absolute title over the land occupied. Laoni Rules issued vide Gashthi No.19 of 1347 Fasli (1937 A.D.):

4. **IB- REGISTER (R.O.R)** -This register is maintained in Mandal. Revenue Office for every village separately. This contains 14 columns. It includes Name of the khatadar /father name of the khatadar, khata number, survey number, classification of land, extent held by khatadar Land Revenue. The records are arranged on the alphabetical. Order of khata number under which survey number wise details are indicated. Mutation order details are recorded in 10, 11,12 columns. Registered and un-registered encumbrances regarding lessee, tenant, loans given by various agencies are also recorded in remarks columns.

5. **CHOWPASLA**:The Corresponding Account in Andhra Area before 1992---10(1)and10(2)---10(1)was permanent Rewritten once in 5 years or so---10(2) was written every year. The Corresponding Account in Telangana Area before 1992---CHOUFASLA¬Written Khatadar wise Land held survey number wise-----Assessment–remission of assessment–demand of water tax-remission on water tax-Tax etc., payable for the Govt land under encroachment-various cesses are shown. The demand as per Account 4A, Remissions as per Village Account 4B and Assessment etc as per Account 4C are covered.

Cesses abolished. Sonet demand=4A+4C-4B. The main record of Jamaband.

6. **RECEIPT FOR LAND REVENUE**–Water Tax paid¬Receipts are made into bundle. Two sheets with same number are there–one to be used as Original and the other as duplicate. Date of receipt Khata Number and name of Pattadar – survey number(s)sub-division numbers of land related to payment of LR-Extents–Fasli pertaining to which LR is paid-amount paid–--are shown

8. SETHWAR REGISTER: Sethwar is the settlement register prepared by the Survey Officer at the time of revised survey and settlement in the year 1358 Fasli, in which the names of the predecessors in title of the plaintiff are shown as pattadars. This is equivalent of A Register/Diglot in Andhra Area. After disposing of all the representations/appeals filed by the khatedars for the correction of survey errors, a final survey register is prepared called Sethwar Register. This

Register is regarded as the king of all Registers. This contains the full details of survey number, patta/grant, gairan/inam, name of the khatedar, total area, pot kharab area, balance area, rate of assessment (Dhar), final assessment in case of wet lands, sources of irrigation etc.

9. WASOOL BAQI REGISTER: After completion of Akarband Register at the final stage of Jamabandi process, a very important register, written on the Alphabetical order of the Khatedars (pattadars) of the village, showing all old S.Nos., extents and assessments of the khatedar on one page and on the opposite page the details of corresponding New S.Nos., extents and assessments is prepared which is called as the Wasool Baqi register or correlation register. All old entries of the khata are noted down as per the Theka Bandi Register, which is prepared basing upon the revenue records existing at the time of classification of soil work (Parath bandi) and got it attested by the concerned Tahsildar. The corresponding new survey details shown on the opposite page, are noted down as per the entries recorded in the just prepared Akar land register. At the end of the entries of each khata, totals are noted for old entries and corresponding new survey entries. This will give the clear picture of each khata particularly to ascertain the discrepancy of extents if any.

10. VILLAGE MAP: IT is a key to the field Atlas. It is intended mainly to act as an index to the Field Measurement Book so as to enable an inspecting officer to identify any field independently and to make sure that the correct field has been pointed out to him. It gives an idea of the relative position of survey fields. With the help of the village map, one can able to find out where a particular field is and to get to it.

11. FIELD MEASUREMENT BOOK (FMB); It contains pictorial representation of the survey fields and sub-divisions recorded in the "A" Register. A record of measurements of individual fields and subdivisions is thus provided which will enable any inspecting officer to identify the boundaries whenever it is required for the investigation of disputed boundaries, for the detection of encroachments; for the measurement of further sub-divisions etc., It also enables the Revenue Officers to check the cultivation of each holding during azmoish and find out at a glance whether there is a palpable encroachment or not in any poramboke field. 3 copies are prepared by the Survey department. Original copy is preserved in State Archives, duplicate copy is supplied to Tahsildar office and triplicate copy is supplied to the Village Revenue Officer.

12. PRINTED DIGLOTT OR "A" REGISTER OR RESETTLEMENT REGISTER It is the authoritative record for the settlement and revenue particulars of every survey field and subdivision in the village. It forms the whole basis of the Revenue Administration. It gives the specification, tenure Government or Inam, Dry, Wet, Unassessed or Poramboke, source of irrigation, class and sort of soil, taram, rate per acre, extent and assessment of each field and sub-division and lastly the name of the pattadar or registered holder. Reference to this record is necessary to ascertain the assessments on individual holdings and to dispose of cases of

transfers of land from one head to another. FLR, SFA have to be maintained for Estate and Inam villages instead of RSR.

EVIDENTIARY VALUE OF REVENUE RECORDS–

Having traced the backdrop of the land tenures and the evolution of ryotwari system, the stage is set for considering what are the documents that constitute ownership/title to land. The Board Standing Orders (BSO) of the Board of Revenue of Madras (1907 Edition) succinctly dealt with the rights and obligations under a patta. Paras 27 and 28 of the BSO included in Part III Title to Land read:

27(BSO). Issue of pattas

(1) Form of patta The Form of patta is given in the Manual of Village Accounts.

(2) Renewal of patta-As a rule, fresh pattas need only be issued when desired by the ryots concerned. When the holding of a ryot has undergone no change, it is obviously unnecessary to issue fresh patta. Each ryot should have one original patta containing a detailed list of the fields comprising his holding as it stood when the patta was drawn up. The pattas of future years should show only the changes which have taken place in his holding or in the revenue payable by him. In the event, however, of numerous changes taking place in the original patta, it may be convenient to issue a fresh one.

(3) (Omitted as not relevant)

(4) Entry of names in joint-patta The entries of names in a joint-patta will be made without reference to the extent of land enjoyed by each pattadar.

28. (1) Effect of registry as pattadar : The registered pattadar of a ryotwari holding is, as regards Government, the responsible proprietor of the ryotwari lands registered in his name in the Land Register of the district, until they pass from his possession by sale for arrears or in some other legal manner. Lands which a ryot has left waste will not be struck out of his patta on that account.

SOME OF LEGAL PRECEDENTS WITH REGARD TO EVIDENTIARY VALUE OF REVENUE RECORDS

I) Apex Court's Judgement in Guru Amarjit Singh V. Rattan Chand (AIR 1994 SC 227) which deals with the entries in Jamabandi. Such entries were held to be the statements for revenue purposes. The Supreme Court observed that "the entries in Jamabandi are not proof of title." It is further observed that "the maintenance and custody of revenue records is the exclusive domain of the patwari and it is not uncommon that the revenue records are often tinkered by him to suit the exigencies.

II) In Penumarthy Veera Panasa Ramanna vs Penumarthy Sambamoorthy (AIR 1961 AP 361) Division Bench of AP High Court held that "though the entries in the Diglot Register may be evidence, they are by themselves not conclusive evidence of the facts which they purport to record. "It is observed

that "the entries in the revenue records, though they may be relevant evidence under Section 35 of the Evidence Act, are not evidence of title.

III) In Ch.S. HanumanthaRao V. R.Sainath (1999(6) ALD 3081) learned single Judge of AP High Court bearing in mind the judgment of Hon'ble Apex Court in Nagar Palika Jind v. Jagat Singh 1995 SCC (3) 426, relied on by the appellants took a view that "either the entries in the revenue records or the entries in the records of local bodies like Municipalities do not create nor extinguish any title over the properties in question."

IV) In Corporation of Bangalore City V. M.Papaiah (AIR 1989 SC 1809) the Supreme Court observed that "so far the revenue records are concerned, the appellate court considered the same and held that they did not support the plaint. The High Court has reversed the finding saying that the interpretation of the first appellate court was erroneous. It is firmly established that the revenue records are not documents of title, and the question of interpretation of a document not being a document of title is not a question of law.....".

V) In State of Himachal Pradesh V. Keshav Ram(1996 (11) SCC 257) the Supreme Court noticed that the courts below decreed the plaintiff's suit for declaration of title relying upon the only piece of evidence being an order of Assistant Settlement Officer directing the correction of the record of the right. The Supreme Court posed the question "as to whether the entry in the settlement papers recording somebody's name could create or extinguish title in favour of the person concerned?" and held: "It is to be seen that the disputed land originally stood recorded in the name of Raja Sahib of Keonthal and thereafter the State was recorded to be the owner of the land in the record of right prepared in the year 1949-50. In the absence of the very order of the Assistant Settlement Officer directing necessary correction to be made in favour of the plaintiffs, it is not possible to visualize on what basis the aforesaid direction had been made. But at any rate such an entry in the Revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs. To our query as to whether
there is any other document on the basis of which the plaintiffs can claim title over the disputed land, the learned counsel for the plaintiffs respondents could not point out any other document apart from the alleged correction made in the register pursuant to the order of the Assistant Settlement Officer. In our considered opinion, the Courts below committed serious error of law in declaring plaintiffs' title on the basis of the aforesaid order of correction and the consequential entry in the Revenue papers."

VI) In Syed Jalal V. Targopal AIR1970AP19, C.J of the then AP High Court (as His Lordship then was) speaking for the Division Bench observed that "transfer of a right of occupancy or a patta of a holding in so far as the Land Revenue Act (Hyderabad Act 8 of 1317 F) is concerned, would equally be a transfer of all that is necessary to effectually transfer agricultural land and

vest a title in the person to whom it is transferred. It may be noted that a mere sale or conveyance effected in accordance with the general law, viz., by a written instrument duly stamped and registered if it is immoveable property of more than Rs.100/- value by itself, in so far as agricultural land is concerned is not completely efficacious until the patta is mutated in the name of the vendee. While a sale, exchange or gift vests legal title in the vendee on execution of the conveyance, in so far as payment of revenue to the Government is concerned, it can only be recognised on the vendee's name being mutated in the registers of pattas which could be effected on the presentation of a deed of sale, exchange or gift duly executed in accordance with law."

It is thus recognised that transfer of a patta of a holding would amount to transferring of all that is necessary to effectually transfer agricultural land and vest a title in the person to whom it is transferred. Transfer of patta is thus nothing but a transfer of title itself. It is thus clear that patta is nothing but a title itself so far as the agricultural land is concerned in Telangana area of State of Andhra Pradesh. The Hon'ble High Court in Syed Jalal (supra) while construing various provisions of the Land Revenue Act and the scheme of the Act observed that "indubitably, the patta of agricultural land itself is a evidence of right of the holder, a transfer of which is also deemed to be a permanent alienation." It is thus clear that so far as the agricultural lands are concerned, the pattedar is the one in whom the title vests and the patta of agricultural land itself is a evidence of title

VII) In Md. Ibrahim V. Secretary to Govt. of India, a Division Bench of AP High Court in LPA Nos 205 and 211 of 1991 observed that "the pahanies are prepared in the usual course of official business of preparation of Records of Rights and hence there is a due presumption that the entries made therein have been made in due performance of official duties. They are hence to receive weightage in evidence particularly when there is no other rebutting evidence to the contrary."

VIII) In Commissioner of Survey V. G.Padmavathi 1999(4) ALD 61, AP High Court after surveying the decisions on the subject including the judgment in Rajeswara Rao held that "a person whose name finds a place in the revenue records will have a right to assert that he is entitled to make a claim as owner unless the same is negatived by rebuttal evidence ....." The said observations were made while construing the entries in the Record of Rights and the khasrapahani prepared and maintained under the provisions of the Regulations.

