Prosecution Replenish

An endeavour for Learning and Excellence

"Aano Bhadra Kratvo Yantu Viswatah"

Let all good things come to me in all directions

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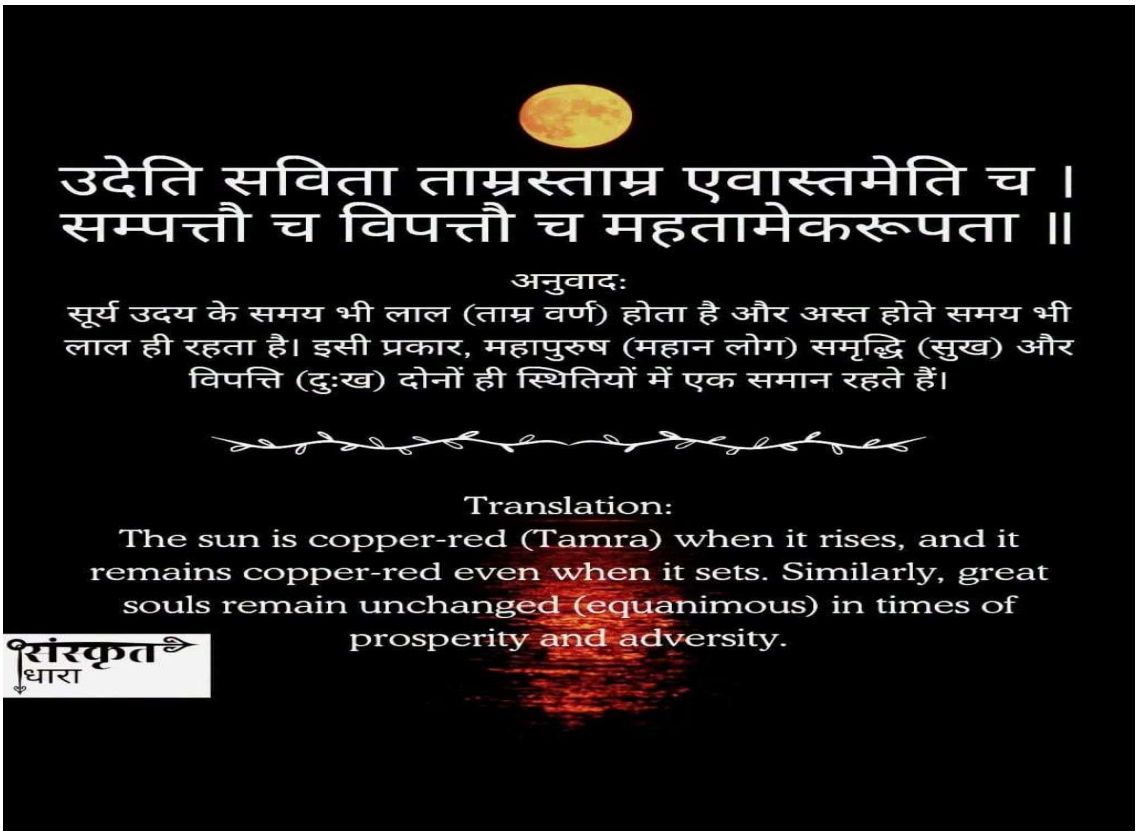
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Recovery of an object from a place ordinarily visible to public, is not admissible u/s. 27 of IEA ; Inconclusive DNA report, cannot form basis for conviction.

2026 0 INSC 1073; 2026 0 Supreme(SC) 1203; Santosh Gurung Vs State of Sikkim; Criminal Appeal No. 107 of 2018; Decided On : 01-10-2026

On an overall consideration of all the circumstances relied upon by the prosecution, we find that the evidence led by the prosecution is woefully short of pointing to the guilt of the appellant. The witnesses examined were not sure as to whether the appellant was last seen with the victim as they had their own doubts in that regard. The discovery effected under Section 27 of the Act of 1872 was from a place that was ordinarily visible to others, thus, requiring such discovery to be considered with caution. The DNA report in clear terms refers to the bone extracts being of male origin while the victim was a female. The said bones naturally did not match with the blood samples of the victim's mother and sister. The report from the FSL also does not take the case of the prosecution any further. There is a doubt created as to whether the brown shawl claimed by the prosecution to be brought by the appellant from his mother was the same as the appellant's mother had denied that it belonged to her. Therefore, the appellant's statement under Section 313 of the Code cannot be taken as an additional link in the chain of circumstances. In other words, the chain of circumstances has not been formed on the basis of the prosecution evidence. The Sessions Court, in our view, failed to notice these material factors that were very much available on record. It, therefore, erred in convicting the appellant on the basis of circumstantial evidence. The High Court too

failed to notice all these infirmities in the case of the prosecution. The guilt of the appellant has not been established beyond reasonable doubt. A strong doubt about his involvement in the offence is created in view of the prosecution evidence. It is also true that the victim met an unfortunate end. However, on the basis of such material on record, it would hardly be justifiable to convict the appellant for the same when none of the circumstances point towards his involvement. In the circumstances, he has to be given the benefit of doubt.

Non-Collection of CDR's and TOWER location is serious lapse in investigation. IO should state as to why he recorded the statement of a witness.

2026 0 INSC 1074; 2026 0 Supreme(SC) 1204; The State of Himachal Pradesh Vs. Anchla @ Chanchla; Criminal Appeal No. 166 of 2019; Decided On : 01-10-2026

It is well settled that the role of the investigating officer is to collect evidence and not to create one. Where there is no occasion for the investigating officer to record statement of a person, or for that person to impart information to the police, yet, the police proceeds to record his statement without narrating the circumstance in which it was considered necessary to record his statement, a serious doubt arises as to whether that witness has been set up to create evidence.

43. We have no doubt in our mind that an investigating officer may pick up clues from any statement recorded during investigation to record statement of another. Such an exercise is completely bona fide. For example, if after recording statement of A, the investigating officer comes to know that B may have knowledge of something relevant, he would be justified in recording statement of B. But if the investigating officer straightway records statement of B, and there is no palpable reason for him to believe that B is possessed of relevant information, and B has no reason to impart information on his own to the investigating officer, a suspicion would arise whether the exercise of recording statement of B is undertaken just to create evidence. Lack of explanation in that regard may dent the credibility of B.

44. Ordinarily an investigating officer collects evidence from witnesses who are either present at the scene of crime or are likely to be aware of the crime and have information about it. Evidence may also be collected from persons who, by virtue of their relationship with the victim or the named accused, are likely to have relevant information. Investigation may also reach out to those who may be in contact with the victim, or the known accused, based on Call Detail Record (CDR) of the mobile of the victim or the suspects. Likewise, information may be collected on the basis of information received through disclosure statement suffered by the accused. However, where a person is not even aware that the information which he is possessed of is incriminating against some person, there is no likelihood of that person reporting that information to the police. In such circumstances, what propels the investigating officer to record his statement becomes important, and failure to disclose the reason may dent the credibility of that witness as it may reasonably be inferred that the said witness is one who has been set up.