IX) The Supreme Court in Choote Khan V. Mal Khan (1954 AIR 575) while considering the nature of the entries in Jamabandi and as to whether such entries fall within the purview of Record of Rights maintained under Section 31 of the Punjab Land Revenue Act, 1887 observed that "by section 44 of the Punjab Land Revenue Act an entry made in the record of rights or in an

annual record shall be presumed to be true until the contrary is proved. That entries in the Jamabandies fall within the purview of the record of rights under section 31 of the Act admits of no doubt. Section 16 of the old Act (XXIII of 1871) laid down that entries in the record of rights made or authenticated at a regular Settlement shall be presumed to be true."

X) In Avadh Kishore V. Ram Gopal (AIR 1979 SC 861), the Supreme Court while considering the evidentiary value of the entries made in what is called "Wajibularz" observed that "it is a village administration paper prepared with due care and after due enquiry by a public servant in the discharge of his official duties. It is a part of the settlement record and a statutory presumption of correctness attaches to it."

XI) In Kasturchand V. Harbilash(2000 (7) SCC 611), the Supreme Court found fault with the courts below as well as the High Court for their not having placed any reliance on the entries in the khasra prepared and maintained under the provisions of the Madhya Bharat Land Revenue and Tenancy Act of 1950 and held:

"The entries in the annual village papers create a presumption albeit rebuttable in favour of a person whose name is recorded. We find that a procedure is prescribed to challenge the entries made in the annual village papers. The procedure is contained in the Madhya Bharat Land Revenue and Tenancy Act of 1950 (for short "the Land Revenue Act"). Section 45 of that Land Revenue Act specifies that khasra, jamabandi or khatauni and such other village papers as the Government may from time to time prescribe shall be annual village papers. Section 46 enjoins preparation of annual village papers each year for each village of a district in accordance with rules made under the Act. Section 52 embodies the presumption that all entries made under that chapter in the annual village papers shall be presumed to be correct until the contrary is proved and Section 50 prescribes the method or procedure for correction of wrong entries in the annual village papers by superior officers. Thus it is clear that in the event of wrong entries in the annual village papers the same is liable to be corrected under Section 50 and unless they are so corrected the presumption under Section 52 will govern the position."

XII) Another Division Bench of the Hyderabad High Court in Phoola Bhanna V. Rekha Deva observed that "patta and possession are two different rights and exist independent of each other. Possession however long and continuous, based though it may even be on the title to the land itself, does not confer a right on a person to get the patta of the land, already in the name of some other, transferred in his own name. Of course, right of patta like any other right is alienable; but there should be a valid contract with the pattedar for the same. Being an intangible right in the immovable property, it can be alienated only under a registered sale deed in accordance with the provisions of Section 54, of the Registration Act (Transfer of Property Act?)."

XIII) A Division Bench of the Madras High Court in Rama Iyengar V. Kasinivenda Iyengar (16IND. CAS.746) observed that "transactions by a party dealing with the property to which he lays a claim, are important evidence of his title and sometimes they constitute the only evidence available." A careful analysis of the decisions referred to hereinabove would make it clear that the entries made in the Record of Rights carry with them a very great evidentiary value, provided the Record of Rights is prepared and maintained under the provisions of the relevant statutes or the Regulations, as the case may be, and further provided that the entries therein are made after holding public enquiries. Sometimes, they constitute the only evidence available in order to establish one's title to the lands. The entries made in Columns 1 to 19 of the pahani patrikas shall be deemed to be the record of Rights prepared and maintained by a public servant in discharge of his official duties.

In this aspect, Section 35 of the Indian Evidence Act, 1872 deserves to be noticed. It reads: Relevancy of entry in public record or an electronic record made in performance of duty:- An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record or an electronic record is kept, is itself a relevant fact.

Some more useful citations dealing with the aspect of evidentiary value of revenue records are quoted hereunder for reference:

1. **Entries in Revenue Records neither confer any title nor extinguish the title already existing. Balwant Singh's case: AIR 1997 SC 2719.**
2. **Jama bandi is a land revenue demand. Jama bandi entries alone will not create title in the person whose name is found in such records. Jatturam case: AIR 1994SC 1653.**
3. **If a name is entered in revenue records, a presumption arises in favour of the person and unless and until the presumption is rebutted, the entries have to be considered as true and correct. M/S Ashok Leyland Ltd case: 2004 (5) Supreme 115, Syedabad Tea Co. Ltd case: AIR 1983 SC 72, State of Maharastra case: AIR 1985 SC 716.**
4. **However, the entries in revenue records alone will not convey title or will not have the effect of extinguishing the already existing title. B. Singh & Anr case: AIR 1997 SC 2719**
5. **If there are two sets of revenue records regarding the same property and their entries conflicting then the latest of the records will prevail. M.Pandey & Ors case: AIR 1981 Cal 74.**

6. **Mutation entries can neither create title nor extinguish title and such entries cannot be treated as evidence of sale. Major P.S. Atwad case: AIR 1995 SC 2125.**

7. **Entries in revenue records which are unchanged fairly for a long time will not be rebutted by some stray entries. Sri Bhimeshwara Swamivaru Temple case: AIR 1973 SC 1299.**

8. **Entry in Record of Rights:- Once name of grantee is entered in record of rights on the basis of order of grant, name cannot be deleted from records, unless grant has been revoked in properly constituted proceedings by authority competent to revoke grant. M.N.Venkateshaiah's case before KHC (DB) , decided on 05-10-05 reported in 2005(6) KarLJ 452 (DB).**

EVIDENTIARY VALUE OF RECORDS UNDER NEW ROR ACT, 2020

The Telangana Rights in Land and Pattadar Pass Books Act, 2020 (i.e., ROR Act, 2020') was enacted replacing the Telangana Rights in Land and Pattadar Pass Books Act, 1971 It is clear that the ROR Act, 2020 was enacted with the salutary object of digitizing the maintenance of revenue records and to obviate the difficulties faced by the citizens in getting lands mutated in their names. To achieve the said object, an online platform–cum–repository of land related information by the name Dharani Portal was created. The said Dharani Portal is supposed to be the one-stop center to record information of title holders of lands in Telangana through online means. It provides online services like mutation/succession, land valuation certificate, land conversion, agriculture income certificate, etc. to the citizens.

Under the new ROR Act, new Pattadar pass book-cum-title deeds are issued and the online Dharani Records shows the land details of the Pattedars. As per Section (12) of Act "Record of Right (ROR)" means records prepared and maintained electronically under the provisions, or for the purpose of this Act in "DHARANI". Section 2 (1) of the ROR Act, 2020 deals with the definition of 'certified copy' and it says that : "certified copy" or "certified extract" means a copy or extract taken from Dharani, as certified in the manner prescribed by Section 76 of the Indian Evidence Act,1872 (Central Act 1 of 1872)." Further it is relevant to note that Section 11 of the ROR, Act 2020 provides that a pattadar pass book-cum-title deed issued under the Act shall be deemed to be a title deed and it shall have the same evidentiary value as a document registered under the Registration Act. Therefore the entries in the Dharani portal, the online land records platform in Telangana, hold significant evidentiary value in legal proceedings, essentially acting as prima facie evidence of land ownership and related details due to their official nature, digital record-keeping, and the legal framework established by the "Telangana Rights in Land and Pattadar Pass Books Act, 2020" which governs the platform; meaning that

data displayed on Dharani can be presented in court as proof of land title and related information unless challenged with substantial evidence to the contrary.

EVIDENTIARY VALUE OF RECORDS UNDER NEW ROR ACT, 2024

Further the new ROR Act 2024, i.e., the Telangana Bhu Bharati (Record of Rights in Land) Act, 2024 which is enacted replacing the old ROR Act 2020 is yet to come into force as the rules connected therewith have yet to be framed. The evidentiary value of **Section 10(5) of New Act reads as under:** *The Pattadar Pass Book cum Title Deed issued under sub-section (2) and duly certified by the Tahsildar, or such authorised authority, shall be Pattadar Pass Book Book-cum-Title Deed. in respect of a pattadar-owner and it shall have the same evidentiary value with regard to the title for the purpose of creation of equitable mortgage under the provisions of the Transfer of Property Act, 1882 as a document registered in accordance with the provisions of the Registration Act, 1908 has under the Law.*

Further Section 11 of new Act reads as under:

11. Every entry in the Record of Rights shall be presumed to be true and correct until the contray is proved or until it is otherwise amended in accordance with the provisions of this Act.

CONCLUSION :

Finally to conclude I would like to state that in order to improve the quality of land records, and make them more accessible to produce before the Courts, apart from complete computerisation of the latest property documents, there should be digitisation of all old land records such as Sethwar Register, Supplementary Sethwar, Wasool Baqui Register, Khasra **Pahani also** (prepared under the Land Census 1954 under the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950) etc., because in most of the civil disputes concerning agricultural lands, title and ownership needs to be traced from old revenue records.

CITATIONS

2025 0 INSC 145; 2025 0 Supreme(SC) 267; Wahid Vs State Govt. of NCT of Delhi; Criminal Appeal No. 201 of 2020 With Anshu Vs. State Govt. of NCT of Delhi; Criminal Appeal No. 202 of 2020; Decided On : 04-02-2025

In cases where the FIR is lodged against unknown persons, and the persons made accused are not known to the witnesses, material collected during investigation plays an important role to determine whether there is a credible case against the accused. In such type of cases, the courts have to meticulously examine the evidence regarding (a) how the investigating agency derived clue about the involvement of the accused in the crime; (b) the manner in which the accused was arrested; and (c) the manner in which the accused was identified. Apart from above, discovery/ recovery of any looted article on the

disclosure made by, or at the instance of, the accused, or from his possession, assumes importance to lend credence to the prosecution case.
But if the version of PW-1 is correct, there ought to have been a record of receipt of such information at the police station. Because, in ordinary course, before leaving the police station, based on any information, the police officer enters the information in the relevant diary and then proceeds.

Circumstantial Evidence
2025 0 INSC 147; 2025 0 Supreme(SC) 268; Ramu Appa Mahapatar Vs. The State of Maharashtra; Criminal Appeal No. 608 of 2013; Decided On : 04-02-2025
Extra-judicial confession of an offence made by the accused before a witness is one of the several instances of circumstantial evidence; there are other circumstances, such as, the theory of last seen together; conduct of the accused before or immediately after the incident; human blood being found on the clothes or person of the accused which matches with that of the accused; leading to discovery, recovery of weapon etc. As we know, circumstantial evidence is not direct to the point in issue but consists of evidence of various other facts which are so closely associated with the fact in issue that taken together, they form a chain of circumstances from which the existence of the principal fact can be legally inferred or presumed. The chain must be complete and each fact forming part of the chain must be proved. It has been consistently laid down by this Court that where a case rests squarely on circumstantial evidence, inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person. The circumstances would not only have to be proved beyond reasonable doubt, those would also have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances. All these circumstances should be complete and there should be no gap left in the chain of evidence. The proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. The circumstances taken cumulatively must be so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else. While there is no doubt that conviction can be based solely on circumstantial evidence but great care must be taken in evaluating circumstantial evidence. If the evidence relied upon is reasonably capable of two inferences, the one in favour of the accused must be accepted.
An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the court. The confession will have to be proved like any other fact. The value of the evidence as to confession like any other evidence depends upon the reliability of the witness to whom it is made and who gives the evidence. Extra-judicial confession can be relied upon and conviction can be based thereon if the evidence about the confession comes from a witness who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive of attributing an untruthful statement to the accused. The words spoken by the witness should be clear, unambiguous and unmistakenly convey that the accused is the perpetrator of the crime and that nothing is omitted by the witness which may militate against it. After subjecting the evidence of the witness to a rigorous test on

the touchstone of credibility, the extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility.