54. The importance of clarity on the aforesaid questions cannot be undermined as they had the potential to either corroborate or demolish the prosecution story. Because if the mobile of the deceased was operative after 31.08.2011, PW-1's statement that it was found switched off would have been negated. Besides, its tower location would have indicated where the person in possession of that mobile was located. This was crucial

because the prosecution story hinges on the circumstance that the deceased and the accused were together on 31.08.2011. Therefore, if the tower location of the two mobiles had disclosed that they were not in close proximity to each other on the fateful day, some explanation would have been required as to why it was so, when, according to the prosecution, owners of those two mobiles were together on the fateful day. Assuming that the accused may not have carried her mobile to the scene of crime, tower location of D-1's mobile could have reflected upon the truth of the prosecution story. Here there is no explanation by the prosecution as to why the tower location was not collected. In our view, lack of information in that regard is a serious investigational lapse.

58. The circumstance of recovery of key(s) at the instance of the accused would be relevant only if it is established beyond reasonable doubt that the lock which had to be broken to gain access to the room where the bodies were lying was the one which was seized and sent to the laboratory to ascertain whether those keys operated on that lock.

66. Besides above, it does not appeal to reason as to why the accused would take away the keys of the lock with her, or for that matter why would she even lock the door, when she resided at another place. This recovery, therefore, appears artificial and does not inspire confidence.

67. The other incriminating circumstance is regarding the recovery of mobile of the deceased from the house of the accused. This circumstance is denied by the accused. In our view, it has been rendered doubtful for multiple reasons. Firstly, the investigating officer has not got CDR of the said mobile exhibited in evidence. Further, the investigating officer (PW-20) is silent on as to whether (a) mobile was switched off or not on 01.09.2011; if not, whether it received any call on 01.09.2011, or later; and (b) if it had received a call, where it was located. Secondly, a mobile can always be planted by picking it from the scene of crime and putting it at the place from where recovery is to be shown. Therefore, to remove all doubts, the investigating officer ought to have placed the complete CDR of the mobile along with its tower location. Thirdly, why would the accused carry the mobile from the house of the deceased to her own house when she has her own mobile. Rather, she would carry other valuables from the deceased's house. At this stage, we may observe that there is no evidence that she carried any valuables from the house of the deceased to her own house.

68. In such circumstances, firstly, recovery of mobile from the accused's house is doubtful and, secondly, in absence of the complete CDR of that mobile along with its tower location, its incriminatory value, if any, is seriously dented.

The DNA profile obtained from exhibits P-5 and P-6 (liquid and dried blood samples of the accused Anchla Devi) completely matches with the DNA profile obtained from exhibits P-2 (source: dried blood scratched from trunk) and P-4 (source: cotton thread containing blood lifted from trunk)."

78. What is surprising is that all samples were found to have disintegrated save and except the scrape from the cabinet and the one lifted from the cabinet by cotton thread. Interestingly the control sample from the cabinet was not sent for forensic examination. Besides, if blood stains on all articles were collected on or about the same time, disintegration of other blood stains and non-disintegration of blood stain found at one spot is something which puzzles us. Unfortunately, the author of the report i.e., the scientific expert was not called for cross-examination, and there is not much effort from the defence to demonstrate that the seal of the articles dispatched was tampered with. In such view of the matter, though we have questions in our mind, we have no option but

to accept the report as it stands. However, whether this circumstance clinches the case for the prosecution is what we shall now discuss.

79. Presence of blood of the accused in the room at best indicates that at some point in time the accused was present there. This does not indicate that the accused was present on 31.08.2011 or for that matter on any given date. Importantly, the prosecution case itself is that the accused had been visiting the house of the deceased regularly in the past. Probability of some injury in the past causing blood to spill on the cabinet is one possibility which cannot be ruled out. Besides, what is important is that the accused's blood was not found on the clothes of the deceased or on any cloth or material which might have been used to strangulate the two deceased. In consequence, this circumstance, even if it is accepted as proven, is not conclusive of the accused being the perpetrator of the crime.

81. In cases of circumstantial evidence, the presence of a strong motive lends credence to the prosecution case, though, absence of motive is not fatal to the prosecution case. However, if the other circumstances are not conclusive or lack the requisite probative value to conclude that the accused is guilty, absence of motive becomes an important reason to give the benefit of doubt to the accused.

83. Having discussed all the incriminating circumstances, the summary of our analysis is as under:

(a) Death of the two deceased though was homicidal but whether death had occurred in the intervening night of 31.08.2011/ 01.09.2011 is not proved beyond doubt. Possibility of death occurring later, perhaps on 01.09.2011 or 02.09.2011 is not ruled out by the medical evidence.

(b) The accused being present in the house of D-1 on 31.08.2011 is not proved beyond reasonable doubt. PW-1, the witness of last seen circumstance, makes an improvement over his previous statement and is not wholly reliable. PW-4 and PW-18 are not credible witnesses hence they fail to corroborate the last seen circumstance narrated by PW-1.

(c) It is not proved beyond reasonable doubt that the lock which was produced in Court was the one that had locked the door of D-1's house.

(d) Recovery of keys of the lock and the mobile of D-1, at the instance of the accused, does not inspire confidence, more so when there is an investigational lapse in obtaining the CDR with tower location of that mobile. Besides, CDR of D-1's mobile was not exhibited.

(e) DNA matching of the profile generated from blood of the accused with the profile generated from the blood stained scrape collected from a cabinet placed in the room of D-1's house is not conclusive about the accused being guilty of the crime as the accused had been a regular visitor to that house and, therefore, the presence of blood from before is not ruled out. Importantly, blood of the accused was not found present on the clothes of D-1 and D-2 or on the cloth with which D-1 and D-2 were allegedly strangulated.

(f) Suppression of CDR of D-1's mobile and its tower location creates an impression that prosecution is suppressing vital information, as it would have helped in determining whether the deceased died on the date and time professed by the prosecution or any time later as also whether the accused and the deceased were at one place at any given point in time.

(g) In a nutshell, neither the incriminating circumstances were proved beyond reasonable doubt nor they constituted a chain so far complete as to exclude all hypothesis

consistent with the innocence of the accused and point conclusively that it was the accused and no one else who, in all human probability, had committed the murders.

Consent u/s. 90 IPC

2026 0 INSC 1081; 2026 0 Supreme(SC) 1211; Martanda Singh Vs State of Chhattisgarh and Anr.; Criminal Appeal No. 4722 of 2026 (Arising out of SLP (Crl.) No. 1582 of 2026); Decided On : 01-10-2026

4. Before we look into the facts, we look at Deepak Gulati v. State of Haryana, (2013) 7 SCC 675 and extract paragraph 24 as hereunder:

'24. Hence, it is evident that there must be adequate evidence to show that at the relevant time i.e. at the initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The "failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term "misconception of fact", the fact must have an immediate relevance". Section 90 IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.'

[underlining by us for emphasis]

5. With the principle in the above extract in our minds, we look at the facts of the present case. The 2nd respondent is an engineering graduate who had been studying for competitive examinations. She met the appellant at an academy, wherein both were enrolled. Admittedly, they fell in love and their family members also talked to each other. On an understanding that they would be married, the appellant used to visit the house of the 2nd respondent, who lived with her mother and brother. When nobody was at home, they entered into a physical relationship, which continued thereafter for about three years. The specific allegation is that when her mother was not in station, the appellant used to frequently come to her house and they had physical relationship. Obviously, the information that the mother has left, was passed on by the 2nd respondent herself, since we cannot presume that the appellant had mounted a constant surveillance of the 2nd respondent's house for this purpose.

6. Admittedly, the physical relationship continued for three years unabated and later they separated. The marriage proposal mooted by both the families, also fell through, upon which the present complaint was raised. It was also asserted that the appellant had agreed to marry the 2nd respondent before the Mahila Thana Counselling Centre, Bilaspur which was not complied with. Immediately, we have to observe that the undertaking would have been on the threat of criminal prosecution; which even otherwise is unenforceable. The undertaking also cannot be alleged to be a promise to marry, since by then admittedly there was a courtship of three years, when the 2nd respondent admittedly had permitted physical relationship. The consent obviously was not on coercion or misrepresentation.

7. We cannot but reiterate the proposition as enumerated in the above extract that the consent under fear or misconception cannot be loosely inferred to fasten criminal liability on one of the parties when both admittedly, had a consensual relationship and the other party willingly permitted physical relationship. Even on a bare reading of the

complaint, there is no clear assurance or a promise made of marriage, since the specific allegation is that they entered into a physical relationship after courtship, fully knowing the consequences, but alleged to be under the pretext of marriage; clearly an afterthought. The 2nd respondent is a well-educated woman, who entered into a consensual relationship and carried it on, for three years, allegedly on the pretext of marriage, which never fructified. She categorically states that she would drop the charge, if he marries her. A criminal prosecution cannot be reduced to a strong-arm tactic.

Without any basis for alleged assault or alleged abortion; more so due to lack of any reports to that effect; Case of alleged rape on promise to marry cannot stand.
2026 0 INSC 1082; 2026 0 Supreme(SC) 1212; Sachin Gupta Vs The State of Chhattisgarh and Anr.; Criminal Appeal No. 4721 of 2026 (@Special Leave Petition (Crl.) No(s). 4615 of 2026); Decided On : 01-10-2026

4. In considering the application for quashing a criminal complaint in general, this Court had laid down certain propositions in Pradeep Kumar Kesarwani v. State of Uttar Pradesh and Anr., 2025 SCC OnLine SC 1947. The facts of the said case indicate a similar circumstance where rape was alleged against one person, which was identical to this case. It was stated that no complaint was made on a rape carried out, since there was, later, a promise to marry by the perpetrator. Paragraph 20 of the said decision is extracted herein: -

20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar & Ors. v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

5. In the present case, the appellant admits that he got acquainted with the 2nd respondent, who was an employee of a bank; where he used to be a frequent customer. It is also his case that taking advantage of the relationship between a bank official and a customer, the 2nd respondent obtained his mobile number and was in the habit of pestering him to invest in the various schemes floated by the bank. He had been

consistently refusing it, upon which the 2nd respondent raised allegations against him and extorted money, which he initially paid and later refused to succumb to. He is also stated to have registered two complaints Annexure P1 dated 07.11.2025, and Annexure P2 dated 02.12.2025. The present FIR registered on 05.12.2025 is a counter blast to the inquiries initiated by the police on his complaints.

6. Going through the averments, it is very clear that there was a consensual relationship between the parties. Both the parties have admitted that they became acquainted from the bank, where the 2nd respondent was an employee. The allegation of the 2nd respondent is that on 05.05.2024, the appellant took her in a car, got her intoxicated and committed rape on her. On regaining consciousness, the appellant implored with her not to report the incident and agreed to marry her. Admittedly, the relationship continued for long and the 2nd respondent claims to have been impregnated twice in October 2024 and February 2025, which were also aborted.

7. Then it is alleged that on 29.10.2025, she was attacked by the appellant and his cousin in a hotel room and they forced her out of the room and in front of the hotel staff, she was assaulted and there were threats levelled of videos of their intimate relationship being made viral. The further allegation is that on the next day when she was proceeding to register a complaint, the appellant along with the other accused threatened her with her life and she was forced to go back to her house without registering a complaint. She says that subsequently, the appellant's father has been threatening her continuously in which circumstances, especially since she wants to marry the appellant, she is filing this complaint since if he does not marry her, she wants punitive action to be taken against the appellant for the sexual exploitation and assault.

8. Looking at the extract from the above decision, insofar as step one is concerned, the material relied upon by the appellant clearly indicates money having been paid by the appellant to the 2nd respondent; which the former claims, was in pursuance of the extortion made by the 2nd respondent. Two complaints were also lodged by the appellant before the jurisdictional police station. On step two, we have to specifically notice that admittedly there was a courtship and even according to the 2nd respondent she was raped against her will and then the desire to marry was put forth. No allegation of a promise to marry, proffered to entice the 2nd respondent into a sexual relationship, was raised. The specific allegation is that the petitioner was raped and, to desist her from reporting the same, the desire to marry was expressed, which was voluntarily and willingly accepted. The allegation of rape, hence, is delayed by more than one and a half years.

9. The assault in a hotel room was never reported to the police, either by the hotel staff or by the 2nd respondent. The allegation that she was threatened by the relatives of the appellant also was not reported. The complaint was filed specifically to coerce the appellant into marrying the complainant, failing which she wanted punitive action taken for the sexual assault and the exploitation. We also notice that the 2nd respondent though she asserts that twice her pregnancy was aborted, there is nothing indicated in the medical report to that end.

10. On Step four, we are of the definite opinion that no purpose would be served in carrying out a trial.

Confession of Co-accused should be investigated and corroborated to make it admissible

2026 0 INSC 1083; 2026 0 Supreme(SC) 1213; The State of Karnataka & Anr. Vs. Sadiq Pasha; Criminal Appeal No. 4720 of 2026 (Arising out of SLP (Crl.) No. 6323 of 2026); Decided On : 01-10-2026

13. We have no doubt that the confessional statement under Section 67 or a disclosure statement under Section 53A of the NDPS Act, can have no evidentiary value in a trial and it cannot lead to a conviction. Section 53A of the NDPS Act does not enable the disclosure of the co-accused to be placed before Court, especially when he is not examined as a witness or made an approver. The disclosure made by the co-accused who were apprehended at the spot, about the identity and the name of the one who fled, is only a material which the Investigating Officer could use to gather further evidence, which alone could be the basis of a chargesheet or a conviction, in a properly instituted trial.

Proof of a case under Prevention of Corruption Act- demand, acceptance, possession

2026 0 INSC 1084; 2026 0 Supreme(SC) 1214; Ajit Kumar Vs State Of Jharkhand; Criminal Appeal No. 4573 of 2026; Decided On : 05-10-2026

19. In P. Satyanarayana Murthy Vs. State of A.P., (2015) 10 SCC 152, this Court held that proof of demand of illegal gratification is the sine qua non for constituting an offence under Sections 7 and 13 of the PC Act. In the absence thereof, the charge would fail. Failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of alleged bribe money from the accused would not be sufficient for a conviction under Sections 7 or 13 of the PC Act. This Court held thus:

23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.