2025 0 INSC 158; 2025 0 Supreme(SC) 279; Ganesan Vs. The State of Tamil Nadu Rep. by Inspector of Police; Criminal Appeal No. 860 of 2023 [Special Leave Petition (Crl.) No. 11560 of 2022]; Decided On : 07-02-2025

This Court also in Amit Rana @ Koka vs. State of Haryana, 2024 SCC Online SC 1763 held that a bare perusal of the second part of Section 307 of I.P.C. would undoubtedly show that it did not prescribe for imposition of punishment more than what is prescribed under the first part thereof. The maximum imprisonment permissible under the first part of Section 307 is 10 years and fine. When the court thinks it fit, not to impose imprisonment for life, the punishment in no circumstance can exceed the punishment prescribed under the first part of Section 307, I.P.C.

2025 0 INSC 160; 2025 0 Supreme(SC) 281; Geddam Jhansi & Anr Vs. The State Of Telangana & Ors.; Criminal Appeal No(s). 609 of 2025, (Arising out of Special Leave Petition (Criminal) No. 9556 of 2022); With Geddam Jhansi Vs. The State Of Telangana & Anr.; Criminal Appeal No(s). 610 of 2025 (Arising out of Special Leave Petition (Criminal) No. 428 of 2024; Decided On : 07-02-2025

31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when specific act(s) which constitute offences punishable under the penal code or any other penal statute are alleged or attributed to the accused and a prima facie case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. Institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred, demanding a higher level of respect, commitment, and emotional investment compared to other social or professional associations. For the aforesaid reason, preservation of family relationship has always been emphasised upon. Thus, when family relationships are sought to be brought within the ambit of criminal proceedings rupturing the family bond, courts should be circumspect and judicious, and should allow invocation of criminal process only when there are specific allegations with supporting materials which clearly constitute criminal offences.

32. We have to keep in mind that in the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the colour of criminality.

33. It goes without saying that genuine cases of cruelty and violence in domestic sphere, which do happen, ought to be handled with utmost sensitivity. Domestic violence typically

happens within the four walls of the house and not in the public gaze. Therefore, such violence is not noticed by public at large, except perhaps by the immediate neighbours. Thus, providing visible evidence by the victim of domestic violence may not be easily forthcoming and producing direct evidence may be hard and arduous, which does not necessarily mean that domestic violence does not occur. In fact, to deal with this pernicious phenomenon, stringent statutes like Protection from Domestic Violence Act, 2005, have been enacted with very expansive meaning and scope of what amounts to domestic violence. Since, violence perpetrated within the domestic sphere by close relatives is now criminalised entailing serious consequences on the perpetrators, the courts have to be careful while dealing with such cases by examining whether there are specific allegations with instances against the perpetrators and not generalised allegations. The purpose and mandate of the law to protect the victims of domestic violence is of paramount importance, and as such, a balance has to be struck by ensuring that while perpetrators are brought to book, all the family members or relatives are not indiscriminately brought within the criminal net in a sweeping manner.

34. For a matrimonial relationship which is founded on the basis of cordiality and trust to turn sour to an extent to make a partner to hurl allegations of domestic violence and harassment against the other partner, would normally not happen at the spur of the moment and such acrimonious relationship would develop only in course of time. Accordingly, such a situation would be the culmination of a series of acts which turns, otherwise an amicable relationship, into a fractured one. Thus, in such cases involving allegations of domestic violence or harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against the perpetrators in specific terms to rope such perpetrators in the criminal proceedings sought to be initiated against them. Thus, mere general allegation of harassment without pointing out the specifics against such perpetrators would not suffice, as is the case in respect of the present appellants.

35. We are, thus, of the view that in criminal cases relating to domestic violence, the complaints and charges should be specific, as far as possible, as against each and every member of the family who are accused of such offences and sought to be prosecuted, as otherwise, it may amount to misuse of the stringent criminal process by indiscriminately dragging all the members of the family. There may be situations where some of the family members or relatives may turn a blind eye to the violence or harassment perpetrated to the victim, and may not extend any helping hand to the victim, which does not necessarily mean that they are also perpetrators of domestic violence, unless the circumstances clearly indicate their involvement and instigation. Hence, implicating all such relatives without making specific allegations and attributing offending acts to them and proceeding against them without prima facie evidence that they were complicit and had actively collaborated with the perpetrators of domestic violence, would amount to abuse of the process of law.

36. Our observations, however, should not be generalised to mean that relatives cannot be brought under the purview of the aforesaid penal provisions when they have actively participated in inflicting cruelty on the daughter-in-law/victim. What needs to be assessed is whether such allegations are genuine with specific criminal role assigned to such members of the family or whether it is merely a spill over and side-effect of a matrimonial

discord and allegations made by an emotionally disturbed person. Each and every case of domestic violence will thus depend on the peculiar facts obtaining in each case.

2025 0 INSC 162; 2025 0 Supreme(SC) 283; Vihaan Kumar Vs. State Of Haryana & Anr.; Criminal Appeal No. 621 of 2025 (Arising out of Special Leave Petition (Crl.) No. 13320 of 2024); Decided on : 07-02-2025

Therefore, we conclude:

a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/Agency to prove compliance with the requirements of Article 22(1);

d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of chargesheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

The stand taken before the High Court was that the appellant's wife was informed about the arrest. Information about the arrest is completely different from the grounds of arrest. The grounds of arrest are different from the arrest memo. The arrest memo incorporates the name of the arrested person, his permanent address, present address, particulars of FIR and Section applied, place of arrest, date and time of arrest, the name of the officer arresting the accused and name, address and phone number of the person to whom information about arrest has been given. We have perused the arrest memo in the present case. The same contains only the information stated above and not the grounds of arrest. The information about the arrest is completely different from information about the grounds of arrest. **Mere information of arrest will not amount to furnishing grounds of arrest.**

The learned Single Judge, unfortunately, has equated information given regarding the appellant's arrest with the grounds of arrest. The observation that the allegation of non-

supply of the grounds of arrest made by the appellant is a bald allegation is completely uncalled for. All courts, including the High Court, have a duty to uphold fundamental rights. Once a violation of a fundamental right under Article 22(1) was alleged, it was the duty of the High Court to go into the said contention and decide in one way or the other. When a violation of Article 22(1) is alleged with respect to grounds of arrest, there can be possible two contentions raised: (a) that the arrested person was not informed of the grounds of arrest, or (b) purported information of grounds of arrest does not contain any ground of arrest. As far as the first contention is concerned, the person who is arrested can discharge his burden by simply alleging that grounds of arrest were not informed to him. If such an allegation is made in the pleadings, the entire burden is on the arresting agency or the State to satisfy the court that effective compliance was made with the requirement of Article 22(1). Therefore, the view taken by the High Court is completely erroneous.

The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends, relatives and such nominated persons by way of engaging lawyers, briefing them to secure release of the detained person on bail at the earliest. Therefore, the purpose of communicating the grounds of arrest to the detenue, and in addition to his relatives as mentioned above is not merely a formality but to enable the detained person to know the reasons for his arrest but also to provide the necessary opportunity to him through his relatives, friends or nominated persons to secure his release at the earliest possible opportunity for actualising the fundamental right to liberty and life as guaranteed under Article 21 of the Constitution. Hence, the requirement of communicating the grounds of arrest in writing is not only to the arrested person, but also to the friends, relatives or such other person as may be disclosed or nominated by the arrested person, so as to make the mandate of Article 22(1) of the Constitution meaningful and effective failing which, such arrest may be rendered illegal.

2025 0 INSC 167; 2025 0 Supreme(SC) 288; Raja Khan Vs. State of Chattisgarh; Criminal Appeal No. 70 of 2025 (Arising out of Special Leave Petition (Crl.) No. 14411 of 2024); Decided On : 07-02-2025

18. Sections 25 and 26 of the Evidence Act stipulate that confession made to a police officer is not admissible. However, Section 27 is an exception to Sections 25 and 26 and serves as a proviso to both these sections [Delhi Administration vs. Bal Krishan & Ors., (1972) 4 SCC 659].

19. This Court is of the view that Section 27 lifts the ban, though partially, to the admissibility of confessions. The removal of the ban is not of such an extent so as to absolutely undo the object of Section 26. As such the statement whether confessional or not is allowed to be given in evidence but that portion only which distinctly relates to discovery of the fact is admissible. A discovery of a fact includes the object found, the place from which it is produced and the knowledge of the Appellant-accused as to its existence (Udai Bhan Vs. State of Uttar Pradesh, AIR 1962 SC 1116).

20. The essential ingredients of Section 27 of the Evidence Act are three- fold:

i. The information given by the accused must led to the discovery of the fact which is the direct outcome of such information.

ii. Only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused.

iii. The discovery of the facts must relate to the commission of such offence.

21. The question as to whether evidence relating to recovery is sufficient to fasten guilt on the accused was considered by this Court in Bodhraj Alias Bodha & Ors. v. State of Jammu & Kashmir, (2002) 8 SCC 45, wherein it has been held as under:-

"18… Section 27 of the Indian Evidence Act, 1872 (in short "Evidence Act") is by way of proviso to Sections 25 to 26 and a statement even by way of confession made in police custody which distinctly relates to the fact discovered is admissible in evidence against the accused. This position was succinctly dealt with by this Court in Delhi Admn v. Balakrishan [(1972) 4 SCC 659] and Mohd. Inayatullah v. State of Maharashtra [(1976) 1 SCC 828]. The words "so much of such information" as relates distinctly to the fact thereby discovered, are very important and the whole force of the section concentrates on them. Clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. The ban as imposed by the preceding sections was presumably inspired by the fear of the Legislature that a person under police influence might be induced to confess by the exercise of undue pressure. If all that is required to lift the ban be the inclusion in the confession of information relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. **The object of the provision i.e. Section 27 was to provide for the admission of evidence which but for the existence of the section could not in consequence of the preceding sections, be admitted in evidence. It would appear that under Section 27 as it stands in order to render the evidence leading to discovery of any fact admissible, the information must come from any accused in custody of the police.** The requirement of police custody is productive of extremely anomalous results and may lead to the exclusion of much valuable evidence in cases where a person, who is subsequently taken in to custody and becomes an accused, after committing a crime meets a police officer or voluntarily goes to him or to the police station and states the circumstances of the crime which lead to the discovery of the dead body, weapon or any other material fact, in consequence of the information thus received from him. This information which is otherwise admissible becomes inadmissible under Section 27 if the information did not come from a person in the custody of a police officer or did come from a person not in the custody of a police officer. The statement which is admissible under Section 27 is the one which is the information leading to discovery. Thus, what is admissible being the information, the same has to be proved and not the opinion formed on it by the police officer. **In other words, the exact information given by the accused while in custody which led to recovery of the articles has to be proved.** It is, therefore, necessary for the benefit of both the accused and prosecution that information given should be recorded and proved and if not so recorded, the exact information must be adduced through evidence. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if

any fact is discovered as a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true. The information might be confessional or non-inculpatory in nature but if it results in discovery of a fact, it becomes a reliable information. It is now well settled that recovery of an object is not discovery of fact envisaged in the section. Decision of Privy Council in Palukuri Kotayya v. Emperor [AIR (1947) PC 67], is the most quoted authority of supporting the interpretation that the "fact discovered" envisaged in the section embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect. [See State of Maharashtra v. Dam Gopinath Shirde and Ors, (2000) 6 SCC 269]. No doubt, the information permitted to be admitted in evidence is confined to that portion of the information which "distinctly relates to the fact thereby discovered". But the information to get admissibility need not be so truncated as to make it insensible or incomprehensible. The extent of information admitted should be consistent with understandability. **Mere statement that the accused led the police and the witnesses to the place where he had concealed the articles is not indicative of the information given.**
(emphasis supplied)

2025 0 INSC 168; 2025 0 Supreme(SC) 289; Ayyub & Ors. Vs. State Of Uttar Pradesh & Anr.; Criminal Appeal No. 461 of 2025 (@ Special Leave Petition (Crl.) No. 7371 of 2024); Decided On : 07-02-2025 (THREE JUDGE BENCH)
By a long line of judgments, this Court has reiterated that in order to make out an offence under Section 306 IPC, specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It has been further held that the intention of the accused to aid or instigate or to abet the deceased to commit suicide is a must for attracting Section 306 IPC [See Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628]. Further, the alleged harassment meted out should have left the victim with no other alternative but to put an end to her life and that in cases of abetment of suicide there must be proof of direct or indirect acts of incitement to commit suicide [See Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707 and M. Mohan vs. State, (2011) 3 SCC 626 and Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618].These principles have been reiterated recently by this Court in Mahendra Awase vs. The State of Madhya Pradesh, 2025 INSC 76.

https://indiankanoon.org/doc/50327946/**;K.Sudhakar vs The State Of A.P. on 5 February, 2025; CRIMINAL APPEAL Nos.375 and 376 of 2012**
The Hon'ble Supreme Court held that mere acceptance of the amount dehorse proof of the demand would not be sufficient to bring home the charge under Section 7 and Section 13(1)(d) r/w Section 13(2) of the Prevention of the Corruption Act, 1988.

https://indiankanoon.org/doc/191364704/**; C.Mahender vs The State Of A.P., Thru Acb, Hyderabad; CRIMINAL APPEAL Nos.734 and 735 of 2007 Date: 05.02.2025**
On the date of trap, when A2 was sitting in front of A1, A2 handled the bribe amount as directed by A1. In the said circumstances, it cannot be said that merely accepting the amount would amount to either instigating A1 or engaging with him or aiding the act of

accepting bribe. For the said reasons, no case under Section 12 of the Act is made out for abetment against A2.

https://indiankanoon.org/doc/102970760/; **Shiva Reddy vs The State Of Telangana on 5 February, 2025; CRIMINAL PETITION No.15536 OF 2024**

the only allegation against the petitioners herein is that they participated in election campaigning and conducted meeting without prior permission from competent authority on 01.12.2018 between 1200 to 1600 hours, and thereby they violated the Election Model Code of Conduct during the Election Code, and thereby committed the aforesaid offences. But, there is no mention in the charge sheet as to which orders that were disobeyed by the petitioners. In the present case, the complaint was filed by LW.1, AEE of Irrigation Department of Jogulamba - Gadwal District and the charge sheet is filed by the Sub-Inspector of Police, Ghattu Police Station and, therefore, the charge sheet is in violation of the mandatory provision of Section - 195 (1) (a) of Cr.P.C. Section - 188 of IPC deals with 'disobedience to order duly promulgated by public servant. It says whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Whereas, Section - 290 of IPC deals with punishment for public nuisance in cases not otherwise provided for, and as per which whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees. The alleged public nuisance is consequence of violation of the orders. When the principal offence under Section - 188 of IPC itself cannot be taken cognizance by the Court, the consequent alleged public nuisance punishable under Section - 290 of IPC cannot be maintained.

https://indiankanoon.org/doc/33087591/; **T. Siddhartha Rao vs State Of Telangana on 5 February, 2025; CRLP 12175/2018**

Under Section 200 of Cr.P.C, a Magistrate taking cognizance of a complaint shall examine complainant and the witnesses present, if any. The examination by the Magistrate cannot be confined to the witnesses produced by the complainant only. Any witness whose evidence is necessary to decide whether cognizance can be taken, can be examined by the Magistrate during the course of enquiry under Section 200 of Cr.P.C. Similar is the case during investigation. The police need not confine the investigation only to examine the witnesses cited by the complainant. Whatever is required to probe into a criminal complaint has to be done by the investigating officer. There cannot be any selective examination of witnesses as argued by the counsel, either during investigation or during the procedure of taking cognizance under Section 200 of Cr.P.C.

Only for the reason of there being an outstanding, it cannot be said that, not paying the outstanding amount would attract offences of either cheating or criminal misappropriation. The complaint is result of disputes in between two companies, which transactions are purely civil in nature. The petitioner apparently filed criminal complaint against the respondent/accused only to coerce them to settle disputes in the company which falls within the jurisdiction of a Civil Court.

2025 0 INSC 194; 2025 0 Supreme(SC) 319; B.V. Ram Kumar Vs. State of Telangana and Another; Criminal Appeal No. 654 of 2025 [Arising Out of SLP (Crl.) No. 7887 of 2024] Decided On : 10-02-2025

Needless to say, that mere abuse, discourtesy, rudeness or insolence does not amount to an intentional insult within the meaning of Section 504, IPC. Furthermore, it would be immaterial that the person who has been insulted and provoked did not actually break the peace or commit any offence.

23. Section 504, IPC consists of two parts. Firstly, the actus reus - being the intentional insult which gives rise to the provocation. Secondly, the mens rea, i.e. the intention or knowledge on the part of the accused that such intentional provocation is likely to cause the person insulted to break public peace or commit any other offence. The animus nocendi in Section 504, IPC is that the accused should 'intentionally insult' the other person with the intention or knowledge that the provocation caused by such insult is likely to result in the commission of breach of public peace or any other offence by the person who has been so insulted. The offence is said to be complete once the accused person makes 'intentional insult' with the aforesaid mens rea. Hence, intention or knowledge on the part of accused person that his actions of making 'intentional insult' have the potential to provoke the person insulted is sine qua non for the commission of the offence under Section 504, IPC.

24. The natural corollary of the above discussion is that if the accused does not intend to give provocation, the offence is not made out. An insult without an 'intention to insult' is not punishable under Section 504, IPC. Further, 'intentional insult' must be of such a degree that it has the potential to provoke a reasonable person to break the public peace or to commit any other offence.

25. It is trite that whether the person provoked further commits an illegal act or not is immaterial to draw the conclusion of culpability under Section 504, IPC. The 'intentional insult' and provocation must be so proximate and close that the accused has either the intention or the knowledge that the intentional insult made by him is likely to cause the provoked person to break public peace or commit some other offence. However, what would be the nature of 'intentional insult' causing provocation, to draw culpability under Section 504, IPC would depend upon the facts and circumstances of each case. The test to be applied to determine if the intentional insult made by the accused is sufficient to cause provocation is that of a reasonable person, i.e. if the insult is sufficient to provoke any reasonable person to break peace or commit any other offence, only then the accused will be liable for the offence under Section 504, IPC.

2025 0 INSC 196; 2025 0 Supreme(SC) 321; Dhanlaxmi Urf Sunita Mathuria and Another Vs. State of Rajasthan and Others; Special Leave Petition (Criminal) No. 15500 of 2024; Decided On : 12-02-2025

During court proceedings, many statements are made and questions are posed which may make a person uncomfortable, but all such statements or questions cannot be misconstrued as humiliating a person. After all, it is the duty of the Court to reach the truth of the matter and such exercise may demand putting forward certain questions and suggestions which may be uncomfortable to some.

2025 0 INSC 220; 2025 0 Supreme(SC) 345; Vinod @ Nasmulla Vs. The State of Chhattisgarh; Criminal Appeal No. 1931 of 2019; Decided On : 14-2-2025

Thus, if the witness who identified a person or an article in the TIP is not examined during trial, the TIP report which may be useful to corroborate or contradict him would lose its evidentiary value for the purposes of identification. The rationale behind the aforesaid legal principle is that unless the witness enters the witness box and submits himself for cross- examination how can it be ascertained as to on what basis he identified the person or the article. Because it is quite possible that before the TIP is conducted the accused may be shown to the witness or the witness may be tutored to identify the accused. Be that as it may, once the person who identifies the accused during the TIP is not produced as a witness during trial, the TIP is of no use to sustain an identification by some other witness.

Once we doubt the manner in which the appellant is stated to have been arrested, the recovery of country-made pistol alleged to have been made at the time of arrest falls to the ground.

2025 0 INSC 222; 2025 0 Supreme(SC) 346; Tapas Kumar Palit Vs. State of Chhattisgarh; Criminal Appeal No. 738 of 2025 (Arising out of SLP(Criminal) No. 15971 OF 2024); Decided On : 14-02-2025

We are aware that it is the public prosecutor who could be said to be in-charge of the trial and he has to decide who is to be examined and who is to be dropped. But at the same time, no useful purpose would be served if 10 witnesses are examined to establish one particular fact.

12. The aforesaid results in indefinite delay in conclusion of trial. It is expected of the Public Prosecutor to wisely exercise his discretion in so far as examination of the witnesses is concerned.

13. Where the number of witnesses is large, it is not, in our opinion, necessary that everyone should be produced. In this connection, we may refer to Malak Khan vs. Emperor [AIR 1946 Privy Council 16] where their Lordships observed as follows at page 19:-

> "It is no doubt very important that, as a general rule, all Crown witnesses should be called to testify at the hearing of a prosecution, but important as it is, there is no obligation compelling counsel for the prosecution to call all witnesses who speak to facts which the Crown desire to prove. Ultimately it is a matter for the discretion of counsel for the prosecution and though a Court ought, and no doubt will, take into consideration the absence of witnesses whose testimony would be expected, it must judge the evidence as a whole and arrive at its conclusion accordingly taking into

consideration the persuasiveness of the testimony given in the light of such criticism as may be levelled at the absence of possible witnesses."

14. In this regard, the role of the Special Judge (NIA) would also assume importance. The Special Judge should inquire with the Special Public Prosecutor why he intends to examine a particular witness if such witness is going to depose the very same thing that any other witness might have deposed earlier. We may sound as if laying some guidelines, but time has come to consider this issue of delay and bail in its true and proper perspective. If an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed.

The stress of long trials on accused persons – who remain innocent until proven guilty – can also be significant. Accused persons are not financially compensated for what might be a lengthy period of pre- trial incarceration. They may also have lost a job or accommodation, experienced damage to personal relationships while incarcerated, and spent a considerable amount of money on legal fees. If an accused person is found not guilty, they have likely endured many months of being stigmatized and perhaps even ostracized in their community and will have to rebuild their lives with their own resources.

15. We would say that delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently.

https://indiankanoon.org/doc/173387969/; **The State Of Telangana vs Potham Jagannadham Naidu; CRIMINAL APPEAL Nos.405 OF 2016 AND 1262 OF 2017 Date: 11 .02.2025**

PW.1 stated that he identified MOs.1 to 6, gold ornaments. However, PW.1 did not provide any proof to show that MOs.1 to 6 belong to the deceased. No purchase records were filed, nor any of the earlier photographs were filed to show that the deceased was wearing any of the jewellery. MOs.1 to 6 were also not identified in accordance with the procedure laid down under Rule.34 of the Criminal Rules of Practice.

https://indiankanoon.org/doc/64361157/;**Abdul Saleem, vs The State Of Telangana, on 11 February, 2025; CRLP No. 1876 of 2025**

Having heard both sides and perused the material on record, it is evident that the proceedings against the petitioner for the offences under Section 186 and 187 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 petitioner for the offences under Section 186 and 187 of IPC are liable to be quashed. Insofar as other offences i.e., 143, 153-A 120-B read with 109, 149 of Indian Penal Code are concerned, as per the judgment of Hon'ble Supreme Court in Hemareddy's case (AIR 1981 SC 1417), it is clear that if the offences formed part of the same transaction of the offences contemplated under Section 195 of Cr.P.C., it is not possible to split up and hold the prosecution of the petitioner. Hence, the FIR culminating in taking cognizance of the aforesaid offences against the petitioner stands vitiated and

the continuation of criminal proceedings against the petitioner amounts to abuse of process of law.

https://indiankanoon.org/doc/21627088/; **T. Vinod Kumar vs The State Of Telangana on 10 February, 2025; CrLP No.1833 of 2025**

Having heard both sides and perused the material on record, it is evident that the proceedings against the petitioner for the offence under Section 223 of BNS 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 petitioner for the offence under Section 223 of BNS, are liable to be quashed.