20. This aspect was also gone into by a Constitution Bench of this Court in Neeraj Dutta Vs. State (Government of NCT of Delhi), (2023) 4 SCC 731. The Constitution Bench declared that proof of demand and acceptance of illegal gratification by a public servant as a fact in issue has to be proved by the prosecution. It is essential to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. This Court declared amongst others, as follows:

88.1. (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

88.2. (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

21. A two-Judge Bench of this Court in Aman Bhatia Vs. State, 2025 SCC OnLine SC 1013, surveyed the law on this aspect and came to the conclusion that mere recovery of tainted

money, by itself, is insufficient to establish the charge(s) against an accused under the PC Act. The Bench held that to sustain a conviction under Sections 7 and 13 of the PC Act, the prosecution must prove beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. Thus, the demand for bribe is the sine qua non for establishing an offence under Sections 7 and 13 of the PC Act. The Bench held as under:

52. It is well-settled that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the Act respectively, it must be proved beyond reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The courts have consistently reiterated that the demand for a bribe is sine qua non for establishing an offence under Section 7 of the PC Act.

21.1. Finally, the Bench concluded as follows:

55. From the above exposition of law, it may be safely concluded that mere possession and recovery of tainted currency notes from a public servant, in the absence of proof of demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act respectively. Consequently, without evidence of demand for illegal gratification, it cannot be said that the public servant used corrupt or illegal means, or abused his position, to obtain any valuable thing or pecuniary advantage in terms of Section 13(1)(d) of the PC Act.

22. In a recent decision of this Court in Jaswinder Singh Vs. State of Punjab, 2026 SCC OnLine SC 1952, authored by one of us (Ujjal Bhuyan, J.), all the above decisions have been analysed and reiterated. In the facts of that case, it has been held as under:

21. Under such circumstances, it is evident that neither the demand nor acceptance of the bribe can be said to have been proved. As a matter of fact, no one saw the appellant making the demand for bribe and no one saw PW-1 handing over the bribe money to the appellant nor acceptance of the same by the appellant. The fact situation of this case, thus, is squarely covered by the judgments of this Court in Satyanarayana Murthy, Neeraj Dutta and in Aman Bhatia.

Default of the buyer in acting within the time fixed- no criminality can be attributed 2026 0 INSC 1086; 2026 0 Supreme(SC) 1216; Sudha Rakesh Vs. The State of Karnataka & Anr.; Special Leave Petition (Crl.) No. 12638 of 2022; 05-10-2026

11. The admitted position indicates that the agreement for sale dated 19.11.2012 was supposed to be acted upon within 7 months of its execution. It is not denied that the same was not acted upon within the stipulated time and even thereafter, till the execution of sale deed on 11.02.2016. After the sale deed, respondent no. 2 woke up and instituted the suit for specific performance of the agreement dated 19.11.2012. We consciously refrain from expressing any observation regarding the merits of the said suit or the elements of readiness and willingness. The same ought to be adjudicated by the concerned civil court.

17. Notably, the offence of cheating requires a deceptive act which leads to inducement for delivery of property/money. Even on bare perusal of the allegations, it becomes clear that the property (that is the amount transferred by respondent no. 2 at the time of agreement for sale dated 19.11.2012) was not transferred on the basis of any deception. At that time, the property could have legitimately been transferred in favour of respondent no. 2 and there was no deception. The subsequent sale took place in 2016, almost 4 years

after the alleged delivery of money by respondent no. 2. Thus, the foundational ingredient of cheating is missing. Section 423 IPC is also mis-invoked in the FIR. It requires a false statement as to consideration in an instrument of transfer. There is no such false statement in the agreement dated 19.11.2012 or in the sale deed. Even if there is any false averment in the sale deed, it ought to have created a right in favour of the ultimate buyer Mr. Gaffar Baig and not respondent no. 2 herein. It is a classic case of casting the shadow of criminality on a pure civil dispute.

Each Matrimonial disputes stand on its peculiar circumstances.
2026 0 INSC 1087; 2026 0 Supreme(SC) 1217; Prasanta Kumar Dhar & Anr. Vs. The State of West Bengal & Anr.; Criminal Appeal No. 4744 of 2026 (@ Special Leave Petition (CRL.) No. 16908 of 2024); Decided On : 05-10-2026

16. Though the aforesaid broad principles laid down in Bhajan Lal would be the guidelines, this Court has to also keep in mind the peculiar nature of a criminal case which arises essentially out of a domestic dispute. In this regard, one may also refer to the decision of this Court in Arti Mehta v. State of Madhya Pradesh, 2026 SCC OnLine SC 933, which specifically pertains to proceedings out of the Protection of Women from Domestic Violence Act, 1961.

"14. ....However, mere filing of the charge-sheet or pendency of proceedings under the DV Act would not by itself preclude this Court from interfering with the criminal proceedings, if upon examination of the FIR, the DV complaint and the material collected during investigation, it is found that no prima facie case is made out against the present appellants and that continuation of the proceedings would amount to abuse of the process of law.

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43. However, while safeguarding the rights and dignity of victims of domestic violence remains of paramount importance, courts are simultaneously required to ensure that the rigours of criminal law are not indiscriminately extended to every member of the family without a clear factual foundation. In prosecutions arising out of matrimonial disputes, the allegations against each accused must be specific, distinct and supported by prima facie material indicating active involvement in the alleged acts of cruelty, harassment or unlawful demand of dowry. ...

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44. It must therefore be emphasised that each case arising out of matrimonial discord or allegations of domestic violence must necessarily turn on its own peculiar facts and the nature of allegations levelled against the accused concerned. The observations made herein should not be construed to mean that relatives of the husband can never be prosecuted under the relevant penal provisions. Where the material on record discloses specific overt acts, active participation, or direct involvement in perpetrating cruelty, harassment or domestic violence, such relatives would undoubtedly be liable to face prosecution in accordance with the law. What the Court is required to carefully examine is whether the allegations are genuine, specific and supported by foundational facts, or whether they are merely a consequence of matrimonial acrimony resulting in sweeping and omnibus implication of all family members. In the absence of such specific allegations and prima facie material, continuation of criminal proceedings against such relatives would amount to abuse of the process of law. ..."

17. Therefore, in view of the peculiarities of criminal cases arising out of domestic disputes, this Court has highlighted the need for a nuanced approach and to be circumspect when applying stringent criminal principles to domestic disputes. In that context, this Court has made the following observations in Geddam Jhansi v. State of Telangana, 2025 SCC OnLine SC 263:

"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."

20. A perusal of the records, however, shows that neither the complaint nor the investigation carried out by the police reveals any material that indicates that the Appellants herein had caused grave injury to her life, limb or mental or physical health, nor do they reveal any independent material that the Appellants harassed her for any property or valuable security.

21. As regards the offences under Sections 3 and 4 of the DP Act, the complainant has alleged that the Appellants and the complainant's husband had demanded and accordingly were paid Rs. 5 lakhs at the time of the marriage. Further, demands for a four-wheeler were made by them, in fulfilment of which, furniture was allegedly given to them. The specifics of the same, any other witnesses privy to the demands for dowry, and any material outside of the allegations of the complainant did not surface during the investigation. The allegations do not disclose the particulars of the demands of dowry made by the Appellants, the occasions, the presence of any independent witnesses, or the manner such that such specific overt acts constituting cruelty under Section 498A IPC were committed.

23. The investigation has not revealed specifics of the property entrusted to the Appellants and whether at all such property has been misappropriated or converted to their own use. Only vague and omnibus allegations have been made against the Appellants without any specificity whatsoever. From a bare reading of the allegations unsupported by any material evidence, the charge under Section 406 IPC cannot be sustained against the Appellants.