Since there is no specific allegation against the petitioner in the entire complaint that he has sold tobacco products to a minor or in an area within a radius of one hundred yards of any educational institution and as there is no mention of particulars of the minor to whom the petitioner has sold the tobacco products in contravention to Section 24 (1) of COTPA, the proceedings against the petitioner for the said offence are also liable to be quashed.

https://indiankanoon.org/doc/137178428/; **M/S Deccan Chromates Ltd. vs Union Of India on 12 February, 2025; CRLP No.8166 of 2019**

In the event of the prosecution under the scheduled offence being closed on account of the death of a petitioner as abated, it does not amount to either acquittal or discharge of the accused for the scheduled offence. The quash petition filed was dismissed by this Court since the Managing Director died. The closure of the case before the Court below for the predicate offence/scheduled offence is not on merits but on account of abatement.

2025 0 INSC 242; 2025 0 KLT(Online) 1316; 2025 0 Supreme(SC) 364; Subhelal @ Sushil Sahu Vs. The State of Chhattisgarh; Criminal Appeal No. 818 of 2025 (@Petition for Special Leave to Appeal (Crl.) No.1314 of 2025; 18-02-2025

The foregoing discussion lead us to conclude and answer the questions under reference as under:

Q-1 An accused involved in a non-bailable offence triable by Magisterial Court whose trial is not concluded within a period of sixty days from the first date fixed for taking evidence in that case, and who has been in custody during the whole of the said period, does not get an absolute or indefeasible right to be released on bail to the satisfaction of the Magistrate. The Magistrate has a discretion to direct otherwise (refuse bail) by recording in writing the reasons for such rejection.

Q-2 The provisions contained in Section 437(6) of the Code are not mandatory.

Q-3 The Magistrate has option/discretion to refuse bail by assigning reasons therefor. The parameters, factors, circumstances and grounds to be considered by Magistrate vis-a- vis such application preferred by the accused under Section 437(6) of the Code may be:

1. Whether the reasons for being unable to conclude trial within sixty days from the first date fixed of taking evidence, are attributable to the accused?

2. Whether there are any chances of the accused tampering with evidence or causing prejudice to the case of the prosecution in any other manner?

3. Whether there are any chances of abscondence of the accused on being bailed out?
4. Whether accused was not in custody during the whole of the said period?
If the answer to any one of the above referred fact situations or similar fact situations is in affirmative than that would work as a fetter on the right that accrues to the accused under first part of sub-section(6) of Section 437 of the Code.
The right accrues to him only if he is in custody during the whole of the said period as can be seen from the language employed in sub-section (6) of Section 437 of the Code by the legislature.
It would also be relevant to take into consideration the punishment prescribed for the offence for which the accused is being tried in comparison to the time that the trial is likely to take, regard being had to the factors like volume of evidence, number of witnesses, workload on the Court, availability of prosecutor, number of accused being tried with accused and their availability for trial, etc.
The factors which are quoted above by this Court are only illustrative and not exhaustive.
Q-4 The factors, parameters, circumstances and grounds for seeking bail by the accused as well as grounds to be considered by the learned Magistrate for his satisfaction would not be identical or similar to subsection (1) and sub-section (2) of the Section 437 of the code, but may be relevant and overlapping each other depending upon facts and there cannot be any straight jacket formula. But, we may add that the reasons for rejection of applications under Section 437(6) need to be more weighty than the routine grounds of rejection.
Q-5 The parameters relevant for deciding application under Section 167(2)(a)(I)(II) of the Code (default bail), cannot be imported for exercise of power under Section 437(6) of the Code.
Q-6 A decision in principle rendered by a coordinate Bench of equal strength would bind another co-ordinate Bench as it lays down a principle of law and not a statement of law in context of subject matter.
Q-7 The legislature, while enacting Section 437(6) of the Code, has not given an absolute, indefeasible or unfettered right of bail. But right of bail is given with a rider investing the Magistrate with discretion to refuse bail by recording reasons therefor. Therefore, the right of accused for a speedy trial, though, Constitutional and aimed at liberty of accused, is not put on that high a pedestal that it becomes absolute. It is a right given with reasonable restrictions. This is the only way the provisions of Section 473(6) of the Code and Article 21 of the Constitution of India can be harmonised and have to read and interpreted accordingly."

2025 0 INSC 248; 2025 0 KLT(Online) 1323; 2025 0 Supreme(SC) 372; State of Rajasthan Vs. Surendra Singh Rathore; Criminal Appeal No. 847 of 2025 (Arising out of SLP(Crl.) No.16358 of 2024); Decided On : 19-02-2025

From the above conspectus of judgments, inter alia, the following principles emerge regarding the permissibility of the registration of a second FIR:

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.
9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.
9.5 Where the incident is separate; offences are similar or different.

2025 0 INSC 229; 2025 0 Supreme(SC) 387; State of Karnataka Vs. T.N. Sudhakar Reddy; Criminal Appeal No(s). 5001 of 2024 (Arising out of SLP(Criminal) No(s). 13264 of 2024); Decided On : 17-02-2025

The preliminary inquiry is not mandatory in every case under the PC Act. If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, the preliminary inquiry may be avoided.
Section 17 of the PC Act relates specifically to the investigation process, and not the initial act of registering the FIR, for which it relies on the provisions of the CrPC. Hence, it places limitations on only the investigation; it does not impede the fundamental duty of the law enforcement agency to record and register an FIR for cognizable offences.

2025 0 INSC 258; 2025 0 Supreme(SC) 386; Surinder Dogra Vs State Through Director CBI; Criminal Appeal No(s). 1020 of 2022; Decided On : 21-02-2025

Although, the learned counsel for the appellant has referred the judgments in the case of Sait Tarajee Khimchand vs. Yelamarti Satyam, AIR (1971) SC 1865 Ram Narain vs. State of Uttar Pradesh, AIR (1973) SC 2200 Kale & Ors. vs. Deputy Director of Consolidation & Ors., AIR (1976) SC 807 Sharad Birdhichand Sarda vs. State of Maharashtra, AIR (1984) SC 1622 State of Rajasthan vs. Islam, AIR (2011) SCW 1748 & V.C. Shukla vs. State Through CBI, AIR (1980) SC 962 to contend that there is absolute lack of admissible evidence to prove that the appellant has committed the forgery by manipulating the ticket, yet in view of the report of the handwriting expert (H.M. Sexena/PW- 8) and that of J.P. Jaiswar (PW-5), it is proved that on the date of offence the appellant was discharging the duty of issuance of air tickets at Jammu Airport of the Indian Airlines and under his handwriting the questioned auditor coupon and flight coupon were issued. We are in full agreement with the finding recorded by the Trial Court and affirmed by the High Court that it was the appellant alone who could have manipulated the document because the subject coupons were in his possession on the relevant date.

2025 0 INSC 260; 2025 0 Supreme(SC) 389; Md. Bani Alam Mazid @ Dhan Vs. State Of Assam; Criminal Appeal No. 1649 of 2011; Decided on : 24-02-2025

This Court in Vasanta Sampat Dupare Vs. State of Maharashtra, (2015) 1 SCC 253 referred to the observations made by the Privy Council in Pulukuri Kottaya (supra) and culled out the following principles:

23. While accepting or rejecting the factors of discovery, certain principles are to be kept in mind. The Privy Council in Pulukuri Kotayya v. King Emperor has held thus:

… it is fallacious to treat the 'fact discovered' within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object

produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that 'I will produce a knife concealed in the roof of my house' does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added 'with which I stabbed A', these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

In the case of Asar Mohammad Vs. State of Uttar Pradesh, (2019) 12 SCC 253, this Court referred to the word 'fact' appearing in Section 27 of the Evidence Act and held that such a fact need not be self- probatory. The word 'fact' contemplated in Section 27 of the Evidence Act is not limited to 'actual physical material object.' Discovery of fact arises by reason that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place which includes discovery of the object, the place from which it is discovered and the knowledge of the accused as to its existence.

In Anwar Ali Vs. State of Himachal Pradesh, (2020) 10 SCC 166, this Court after referring to the previous decisions observed that in a case where direct evidence of eye witness is available, motive loses its importance. But absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused.

Relying on the decision in Anwar Ali (supra), this Court in Shivaji Chintappa Patil Vs. State of Maharashtra, (2021) 5 SCC 626 observed that in a case of circumstantial evidence, motive plays an important link to complete the chain of circumstances.

This Court in Nandu Singh (supra) summed up the legal position that in a case based on circumstantial evidence, motive assumes great significance. It is not as if motive alone becomes the crucial link in the case to be established by the prosecution and that in its absence, the case of the prosecution has to be discarded. But, at the same time, complete absence of motive assumes a different complexion and such absence definitely weighs in favour of the accused.

2025 0 INSC 261; 2025 0 Supreme(SC) 391; The State of Madhya Pradesh Vs. Balveer Singh; Criminal Appeal No. 1669 of 2012; Decided on : 24-02-2025

We summarize our conclusion as under: -

(I) The Evidence Act does not prescribe any minimum age for a witness, and as such a child witness is a competent witness and his or her evidence and cannot be rejected outrightly.

(II) As per Section 118 of the Evidence Act, before the evidence of the child witness is recorded, a preliminary examination must be conducted by the Trial Court to ascertain if the child-witness is capable of understanding sanctity of giving evidence and the import of the questions that are being put to him.

(III) Before the evidence of the child witness is recorded, the Trial Court must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and must clearly state why he is of such opinion.

(IV) The questions put to the child in the course of the preliminary examination and the demeanour of the child and their ability to respond to questions coherently and rationally must be recorded by the Trial Court. The correctness of the opinion formed

by the Trial Court as to why it is satisfied that the child witness was capable of giving evidence may be gone into by the appellate court by either scrutinizing the preliminary examination conducted by the Trial Court, or from the testimony of the child witness or the demeanour of the child during the deposition and cross-examination as recorded by the Trial Court.

(V) The testimony of a child witness who is found to be competent to depose i.e., capable of understanding the questions put to it and able to give coherent and rational answers would be admissible in evidence.

(VI) The Trial Court must also record the demeanour of the child witness during the course of its deposition and cross-examination and whether the evidence of such child witness is his voluntary expression and not borne out of the influence of others.

(VII) There is no requirement or condition that the evidence of a child witness must be corroborated before it can be considered. A child witness who exhibits the demeanour of any other competent witness and whose evidence inspires confidence can be relied upon without any need for corroboration and can form the sole basis for conviction. If the evidence of the child explains the relevant events of the crime without improvements or embellishments, the same does not require any corroboration whatsoever.

(VIII) Corroboration of the evidence of the child witness may be insisted upon by the courts as measure of caution and prudence where the evidence of the child is found to be either tutored or riddled with material discrepancies or contradictions. There is no hard and fast rule when such corroboration would be desirous or required, and would depend upon the peculiar facts and circumstances of each case.