25. We find that the allegations made and investigation carried out do not reveal details as to any threats made by the Appellants to the complainant, her family, their property or their reputation. It is pertinent to note that the complainant states that her signing of the document stating that she has received all of her streedhan and valuables back was

made under duress and coercion and intimidation of the first Appellant and her husband. However, the only material to demonstrate any coercive or intimidating behaviour of the first Appellant is her own complaint and the statements of her parents recorded under Section 161 Cr.P.C. There is no other evidence/material on record to implicate the first Appellant as regards the allegations of coercion or intimidation at the complainant's parental house.

26. Finding reliance on Bhajan Lal (supra), Arti Mehta (supra) and Geddam Jhansi (supra), we are of the view that the allegations levelled against the present Appellants are not specific, cogent and credible. They do not attribute an overt or specific act to either Appellant. Neither the complaint nor the investigation reveals any independent material that shows that the Appellants as the in-laws of the complainant committed any of the offences mentioned in the FIR or the chargesheet. The allegations against the Appellants for the demands for dowry, of criminal intimidation and cruelty find no supporting material in the FIR or the chargesheet submitted after the investigation. The oral allegations are devoid of any supporting material or witnesses, which renders the allegations of the complainant against the Appellants without any legal basis to continue the legal proceedings against the Appellants.

Ornaments alleged to be robbed, should be substantiated with purchase bills
Courts can convict for minor cognate offence under the charge
2026 0 INSC 1091; 2026 0 Supreme(SC) 1222; Appa Vs The State of Maharashtra; Criminal Appeal No. 4766 of 2026 (Arising out of S.L.P. (Criminal) No. 4575 of 2026) Decided On : 07-10-2026

Said provision applies where the offender, in committing or attempting to commit robbery, voluntarily causes hurt. The robbery or attempted robbery is not at all a peripheral circumstance and is rather an essential component of the offense. In the present case, such allegation of robbery rests entirely upon the assertion of the complainant that the appellant snatched her mangalsutra and dorle from her neck. There was no recovery of the alleged jewellery and nothing incriminating was seized from the appellant's possession either. There was no purchase receipt or any other material establishing the identity or value of the articles, as admitted by the complainant herself in cross-examination. Though the High Court relied on the observation in the spot panchanama that wooden tulsi beads and black beads were found scattered on the porch, these beads were never connected through evidence to the mangalsutra, and only pieces of rope were exhibited and their seizure from the spot proved through Subhash Kisan Kakad (PW-3), one of two panch witnesses, before the Trial Court. Therefore, in our considered opinion, we cannot sustain the conviction under Section 394 of the IPC.

10. Under Section 222 of the Code of Criminal Procedure, 1973 (corresponding to Section 245 of the Bharatiya Nagarik Suraksha Sanhita, 2023), a person charged with an offence consisting of several particulars may be convicted where the proved facts constitute a minor offence, notwithstanding that the minor offence was not separately charged. This Court in Rafiq Ahmed @ Rafi vs. State of U.P., 2011 INSC 546 had rightly described this as the principle of cognate offences, which enables Courts to convict and sentence offenders for a 'minor' or less grave offence whose essentials are satisfied by the evidence on record, even when the original charge was framed for the 'major' offence.

We may refer here to the decision of this Court in Mathai vs. State of Kerala, 2005 INSC 30:

“In the instant case considering the size of the stone which was used, as revealed by material on record, it cannot be said that a dangerous weapon was used. Therefore, the conviction is altered to Section 325 IPC. No hard and fast rule can be applied for assessing a proper sentence and a long passage of time cannot always be a determinative factor so far as sentence is concerned. It is not in dispute that a major portion of the sentence awarded has been suffered by the appellant. On the peculiar facts of the case we restrict it to the period already undergone.”

S.307- when attracted
S.216- when invoked
2026 0 INSC 1093; 2026 0 Supreme(SC) 1224; Abhishek Vs State of Rajasthan & Ors.; CRLA No. 4767 of 2026 (Arising out of SLP (Crl.) No. 12710 of 2025) 07-10-2026

8. The legal position concerning the ingredients and application of Section 307 of the IPC is well-settled. To attract Section 307 of the IPC, the Court must ascertain whether the act, irrespective of the ultimate outcome, was committed with such intention or knowledge and under such circumstances that, if death had been caused, the offender would have been guilty of murder. In Balram Bama Patil (supra), reiterated in Saleem alias Chamaru (supra) and Jage Ram (supra), this Court held that to justify a conviction under Section 307 of the IPC, it is not essential that a fatal or life-threatening bodily injury must actually be sustained and the nature, gravity and site of the wound may assist in determining the intention of the accused, intention or knowledge can and must be deduced from the totality of circumstances, including the nature of the weapons deployed, the persistence of the assault, the prior animosity between the parties and the manner in which the attack was launched. The relevant paragraph of Jage Ram (supra) is reproduced as under:

“13. In State of M.P. v. Kashiram [State of M.P. v. Kashiram, (2009) 4 SCC 26 : (2009) 2 SCC (Cri) 40 : AIR 2009 SC 1642] , the scope of intention for attracting conviction under Section 307 IPC was elaborated and it was held as under: (SCC pp. 29-30, paras 12-13)

“12. ... ‘13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.

14. This position was highlighted in State ofMaharashtra v. Balram Bama Patil [State of Maharashtra v. Balram Bama Patil, (1983) 2 SCC 28 : 1983 SCC (Cri) 320] , Girija Shankar v. State of U.P. [Girija Shankar v. State of U.P., (2004) 3 SCC 793 : 2004 SCC (Cri) 863] and R. Prakash v. State of Karnataka [R. Prakash v. State of Karnataka, (2004) 9 SCC 27 : 2004 SCC (Cri) 1408] .

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16. Whether there was intention to kill or knowledge that death will be caused is a question of fact and would depend on the facts of a given case. The circumstances that the injury inflicted by the accused was simple or minor will not by itselfrule out application ofSection 307 IPC. The determinative question is the intention or knowledge, as the case may be, and not the nature ofthe injury.’

See State ofM.P. v. Saleem [Saleem case, (2005) 5 SCC 554 : 2005 SCC (Cri) 1329] , SCC pp. 559-60, paras 13-14 and 16.

13. '6. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public conftdence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N. [Sevaka Perumal v. State of T.N., (1991) 3 SCC 471 : 1991 SCC (Cri) 724] ' (Saleem case [Saleem case, (2005) 5 SCC 554 : 2005 SCC (Cri) 1329] , SCC p. 558, para 6)"

9. Recently, in the case of Surender Kumar v. State of Haryana, 2026 SCC OnLine SC 1912 this Court reiterated that the determining factor under Section 307 of the IPC is the requisite intention or knowledge coupled with an overt act and that the mere fact that the injury was caused on a non-vital part of the body would not, by itself, exclude the applicability of Section 307 of the IPC.

10. We are of the view that at the stage of framing charges under Sections 227 and 228 of the Code of Criminal Procedure, 1973 (for brevity "Cr.P.C."), the Court is not required to hold a mini-trial or weigh the evidentiary material as if adjudicating guilt after a full-fledged trial and the Court is only required to examine whether the investigating material, statements of witnesses and records disclose a prima facie case and raise a suspicion against the accused.

11. In the facts of the present case, the materials collected during the investigation, including the statements recorded under Section 161 of the Cr.P.C., the spot inspection reports and the recoveries made under Section 27 of the IEA, reveal that (a) respondent No. 2 aggressively drove a heavy motor vehicle (a tractor) at high speed into the agricultural field of the appellant and repeatedly steered it towards the appellant and his family members, ultimately hitting the mother of the appellant, (b) respondent No. 2 and other co-accused persons, armed with sharp-edged cutting weapons (axes/kashi), launched an assault on the appellant and his father, (c) the medico legal certificates of the appellant and his family members reveal that both the appellant and his father suffered deep incised wounds measuring up to 7 cm?3 cm extending bone-deep and 6 cm ? 3 cm extending muscle-deep, and (d) the Charge Sheet also records the statement of the appellant that the accused persons surrounded the appellant and his family and attacked their heads with axes and when the appellant and his father raised their arms to protect their heads, the blow struck their shoulders resulting into deep incised wounds.

12. In view of these factual allegations against respondent No. 2, we are of the view that the High Court committed an error in conducting a summary and technical assessment of the injuries and concluding that the offence under Section 307 of the IPC is not made out and the case could not travel beyond Section 308 of the IPC on the reasoning that the wounds were located on the limbs being the non-vital part of the body. The Additional Sessions Judge had evaluated the materials placed on record and thereafter framed the charge under Section 307 of the IPC against respondent No. 2. At this stage, it is also required to be observed that the High Court overlooked the statutory safeguards provided under Section 216 of the Cr.P.C., which vests power in any court to alter or add to any charge at any time before judgment is pronounced. Thus, if during the course of the trial, based on the evidence adduced, it emerges that the ingredients of Section 307 of the IPC are not established, the trial court is empowered under Section 216 of the Cr.P.C. to alter

or amend the charge accordingly to Section 308 of the IPC or any other appropriate lesser offence. Therefore, the interference of the High Court at the threshold stage was unwarranted and cannot be sustained in law.

Guidelines to measures to prevent sexual or other offences
2026 0 INSC 1096; 2026 0 Supreme(SC) 1227; In Re: Recent Rape Incidents In Delhi NCR; Suo Moto Writ Petition (Criminal) No. 6 of 2026: 05-10-2026

The theory, in essence, proceeds on the premise that visible and unattended signs of disorder or civic neglect may signal that an area is inadequately monitored or that deviant behaviour may go unchecked. Such visible manifestations of civic neglect may, in turn, contribute to a heightened perception of insecurity amongst citizens and result in their withdrawal from public spaces, which in turn would provide a safe haven for undesirables, anti-socials and depraved minds, to whom an unsuspecting citizen, who unknowingly steps in, will fall prey to. This may create a self-reinforcing cycle in which reduced public presence and diminished confidence in the ability of the authorities to maintain law and order provide greater scope for further disorder and crimes. Applied to the present context, a broken or inadequate streetlight, a non-functional CCTV camera, an unmonitored dark stretch, or an unaddressed public complaint may individually appear as minor administrative or infrastructural lapses. However, when such deficiencies remain visible and unattended over a period of time, they collectively convey a perception of neglect and diminished vigilance.

10. Public safety, therefore, cannot be viewed solely through the prism of a response to a crime after it has occurred. The manner in which public spaces are maintained, the visibility of police patrolling and surveillance, and the promptness with which reported deficiencies are addressed are equally relevant to crime prevention. These would simultaneously instil confidence amongst citizens and fear amongst potential perpetrators that public spaces all across the city are being effectively watched and monitored.

11. It is this preventive dimension, which, in our view, warrants particular emphasis in the present proceedings. Deficiencies which are capable of being identified and remedied ought not to be left unattended until they manifest themselves in an actual incident of crime. The objective must be to intervene at the stage at which signs of neglect or vulnerability first emerge, so that public spaces, by reason of avoidable deficiencies in lighting, surveillance and patrolling, do not create conditions conducive to disorder or facilitate the commission of crimes.

12. Although solving a crime and ensuring expeditious prosecution with commensurate punishment is imperative, yet crime detection and prevention are equally important. Detection and prevention can be achieved only through constant surveillance and quick response, educating every single police personnel having jurisdiction over an area about its significance, incentivising effective policing and, ensuring accountability. It is in furtherance of this objective that we underscore the importance of effective real-time monitoring of police patrolling and CCTV infrastructure, through **dedicated control-room command centres or "war rooms".** The information gathered through these control room command centres must feed into an effective field-level response mechanism, so as to facilitate timely deployment or intervention, as soon as a vulnerability, incident or deficiency requiring attention is detected. Therefore, the Commissioner of Police, Delhi and the Chief Secretary, Government of NCT of Delhi are

hereby directed to furnish a joint report on (i) whether dedicated control-room command centres of this nature currently exist within the NCT of Delhi and, if so, their exact number and the corresponding areas of coverage, and (ii) the protocols presently in place for real-time coordination, communication and deployment of emergency intervention once information is received by the command centres.

13. Equally important to effective crime prevention is meaningful citizen participation. Citizens are often the first to notice recurring disorderly conduct, poorly lit stretches, unauthorised establishments, abandoned vehicles, dilapidated buildings or other conditions which may affect the safety of an area. It is, therefore, necessary to encourage citizens to communicate their grievances and to share information concerning criminal or delinquent activity in their neighbourhoods, more particularly in and around educational institutions and paying-guest accommodations housing young women and girls. Such citizen-centric mechanisms must inspire confidence amongst the public that the information furnished by them will be received sensitively, acted upon promptly, and where appropriate, kept confidential. Hence, the police and the local administration shall consider instituting regular citizen-engagement meetings, under the supervision of an officer to be designated for the purpose, so that grievances may be received directly and their follow-up monitored efficiently. Such a mechanism would also facilitate in fixing accountability where grievances remain unaddressed.

14. Such community participation must be complemented by a visible and adequately enhanced police presence. Joint patrolling in identified vulnerable areas, particularly during hours of heightened vulnerability, shall be strengthened. Senior police officers exercising jurisdiction over such areas shall hold regular meetings with beat patrol officers and field personnel to review local vulnerabilities, emerging patterns of delinquency and the effectiveness of patrolling arrangements. The existing protocols governing beat patrolling, including the deployment and halting of Police Control Room vans (PCR vans), should be reviewed and suitably strengthened.

15. Preventive policing must, however, become an institutional practice and not remain dependent upon individual initiative. Training in preventive policing should accordingly form part of the induction of police personnel and be reinforced through periodic training at regular intervals thereafter. The existing mechanisms of police training and capacity-building, including those associated with the Bureau of Police Research and Development, must be suitably examined for this purpose. Officers entrusted with particular jurisdictions must be sensitised to take ownership of their areas, identify emerging vulnerabilities and address them before they translate into criminal activity. Accountability must necessarily accompany such responsibility.