(IX) Child witnesses are considered as dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded and as such the courts must rule out the possibility of tutoring. If the courts after a careful scrutiny, find that there is neither any tutoring nor any attempt to use the child witness for ulterior purposes by the prosecution, then the courts must rely on the confidence-inspiring testimony of such a witness in determining the guilt or innocence of the accused. In the absence of any allegations by the accused in this regard, an inference as to whether the child has been tutored or not, can be drawn from the contents of his deposition.

(X) The evidence of a child witness is considered tutored if their testimony is shaped or influenced at the instance of someone else or is otherwise fabricated. Where there has been any tutoring of a witness, the same may possibly produce two broad effects in their testimony; (i) improvisation or (ii) fabrication.

• Improvisation in testimony whereby facts have been altered or new details are added inconsistent with the version of events not previously stated must be eradicated by first confronting the witness with that part of its previous statement that omits or contradicts the improvisation by bringing it to its notice and giving the witness an opportunity to either admit or deny the omission or contradiction. If such omission or contradiction is admitted there is no further need to prove the contradiction. If the witness denies the omission or contradiction the same has to be proved in the deposition of the investigating officer by proving that part of police statement of the witness in question. Only thereafter, may the improvisation be discarded from evidence or such omission or contradiction be relied upon as evidence in terms of Section 11 of Evidence Act.

• Whereas the evidence of a child witness which is alleged to be doctored or tutored in toto, then such evidence may be discarded as unreliable only if the presence of the following two factors have to be established being as under: -

• Opportunity of Tutoring of the Child Witness in question whereby certain foundational facts suggesting or demonstrating the probability that a part of the testimony of the witness might have been tutored have to be established. This may be done either by showing that there was a delay in recording the statement of such witness or that the presence of such witness was doubtful, or by imputing any motive on the part of such witness to depose falsely, or the susceptibility of such witness in falling prey to tutoring. However, a mere bald assertion that there is a possibility of the witness in question being tutored is not sufficient.

• Reasonable likelihood of tutoring wherein the foundational facts suggesting a possibility of tutoring as established have to be further proven or cogently substantiated. This may be done by leading evidence to prove a strong and palpable motive to depose falsely, or by establishing that the delay in recording the statement is not only unexplained but indicative and suggestive of some unfair practice or by proving that the witness fell prey to tutoring and was influenced by someone else either by cross-examining such witness at length that leads to either material discrepancies or contradictions, or exposes a doubtful demeanour of such witness rife with sterile repetition and confidence lacking testimony, or through such degree of incompatibility of the version of the witness with the other material on record and attending circumstances that negates their presence as unnatural.

• (XI) Merely because a child witness is found to be repeating certain parts of what somebody asked her to say is no reason to discard her testimony as tutored, if it is found that what is in substance being deposed by the child witness is something that he or she had actually witnessed. A child witness who has withstood his or her cross-examination at length and able to describe the scenario implicating the accused in detail as the author of crime, then minor discrepancies or parts of coached deposition that have crept in will not by itself affect the credibility of such child witness.

• (XII) Part of the statement of a child witness, even if tutored, can be relied upon, if the tutored part can be separated from the untutored part, in case such remaining untutored or untainted part inspires confidence. The untutored part of the evidence of the child witness can be believed and taken into consideration or the purpose of corroboration as in the case of a hostile witness.

59. As discussed in the foregoing paragraphs of this judgment, there is nothing on record to indicate that PW6 was a tutored witness. We may also refer to one finding of the Trial Court recorded in its judgment, wherein it has been noted that PW6 was cross examined at length for approximately 1.5 hours, and her demeanour throughout the same was believable, with nothing to indicate that she had been tutored or was deposing falsely. It also has taken note of the fact that in the entire cross examination no significant contradictions were found. Thus, we are of the considered opinion that the High Court committed an egregious error in discarding the testimony of PW6.

ii. **<u>Principles of Law relating to appreciation of Circumstantial Evidence.</u>**

60. In 'A Treatise on Judicial Evidence', Jeremy Bentham, an English Philosopher included a whole chapter upon what lies next when the direct evidence does not lead to any special inference. It is called Circumstantial Evidence. According to him, in every

case, of circumstantial evidence, there are always at least two facts to be considered; (i) the Factum Probandum, or say, the principal fact the existence of which is supposed or proposed to be proved; and (ii) the Factum Probans or the evidentiary fact or the fact from the existence of which that of the factum probandum is inferred.

61. Although there can be no straight jacket formula for appreciation of circumstantial evidence, yet to convict an accused on the basis of circumstantial evidence, the Court must follow certain tests which are broadly as follows: -

(i) Circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established;

(ii) Those circumstances must be of a definite tendency unerringly pointing towards guilt of the accused and must be conclusive in nature;

(iii) The circumstances, if taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(iv) The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused but should be inconsistent with his innocence. In other words, the circumstances should exclude every possible hypothesis except the one to be proved.

[See: Sharad Birdhichand Sarda v. State of Maharashtra reported in (1984) 4 SCC 116]

62. In an Essay on the 'Principles of Circumstantial Evidence' by William Wills by T. and J.W. Johnson and Co. 1872, it has been explained that circumstantial evidence implies the existence of a certainty in the relation between the facts and the inferences stemming therefrom. The relevant extract reads as under: -

"In matters of direct testimony, if credence be given to the relators, the act of hearing and the act of belief, though really not so, seem to be contemporaneous. But the case is very different when we have to determine upon circumstantial evidence, the judgment in respect of which is essentially inferential. There is no apparent necessary connection between the facts and the inference; the facts may be true, and the inference erroneous, and it is only by comparison with the results of observation in similar or analogous circumstances, that we acquire confidence in the accuracy of our conclusions.

The term PRESUMPTIVE is frequently used as synonymous with CIRCUMSTANTIAL EVIDENCE; but it is not so used with strict accuracy, The word" presumption," ex vi termini, imports an inference from facts; and the adjunct "presumptive," as applied to evidentiary facts, implies the certainty of some relation between the facts and the inference. Circumstances generally, but not necessarily, lead to particular inferences; for the facts may be indisputable, and yet their relation to the principal fact may be only apparent, and not real; and even when the connection is real, the deduction may be erroneous. Circumstantial and presumptive evidence differ, therefore, as genus and species.

The force and effect of circumstantial evidence depend upon its incompatibility with, and incapability of, explanation or solution upon any other supposition than that of the truth of the fact which it is adduced to prove; the mode of argument resembling the method of demonstration by the reductio ad absurdum."

63. It is settled principle of law that an accused can be punished if he is found guilty even in cases of circumstantial evidence provided, the prosecution is able to prove beyond

reasonable doubt the complete chain of events and circumstances which definitely points towards the involvement or guilt of the accused. The accused will not be entitled to acquittal merely because there is no eye witness in the case. It is also equally true that an accused can be convicted on the basis of circumstantial evidence subject to satisfaction of the expected principles in that regard.
64. Thus, in view of the above, the court must consider a case of circumstantial evidence in light of the aforesaid settled legal propositions. In a case of circumstantial evidence, the judgment remains essentially inferential. The inference is drawn from the established facts as the circumstances lead to particular inferences. The Court has to draw an inference with respect to whether the chain of circumstances is complete, and when the circumstances therein are collectively considered, the same must lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime in question. All the circumstances so established must be of a conclusive nature, and consistent only with the hypothesis of the guilt of the accused.

https://indiankanoon.org/doc/86156946/**; Mr. Vallabhneni Vamsi Mohan, vs The State Of A.P., on 20 February, 2025; CRIMINAL PETITION No.5671 of 2024**
In summation, where the complaint alleges commission of an offence punishable under the Act, 1989 the Special Court or the Exclusive Special Court can alone exercise the jurisdiction, in the first instance, to hear and dispose of applications for bail or anticipatory bail. It is not open to the High Court to exercise the original or concurrent jurisdiction.

https://indiankanoon.org/doc/85220192/**;Srinivasula Varalaxmi vs The State Of Telangana; CRIMINAL APPEAL Nos.1053 and 1094 of 2019 Date: 21.02.2025**
The argument of the learned counsel for the appellants that Section 52- A of the Act was not followed, cannot be considered at the stage of appeal, when no such defence was taken during trial. Following the judgment of the Hon'ble Supreme court in Bharat Aambale's case (supra), and considering the facts and circumstances, ground raised by the counsel regarding violation of Section 52-A of the Act, is rejected.

Kaniskh Sinha v State of West Bengal; Crl.A. No.-000966-000971 – 2025; 2025 INSC 278; 2025 LiveLaw (SC) 259; 27.2.2025
Now the law of prospective and retrospective operation is absolutely clear. Whereas a law made by the legislature is always prospective in nature unless it has been specifically stated in the statute itself about its retrospective operation, the reverse is true for the law which is laid down by a Constitutional Court, or law as it is interpretated by the Court. The judgment of the Court will always be retrospective in nature unless the judgment itself specifically states that the judgment will operate prospectively. The prospective operation of a judgment is normally done to avoid any unnecessary burden to persons or to avoid undue hardships to those who had bonafidely done something with the understanding of the law as it existed at the relevant point of time. Further, it is done not to unsettle something which has long been settled, as that would cause injustice to many.

SANJAY KUMAR Vs. STATE OF BIHAR & ORS.; CRIMINAL APPEAL NO. 1398 OF 2015; 2025 INSC 287; 27.2.2025
The failure of the investigation or prosecution is an aspect which the Court has to consider after weighing the depositions of the eye-witnesses.

https://indiankanoon.org/doc/114885865/; W.P.NO. 10333 OF 2014; Uppala Murali S/O Late Nageshwar Rao vs The State Of Andhra Pradesh on 27 February, 2025
Very strangely, the Sub Inspector of Police Kaghaznagar Police Station would enter in his Case Diary docket sheet that A-1 to A-7 were served with Notice under Section 41-A of the Code of Criminal Procedure (for short 'the Code') on 11-11-2013, and does not make any reference thereafter as to whether the accused were present before him or not. If any of the persons to whom Notices are issued under Section 41-A of the Code appear and also continue to comply with the Notice, such person shall not arrested in respect of the offence referred to in the Notice, unless, for reasons to be recorded, the Police Officer is of the opinion that, they ought to be arrested. But however, Sub-section (4) of Section 41-A of the Code makes it very clear that where such a person, at any time, fails to comply with the terms of the Notice rendered under Section 41-A of the Code, it shall be lawful for the Police Officer to arrest him for the offence mentioned in the Notice, subject to such orders as might have been passed in this regard by the competent Court.
Clearly, the Station House Officer, Kaghaznagar Police Station, Adilabad District, has not understood the scope and width of Section 41- A of the Code. Therefore, admit the writ petition.

2025 INSC 281 Criminal Appeal Nos.536-537 of 2025 Sudershan Singh Wazir Vs. State (NCT of Delhi) & Ors.; 28.2.2025
When a revision application challenging the order of discharge is admitted for hearing, the High Court may exercise power under Section 390 by directing the person discharged to appear before the Trial Court and by directing the Trial Court to admit him to bail on appropriate terms and conditions. If such an order is passed after the admission of the revision application against the order of discharge, it is a sufficient safeguard for ensuring the presence of the discharged accused at the time of hearing of the revision application and for undergoing trial, if the order of discharge is set aside. If the discharge order is eventually set aside, such an order under Section 390 of the CrPC passed in an admitted revision application against the discharge order will be in the aid of final relief. As held earlier, while exercising power under Section 390 of the CrPC, the normal rule is that the acquitted accused should not be committed to custody, and a direction should be issued to admit him to bail. This normal rule should apply all the more to cases where the challenge is to the order of discharge, as the order of discharge is on a higher pedestal than an order of acquittal.
Passing an order under Section 390 directing the discharged accused to admit to bail is sufficient to procure the presence of the discharged accused at the time of hearing of the revision application and for undergoing trial if the order of discharge is set aside.