16. In addition to the measures already directed by us in our Order dated 28.09.2026, we consider it appropriate to direct that the following measures be undertaken immediately by the Delhi Police, the local administration and the Transport Department, GNCTD, wherever applicable:

i. There shall be enhanced beat patrolling on an immediate basis, across the NCT of Delhi, more particularly around educational institutions (including schools, colleges, universities and coaching institutions) and other zones which get flagged under the vulnerability mapping exercise, directed under paragraph 12 of our previous Order dated 28.09.2026.

ii. There shall be strict verification of drivers and assistants engaged in public transport vehicles like (a) government operated buses and private buses, and (b) cabs, taxis,

rickshaws, etc., which are linked to app-based vehicle-aggregator services like Ola, Uber, Rapido, etc., as well as the cabs, taxis and auto-rickshaws that operate privately. Only duly registered and verified persons shall be permitted to operate such vehicles. All such vehicles shall display, in an area visible to the passenger, the names and photographs of the verified driver(s) and assistant(s) associated with such vehicle so that the passenger may immediately identify and report when unauthorised persons are involved. It shall be the responsibility of the Road Transport Officer of the concerned jurisdiction to ensure that all vehicles display such information. A dedicated avenue for the registration of such complaints must be provided, especially for government operated buses, private buses, and other cabs/taxis/rickshaws not registered with app-based services. To that effect, uniforms or other visible means of identification must be prescribed for all such drivers and assistants, and where such prescriptions already exist, it must be ensured that the same is used every day. Any substitution or sub-letting shall be strictly subject to prior registration and verification, and unauthorised sub-letting to an unverified driver must be prohibited. Vehicle checkpoints shall be meaningfully utilised for such verification, including through periodic and surprise checks. Any finding of non-compliance or violation by any driver or assistant must invite prompt regulatory action, including but not limited to suspension/dismissal from service of the driver/assistant and seizure of the concerned vehicle, as the case may be, with immediate effect.

iii. The concerned authorities shall examine the effective implementation of the directions issued by this Court in its Order dated 13.05.2026, in S. Rajaseekaran v. Union of India & Ors. [Writ Petition (Civil) No. 295/2012], whereby a slew of directions have been issued regarding Vehicle Tracking System Devices. The concerned authorities shall evaluate the manner in which such monitoring is integrated with the police emergency response system. Such mechanisms shall be subjected to periodic and surprise checks to ensure that they remain functional.

iv. Appropriate awareness measures shall be undertaken to inform passengers about the manner of activation of SOS mechanisms, the response protocol and the expected response time. The objective of such awareness drives shall be to clearly communicate to the public, the precise nature of intervention and immediate assistance that a complainant would receive once the SOS button is pressed. Unless one is adequately informed of what assistant will follow upon pressing such SOS button, there may be hesitation in using it, particularly in a distress situation where the offender also becomes simultaneously aware that the victim is trying to seeking help. The concerned authorities shall, therefore, place on record the existing protocol for responding to SOS alerts, the designated personnel/unit responsible for such response, the prescribed turnaround time, if any, and the mechanism for monitoring compliance with such response timelines.

v. The concerned authorities shall identify trucks, heavy vehicles and other vehicles which are habitually unlawfully parked at locations where they obstruct visibility, create blind spots or harbour unauthorised personnel, and shall take appropriate steps for their removal from that area.

vi. Unauthorised liquor shops and establishments operating without requisite permissions shall be identified and dealt with in accordance with law. Particular attention shall be given to eateries and other establishments where liquor is being supplied unlawfully. Beat officers shall remain vigilant in this regard and bring such instances to the notice of their superior officers. Furthermore, beat officers shall ensure

that any loitering, crowding or assembly of persons around liquor shops is promptly dispersed, to prevent harassment and ensure unhindered safe movement for pedestrians.

17. We have consciously refrained from treating the aforesaid measures as an entirely novel framework for preventive policing. Indeed, we have paid attention to some of the existing Standing Orders, Circulars, and protocols which already contemplate many of these safeguards. The question before us, therefore, is not merely whether appropriate directions exist, but whether those directions are translating into sustained, visible and verifiable action on the ground.

Non-Compliance with S.100 CRPC would not vitiate the seizure.
Burden of proof on accused under S.105 IEA is preponderance of probabilities
2026 0 INSC 1099; 2026 0 Supreme(SC) 1229; Ramkrushna Prahllad Dongardive Vs. The State Of Maharashtra; Criminal Appeal No.1432 of 2019; 08-10-2026

The non-production of the concerned register and documents when considered along with the admissions of the IO would lead to an inference that such material was not at all available with the complainant. The said material was necessary to prove the aspect of entrustment to the appellant.

19. It is true that non-compliance of the requirements of Section 100 of the Code by itself would not vitiate a seizure and the same would be an irregularity in the investigation. However, when this factor is considered cumulatively with other factors that contribute to doubting the prosecution case, the same would weigh in favour of the appellant, especially in an appeal against acquittal. In this regard, we may refer to two decisions of this Court. In Sunder Singh Vs. State of Uttar Pradesh, AIR 1956 SC 411, it was held as under:

"In respect of the search of the room occupied by the appellant and the recovery of the bloodstained shirt and bloodstained pants aforesaid it was necessary to have at least two search witnesses as required by Section 103. Assuming that the two rickshaw-wallahs who actually witnessed the search as found by the Courts below were not respectable inhabitants of the locality, that circumstance would not invalidate the search. It would only affect the weight of the evidence in support of the search and the recovery. Hence at the highest the irregularity in the search and the recovery in so far as the terms of Section 103 had not been fully complied with would not affect the legality of the proceedings. It only affected the weight of evidence which is a matter for courts of fact and this Court would not ordinarily go behind the findings of fact concurrently arrived at by the courts below."

Similarly, in State of Punjab Vs. Balbir Singh and others, 1994 INSC 96 this Court held as under:

"At this juncture we may also dispose of one of the contentions that failure to comply with the provisions of Cr.P.C. in respect of search and seizure even upto that stage would also vitiate the trial. This aspect has been considered in a number of cases and it has been held that the violation of the provisions particularly that of Sections 100, 102, 103 or 165 Cr.P.C. strictly per se does not vitiate the prosecution case. If there is such violation, what the courts have to see is whether any prejudice was caused to the accused and in appreciating the evidence and other relevant factors, the courts should bear in mind that there was such a violation and from that point of view evaluate the evidence on record."

In the light of the aforesaid position, weightage to be given to the articles stated to be seized from the house of the appellant would have to be cumulatively assessed with the other material on record.

24. Before parting, we note that the High Court while reversing the acquittal of the appellant has given undue importance to the alleged inability of the appellant to explain circumstances relating to documents shown to have been seized during investigation. The seizure, as found earlier, has been rendered doubtful due to various shortcomings. We may in this context gainfully refer to the following observations of this Court in Rabindra Kumar Dey Vs. State of Orissa, 1976 INSC 204.

"The Courts below appear to have convicted the appellant on the basis of the decision referred to above and have held that since the explanation given by the appellant was false, an inference of misappropriation could reasonably be drawn against him. This proposition cannot be doubted. But the question is whether the explanation given by the appellant in this case can be said to be absolutely false? Another question that arises is what are the standards to be employed in order to judge the truth or falsity of the version given by the defence? Should the accused prove his case with the same amount of rigour and certainty, as the prosecution is required, to prove a criminal charge, or it is sufficient if the accused puts forward a probable or reasonable explanation which is sufficient to throw doubt on the prosecution case? In our opinion three cardinal principles of criminal jurisprudence are well-settled, namely:

(1) that the onus lies affirmatively on the prosecution to prove its case beyond reasonable doubt and it cannot derive any benefit from weakness or falsity of the defence version while proving its case;

(2) that in a criminal trial the accused must be presumed to be innocent unless he is proved to be guilty; and

(3) that the onus of the prosecution never shifts.