NOSTALGIA

Adjournments

Vinod Kumar vs State Of Punjab on 23 September, 2014;

We have expressed our agony and anguish the manner in which trials in respect of serious offences relating to corruption are being conducted by the trial courts. Adjournments are sought on the drop of a hat by the counsel, even though the witness is present in court, contrary to all principles of holding a trial. That apart, after the examination-in-chief of a witness is over, adjournment is sought for cross-examination and the disquieting feature is that the trial courts grant time. The law requires special reasons to be recorded for grant of time but the same is not taken note of. As has been noticed earlier, in the instant case the cross-examination has taken place after a year and 8 months allowing ample time to pressurize the witness and to gain over him by adopting all kinds of tactics. There is no cavil over the proposition that there has to be a fair and proper trial but the duty of the court while conducting the trial to be guided by the mandate of the law, the conceptual fairness and above all bearing in mind its sacrosanct duty to arrive at the truth on the basis of the material brought on record. If an accused for his benefit takes the trial on the path of total mockery, it cannot be countenanced. The Court has a sacred duty to see that the trial is conducted as per law. If adjournments are granted in this manner it would tantamount to violation of rule of law and eventually turn such trials to a farce. It is legally impermissible and jurisprudentially abominable. The trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for non-acceptable reasons. In fact, it is not all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination-in- chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial. The duty of the court is to see that not only the interest of the accused as per law is protected but also the societal and collective interest is safe-guarded. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues. How long shall we say, "Awake! Arise!". There is a constant discomfort. Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross- examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot allowed to be lonely; a destitute.

(Contributed by Sri G.Shivaiah, Retd Prosecutor)

Extra Judicial Confession

In Sansar Chand vs. State of Rajasthan, (2010) 10 SCC 604 this Court accepted the admissibility of extra-judicial confession and held that there is no absolute rule that an extra-judicial confession can never be the basis of a conviction although ordinarily an extra-judicial confession should be corroborated by some other material.

Contradiction

in Alauddin vs. State of Assam, (2024) SCC Online SC 760 explained the context in which an omission occurs and when such an omission amounts to a contradiction. In the light of the Explanation to Section 162 of the Cr.P.C. this Court held as follows:

> 7. 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 Cr.P.C. 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 Cr.P.C. 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 Cr.P.C. 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.

Interpretation of Provisions

> "13. It is a well-settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the legislature itself. The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed, not as theorems of Euclid", Judge Learned Hand said "but words must be construed with some imagination of the purposes which lie behind them." [See Lenigh Valley Coal Co. vs. Yensavage, 218 FR 547]. The view was reiterated in Union of India vs. Filip Tiago De Gama of Vedem Vasco De Gama, (1990) 1 SCC 277 : AIR 1990 SC 981 and Padma Sundara Rao vs. State of Tamil Nadu, (2002) 3 SCC 533.
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> 14. In D.R. Venkatachalam vs. Dy. Transport Commr., (1977) 2 SCC 273, it was observed that courts must avoid the danger of a priori determination of the meaning of a provision based on their own preconceived notions of ideological structure or scheme into which the provision to be interpreted is somewhat fitted. They are not entitled to usurp legislative function under the disguise of interpretation.
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> 15. While interpreting a provision the court only interprets the law and cannot legislate it. If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary. [See Rishabh Agro Industries Ltd. vs. P.N.B. Capital Services Ltd., (2000) 5 SCC 515] The legislative casus omissus cannot be supplied by judicial interpretative process.
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> 16. Two principles of construction - one relating to casus omissus and the other in regard to reading the statute as a whole - appear to be well settled. Under the first principle a casus

omissus cannot be supplied by the court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the legislature. "An intention to produce an unreasonable result said Danckwerts, L.J. in Artemiou vs. Procopiou, (1966) 1 QB 878 : (1965) 3 All ER 539 : (1965) 3 WLR 1011 (CA) (All ER p. 544 I) "is not to be imputed to a statute if there is some other construction available." Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result" we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction. [Per Lord Reid in Luke vs. IRC, 1963 AC 557 : (1963) 1 All ER 655 : (1963) 2 WLR 559 (HL)] where at AC p. 577 he also observed: (All ER p. 664 I) "This is not a new problem, though our standard of drafting is such that it rarely emerges."

17. The heading of the section or the marginal note may be relied upon to clear any doubt or ambiguity in the interpretation of the provision and to discern the legislative intent. In CIT vs. Ahmedbhai Umarbhai and Co., 1950 SCC 94 : AIR 1950 SC 134 after referring to the view expressed by Lord Macnaghten in Balraj Kunwar vs. Jagatpal Singh, ILR (1904) 26 All 393 : 31 IA 132 : 1 All LJ 384 (PC) it was held that marginal notes in an Indian statute, as in an Act of Parliament cannot be referred to for the purpose of construing the statute. Similar view was expressed in Board of Muslim Wakfs, Rajasthan vs. Radha Kishan, (1979) 2 SCC 468 and Kalawatibai vs. Soiryabai, (1991) 3 SCC 410 : AIR 1991 SC 1581. Marginal note certainly cannot control the meaning of the body of the section if the language employed there is clear. [See Nandini Satpathy vs. P.L. Dani, (1978) 2 SCC 424 : 1978 SCC (Cri) 236 : AIR 1978 SC 1025].

Power of Appellate court to punish correlating to Trial court's power

In Jagat Bahadur vs. State of Madhya Pradesh, (1966) 2 SCR 822 relying on the decisions of various High Courts, it was held that the Appellate Court is not competent to impose a punishment higher than the maximum that could have been imposed by the Trial Court. It was held that an Appellate Court being "a Court of error" i.e. a Court established for correcting an error, it could not go beyond the competence of the Trial Court and if it does that, it would not be correcting an error. The power of the Appellate Court to pass a sentence has to be measured by the power of the Court from whose judgment an appeal has been brought before it.

Prisonisation

The Hon'ble Apex Court in Mohd Muslim @ Hussain v. State (NCT of Delhi)1, observed as under:

"21. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021,

over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country. Of these 122,852 were convicts; the rest 4,27,165 were undertrials."
22. The danger of unjust imprisonment, is that inmates are at risk of "prisonisation" a term described by the Kerala High Court in A Convict Prisoner v. State reported in 1993 Cri LJ 3242, as "a radical transformation" whereby the prisoner: "loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes."
23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal" (also see Donald Clemmer's 'The Prison Community' published in 1940). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata:
immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials- especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily."

Chance Witness & Eye Witness

The Honourable Supreme Court in Suresh and others v. State of Haryana and others 1 held that:
"47. Generally, the chance witness, who reasonably explains his presence in the named location at the relevant time, may be taken into consideration and should be given due regard, if his version inspires confidence and the same is supported by surrounding circumstances. Nonetheless, the evidence of a chance witness requires a very cautious and close scrutiny. A chance witness must adequately explain his presence at the place of occurrence (refer to Satbir v. Surat Singh [Satbir v. Surat Singh, (1997) 4 SCC 192 : 1997 SCC (Cri) 538] and Harjinder Singh v. State of Punjab [Harjinder Singh v. State of Punjab, (2004) 11 SCC 253 :
2004 SCC (Cri) Supp 28]). Deposition of a chance witness whose presence at the place of incident remains doubtful should be discarded (refer to Shankarlal v. State of Rajasthan [Shankarlal v. State of Rajasthan, (2004) 10 SCC 632 : 2005 SCC (Cri) 579]). The behaviour of the chance witness, subsequent to the incident may also be taken into consideration particularly as to whether he has informed anyone else in the village about the incident (refer to Thangaiya v. State of T.N. [Thangaiya v. State of T.N., (2005) 9 SCC 650 : 2005 SCC (Cri) 1284])."
17. In Manoj and others v. State of Madhya Pradesh 2 , the Honourable Supreme Court held that:
MANU/SC/0894/2018 = (2018) 18 SCC 654 "102. A chance witness is one who appears on the scene suddenly. This species of witness was described in Puran v. State of Punjab [Puran v. State of Punjab, (1952) 2 SCC 454 : AIR 1953 SC 459] in the following terms : (SCC p. 459, para 4) "4. ... Such witnesses have the habit of appearing suddenly on the scene when something is happening and then of disappearing after noticing the occurrence about which they are called later on to give evidence."
103. This Court has sounded a note of caution about dealing with the testimony of chance witnesses. In Darya Singh v. State of Punjab [Darya Singh v. State of Punjab, (1964) 3 SCR 397 :

AIR 1965 SC 328] it was observed that : (AIR p. 331, para 6) "6. ... where the witness is a close relation of the victim and is shown to share the victim's hostility to his assailant, that naturally makes it necessary for the criminal courts to examine the evidence given by such witness very carefully and scrutinise all the infirmities in that evidence before deciding to act upon it. In dealing with such evidence, courts naturally begin with the enquiry as to whether the said witnesses were chance witnesses or whether they were really present on the scene of the offence. ...

If the criminal court is satisfied that the witness who is related to the victim was not a chance witness, then his evidence has to be examined from the point of view of probabilities and the account given by him as to the assault has to be carefully scrutinised." (2023) 2 SCC 353

18. In case of Harbeer Singh and others v. Sheeshpal and others 3, the Honourable Supreme Court held that:

"23. The defining attributes of a "chance witness" were explained by Mahajan, J., in Puran v. State of Punjab [Puran v. State of Punjab, (1952) 2 SCC 454 : AIR 1953 SC 459 : 1953 Cri LJ 1925] . It was held that such witnesses have the habit of appearing suddenly on the scene when something is happening and then disappearing after noticing the occurrence about which they are called later on to give evidence.

24. In Mousam Singha Roy v. State of W.B. [Mousam Singha Roy v. State of W.B., (2003) 12 SCC 377 : 2004 SCC (Cri) Supp 429] , this Court discarded the evidence of chance witnesses while observing that certain glaring contradictions/omissions in the evidence of PW 2 and PW 3 and the absence of their names in the FIR has been very lightly discarded by the courts below.

Similarly, Shankarlal v. State of Rajasthan [Shankarlal v. State of Rajasthan, (2004) 10 SCC 632 : 2005 SCC (Cri) 579] and Jarnail Singh v. State of Punjab [Jarnail Singh v. State of Punjab, (2009) 9 SCC 719 :

(2010) 1 SCC (Cri) 107] are authorities for the proposition that deposition of a chance witness, whose presence at the place of incident remains doubtful, ought to be discarded. Therefore, for the reasons recorded by the High Court we hold that PW 5 and PW 6 were chance witnesses and their statements have been rightly discarded.

25. In the light of the above and other reasons recorded by the High Court, we hold that the evidence of the eyewitnesses is not (2016) 16 SCC 418 truthful, reliable and trustworthy and hence cannot form the basis of conviction. Their presence at the scene of occurrence at the time of the incident is highly unnatural as also their ability to individually and correctly identify each of the accused from a considerable distance, especially when it was dark at the alleged place of occurrence, is itself suspect."

Sec 504 IPC

in Fiona Shrikhande vs. State of Maharashtra, (2013) 14 SCC 44 wherein the Court discussed the essential ingredients of Section 504, IPC. The Court held as follows:

> "13. Section 504 IPC comprises of the following ingredients viz. **(a) intentional insult, (b) the insult must be such as to give provocation to the person insulted and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence.** The person who intentionally insults intending or knowing it to be likely that it will give provocation to

any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. **One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC."**

14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, prima facie, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504 IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. **The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 IPC."**

(Emphasis supplied)

in the case of Mohammad Wajid vs. State of U.P., 2023 SCC Online SC 951 while discussing Section 504, IPC, propounded the test for considering the circumstances wherein, an abusive language takes the form and shape of an intentional insult and held thus:

"28. **Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section.** But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. **If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.** In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. **It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.**

29. **Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a**

breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant."
(Emphasis supplied)

Civil Court to consider the evidence led in criminal proceedings
in Iqbal Singh Marwah vs. Meenakshi Marwah, (2005) 4 SCC 370 and Prem Raj vs. Poonamma Menon, 2024 SCC Online SC 483, this Court very expressly laid down the law that there is no bar on a Civil Court to consider the evidence led in criminal proceedings.

Sec 202 CrPC Enquiry
in Abhijit Pawar vs. Hemant Madhukar Nimbalkar, (2017) 3 SCC 528. The relevant paragraphs of the said judgment are extracted below:

"23. **Admitted position in law is that in those cases where the accused is residing at a place beyond the area in which the Magistrate exercises his jurisdiction, it is mandatory on the part of the Magistrate to conduct an enquiry or investigation before issuing the process. Section 202 Cr.P.C. was amended in the year 2005 by the Code of Criminal Procedure (Amendment) Act, 2005, with effect from 22-6-2006 by adding the words "and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction." There is a vital purpose or objective behind this amendment, namely, to ward off false complaints against such persons residing at a far-off places in order to save them from unnecessary harassment. Thus, the amended provision casts an obligation on the Magistrate to conduct enquiry or direct investigation before issuing the process, so that false complaints are filtered and rejected. The aforesaid purpose is specifically mentioned in the note appended to the Bill proposing the said amendment.**

24. The essence and purpose of this amendment has been captured by this Court in Vijay Dhanuka vs. Najima Mamtaj, (2014) 14 SCC 638 : (2015) 1 SCC (Cri) 479 in the following words: (SCC p. 644, Paras 11-12)

"11. Section 202 of the Code, inter-alia, contemplates postponement of the issue of the process 'in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction' and thereafter to either inquire into the case by himself or direct an investigation to be made by a police officer or by such other person as he thinks fit. In the face of it, what needs our determination is as to whether in a case where the accused is residing at a place beyond the area in which the Magistrate exercises his jurisdiction, inquiry is mandatory or not.

12. The words 'and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction' were inserted by Section 19 of the Code of Criminal Procedure (Amendment) Act (Central Act 25 of 2005) w.e.f. 23-6-2006. The aforesaid amendment, in the opinion of the legislature, was essential as false complaints are filed against persons residing at far-off places in order to harass them. The note for the amendment reads as follows:

'False complaints are filed against persons residing at far-off places simply to harass them. In order to see that innocent persons are not harassed by unscrupulous persons, this clause seeks to amend sub-section (1) of Section 202 to make it obligatory upon the Magistrate that before summoning the accused residing beyond his jurisdiction he shall enquire into the case himself or direct investigation to be made by a police officer or by such other person as he thinks fit, for finding out whether or not there was sufficient ground for proceeding against the accused.' The use of the expression "shall" prima facie makes the inquiry or the investigation, as the case may be, by the Magistrate mandatory. The word "shall" is ordinarily mandatory but sometimes, taking into account the context or the intention, it can be held to be directory. The use of the word "shall" in all circumstances is not decisive. Bearing in mind the aforesaid principle, when we look to the intention of the legislature, we find that it is aimed to prevent innocent persons from harassment by unscrupulous persons from false complaints. Hence, in our opinion, the use of the expression "shall" and the background and the purpose for which the amendment has been brought, we have no doubt in our mind that inquiry or the investigation, as the case may be, is mandatory before summons are issued against the accused living beyond the territorial jurisdiction of the Magistrate."

26. **The requirement of conducting enquiry or directing investigation before issuing process is, therefore, not an empty formality.** What kind of "enquiry" is needed under this provision has also been explained in Vijay Dhanuka vs. Najima Mamtaj, (2014) 14 SCC 638 : (2015) 1 SCC (Cri) 479, which is reproduced hereunder: (SCC p. 645, Para 14)

"14. In view of our answer to the aforesaid question, the next question which falls for our determination is whether the learned Magistrate before issuing summons has held the inquiry as mandated under Section 202 of the Code. The word "inquiry" has been defined under Section 2(g) of the Code, the same reads as follows:

"2. (g) **"inquiry"** means every inquiry, other than a trial, conducted under this Code by a Magistrate or court."

It is evident from the aforesaid provision, every inquiry other than a trial conducted by the Magistrate or the court is an inquiry. No specific mode or manner of inquiry is provided under Section 202 of the Code. In the inquiry envisaged under Section 202 of the Code, the witnesses are examined whereas under Section 200 of the Code, examination of the complainant only is necessary with the option of examining the witnesses present, if any. This exercise by the Magistrate, for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused, is nothing but an inquiry envisaged under Section 202 of the Code."

27. **When we peruse the summoning order, we find that it does not reflect any such inquiry. No doubt, the order mentioned that the learned Magistrate had passed the same after reading the complaint, verification statement of the complainant and after perusing the copies of documents filed on record i.e. FIR translation of the complaint, affidavit of advocate who had translated the FIR into English, etc.....**

28. **Insofar as these two accused persons are concerned, there is no enquiry of the nature enumerated in Section 202 Cr.P.C.**

29. **The learned Magistrate did not look into the matter keeping in view the provisions of Section 7 of the Press Act and applying his mind whether there is any declaration qua these two persons under the said Act and, if not, on what basis they are to be proceeded with**

along with the Editors. Application of mind on this aspect was necessary. It is made clear that this Court is not suggesting that these two accused persons cannot be proceeded with at all only because of absence of their names in the declaration under the Press Act. What is emphasised is that there is no presumption against these persons under Section 7 of the Press Act and they being outside the territorial jurisdiction of the Magistrate concerned, the Magistrate was required to apply his mind on these aspects while passing summoning orders qua A-1 and A-2.

Sec 52A NDPS

Hon'ble Supreme Court in the case of Bharat Aambale v. The State of Chattisgarh4, wherein it is held as follows:

"50.We summarize our final conclusion as under: -

(I) Although Section 52A is primarily for the disposal and destruction of seized contraband in a safe manner yet it extends beyond the immediate context of drug disposal, as it serves a broader purpose of also introducing procedural safeguards in the treatment of narcotics substance after seizure inasmuch as it provides for the preparation of inventories, taking of photographs of the seized substances and drawing samples therefrom in the presence and with the certification of a magistrate. Mere drawing of samples in presence of a gazetted officer would not constitute (2024) 5 SCC 393 Criminal Appeal No.250 of 2025, dated 06.01.2025 sufficient compliance of the mandate under Section 52A sub-section (2) of the NDPS Act.

(II) Although, there is no mandate that the drawing of samples from the seized substance must take place at the time of seizure as held in Mohanlal (supra), yet we are of the opinion that the process of inventorying, photographing and drawing samples of the seized substance shall as far as possible, take place in the presence of the accused, though the same may not be done at the very spot of seizure.

(III) Any inventory, photographs or samples of seized substance prepared in substantial compliance of the procedure prescribed under Section 52A of the NDPS Act and the Rules / Standing Order(s) thereunder would have to be mandatorily treated as primary evidence as per Section 52A sub-section (4) of the NDPS Act, irrespective of whether the substance in original is actually produced before the court or not.

(IV) The procedure prescribed by the Standing Order(s) / Rules in terms of Section 52A of the NDPS Act is only intended to guide the officers and to see that a fair procedure is adopted by the officer in-charge of the investigation, and as such what is required is substantial compliance of the procedure laid therein. (V) Mere non-compliance of the procedure under Section 52A or the Standing Order(s) / Rules thereunder will not be fatal to the trial unless there are discrepancies in the physical evidence rendering the prosecution's case doubtful, which may not have been there had such compliance been done. Courts should take a holistic and cumulative view of the discrepancies that may exist in the evidence adduced by the prosecution and appreciate the same more carefully keeping in mind the procedural lapses.

(VI) If the other material on record adduced by the prosecution, oral or documentary inspires confidence and satisfies the court as regards the recovery as-well as conscious possession of the contraband from the accused persons, then even in such cases, the courts can without hesitation proceed to hold the accused guilty notwithstanding any procedural defect in terms of Section 52A of the NDPS Act.

(VII) Non-compliance or delayed compliance of the said provision or rules thereunder may lead the court to drawing an adverse inference against the prosecution, however no hard and fast rule can be laid down as to when such inference may be drawn, and it would all depend on the peculiar facts and circumstances of each case. (VIII) Where there has been lapse on the part of the police in either following the procedure laid down in Section 52A of the NDPS Act or the prosecution in proving the same, it will not be appropriate for the court to resort to the statutory presumption of commission of an offence from the possession of illicit material under Section 54 of the NDPS Act, unless the court is otherwise satisfied as regards the seizure or recovery of such material from the accused persons from the other material on record.
(IX) The initial burden will lie on the accused to first lay the foundational facts to show that there was non-compliance of Section 52A, either by leading evidence of its own or by relying upon the evidence of the prosecution, and the standard required would only be preponderance of probabilities.
(X) Once the foundational facts laid indicate non-compliance of Section 52A of the NDPS Act, the onus would thereafter be on the prosecution to prove by cogent evidence that either (i) there was substantial compliance with the mandate of Section 52A of the NDPS Act OR (ii) satisfy the court that such non-compliance does not affect its case against the accused, and the standard of proof required would be beyond a reasonable doubt."

The Hon'ble Supreme Court in the latest judgment of Bharat Aambale v. The State of Chattisgarh's case, held that the burden lies on the accused to lay foundational fact to assert that there was no compliance of Section 52-A of the Act, either by leading evidence on its own, or by relying on the evidence of prosecution. If there is other material which proves the prosecution case, the Court can convict, not withstanding any procedural lapses in terms of Section 52-A of the Act. The Hon'ble Supreme Court further held that the Court should take a holistic and cumulative view of the discrepancies that may exist in the evidence adduced by the prosecution, and mere non-compliance of Section 52-A of the Act will not be fatal to the trial.

NEWS

- AMENDMENT TO THE ANDHRA PRADESH POLICE (CIVIL) SUBORDINATE SERVICE RULES, 1999. [G.O.Ms.No.24, Home (Legal-II), 17th February, 2025.]
- The Andhra Pradesh State Legal Services Authority Service Rules, 1999 - Amendment Rules, 2024.
- LAW OFFICERS – Services of three (3) Prosecuting Officers to Anti-Corruption Bureau (ACB) on deputation basis - Orders –Issued. G.O.RT.No. 236 HOME (COURTS.A) DEPARTMENT Dated: 07-02-2025.
- ROC.No.42/OP CELL/2025 Dated 10.02.2025 Pertaining to Long Pending Cases(LPC) - Regarding.
- High Court of Andhra Pradesh - Enemy Property (Amendment and Validation) Act, 2017 - Certain instructions – Reg

THE COPIES OF THESE CIRCULARS, GAZETTES MENTIONED IN NEWS SECTION OF THIS LEAFLET ARE AVAILABLE IN OUR "PROSECUTION REPLENISH" CHANNEL IN TELEGRAM APP.

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