It is true that under section 105 of the Evidence Act the onus of proving exceptions mentioned in the Indian Penal Code lies on the accused, but this section does not at all indicate the nature and standard of proof required. The Evidence Act does not contemplate that the accused should prove his case with the same strictness and rigour as the prosecution is required to prove a criminal charge. In fact, from the cardinal principles referred to above, it follows that, it is sufficient if the accused is able to prove his case by the standard of preponderance of probabilities as envisaged by section 5 of the Evidence Act as a result of which he succeeds not because he proves his case to the hilt but because probability of the version given by him throws doubt on the prosecution case and, therefore, the prosecution cannot be said to have established the charge beyond reasonable doubt. In other words, the mode of proof, by standard of benefit of doubt, is not applicable to the accused, where he is called upon to prove his case or to prove the exceptions of the Indian Penal Code on which he seeks to rely. It is sufficient for the defence to give a version which competes in probability with the prosecution version, for that would be sufficient to throw suspicion on the prosecution case entailing its rejection by the Court."

[emphasis supplied by us]

Non-Identification of the accused by POCSO Victim is fatal.
FIR- though not encyclopaedia, must contain material facts
Non-examination of a material witness is fatal to prosecution
2026 0 INSC 1102; 2026 0 Supreme(SC) 1234; Charming Rupon Vs. State Of Meghalaya; Criminal Appeal No(s). 4845 of 2026 (Arising out of SLP(Crl.) No(s). 11881 of 2022); Decided On : 09-10-2026

46. It is important to note that the prosecution did not make any endeavour to get the accused-appellant identified by the witness (PW-4) in her examination-in chief. More importantly, in her cross-examination, the witness completely denied knowing the accused-appellant and failed to identify him stating that she could not remember the face of the person who came to her house and subjected her to rape as the incident had happened long time back. She also admitted that the name of the accused-appellant had been told to her by her mother. This admission coupled with the fact that the witness stated that she had met the public prosecutor who had advised her on what to say before the Court, creates a doubt in our mind that the witness may have been tutored to give the statement against the accused-appellant. It is also noteworthy that though the defence took the risk of putting a question pertaining to identity of the accused and succeeded in eliciting a negative answer from PW-4, neither the Public Prosecutor, nor the Presiding Officer bothered to re-examine the witness to overcome this anomaly. Furthermore, no effort was made to confront the witness with the statement under Section 164 CrPC.

47. Hence, on a careful appreciation of the testimony of the victim (PW-4), it is clear that her evidence suffers from material infirmities. The witness was not asked to identify the accused-appellant in Court during her examination-in-chief. The defence posed this question in cross examination, and the victim admitted that she had forgotten the face of the alleged offender and further stated that the name of the accused had been provided to her by her mother (PW-1). The admission that she had been instructed by the learned Special Public Prosecutor on what to state before entering the witness-box also assumes significance while appreciating the evidentiary value of her deposition. These aspects, coupled with the inconsistency regarding the relationship of the accused with the victim's family, cast a serious doubt on the reliability of the prosecution evidence insofar as the identity of the perpetrator is concerned.

48. We are conscious of the fact that the victim was a mentally challenged girl and as such, a certain degree of latitude would have to be given while appreciating her evidence. However, even after giving due deference to her weak mental disposition we find that there was a complete failure of the victim to identify the accused-appellant before the Court. Admittedly, the prosecution could not present any scientific corroboration for the incident as the FIR itself was lodged after 10 days of the incident. In such a situation, it would be unsafe to rely upon the testimony of the victim so as to sustain the conviction of the accused.

50. Further, if the informant (PW-1) had in fact seen the accused-appellant in the vicinity of her house on the relevant day and, on the very next morning, her niece (PW-2) had informed her about the incident, it is difficult to comprehend why she would hesitate in approaching the police immediately. The conduct of the informant in not taking any prompt action and not even physically checking her own daughter for signs of sexual assault despite allegedly receiving such information from her own niece, is a circumstance which creates a serious doubt on the truthfulness of the prosecution story.

51. It is trite that an FIR is not expected to be an encyclopaedia. However, where a circumstance subsequently relied upon constitutes a material incriminating fact forming the very foundation of the prosecution case, its omission from the earliest version assumes considerable significance. A material improvement made during the course of trial, particularly on a circumstance sought to connect the accused with the alleged occurrence, necessarily calls for closer judicial scrutiny. If such omission remains unexplained, the subsequent version may lose much of its evidentiary fervour.

52. In this regard, we may gainfully refer to the observations made by this Court in Amar Nath Jha v. Nand Kishore Singh, (2018) 9 SCC 137 wherein it was observed as follows: -

"10. The third circumstance which we need to concentrate on concerns non-reporting of essential facts which were known to the informant in the FIR. The High Court while appreciating the entire materials on record has affirmatively concluded that PWs 1, 2, 3, 4, 8, 10 and 12 belong to the same family of the deceased and reside in the same house. It may be of some significance to note that PW 9 (the informant) of this case is the nephew of the deceased who lives in an adjacent house to that of the deceased. **In the FIR, PW 9 has failed to mention the name of PW 1, is a significant person as per the prosecution as he had allegedly identified the accused Nand Kishore Singh and Maheshwar Singh, who were the dacoits responsible for the aforesaid crime.** It has come out from the cross-examination of PW 9 that he was aware of the presence of PW 1 during the incident but he failed to mention his name in the FIR. **Such non-mentioning of presence of PW 1, who was a material witness in this case, creates further suspicion on the hypothesis portrayed by the prosecution.**

11. The High Court on appreciation of detailed evidence has for the right reasons concluded that the informant (PW 9) was aware of the names of dacoits who had killed the deceased but failed to name them in the FIR. In this context we may note that the incident is alleged to have taken place in the intervening night of 21-4-1999 and 22-4-1999, whereas the FIR came to be registered at 3.15 a.m., after a lapse of 3 hours. Despite sufficient time for the informant to gather necessary information, which he did, the names of two accused-respondents have conspicuously been missing, which also formed an additional factor for the High Court to acquit the accused-respondents. **Although we accept that the FIR need not be an encyclopaedia of the crime, but absence of certain essential facts, which were conspicuously missing in the present FIR, point towards suspicion that the crime itself may be staged."**

(Emphasis supplied)

53. Similarly, the effect of a vital omission in the first information report was considered by this Court in the case of Ram Kumar Pandey v. State of M.P., AIR 1975 SC 1026 the relevant observations from the said judgment are quoted hereinbelow: -

"9. No doubt, an FIR is a previous statement which can, strictly speaking, be only used to corroborate or contradict the maker of it. But, in this case, it had been made by the father of the murdered boy to whom all the important facts of the occurrence, so far as they were known up to 9-15 p.m. on March 23, 1970, were bound to have been communicated. **If his daughters had seen the appellant inflicting a blow on Harbinder Singh, the father would certainly have mentioned it in the FIR. We think that omissions of such important facts, affecting the probabilities of the case, are relevant under Section 11 of the Evidence Act in judging the veracity of the prosecution case"**

(Emphasis supplied)

56. Equally significant is the fact that the prosecution withheld a material witness, namely, Ms. Princely, the teacher, whose disclosure admittedly prompted PW-1 to lodge the FIR. No explanation has been offered by the prosecution for her non-examination as a witness. The omission to examine such an important witness assumes considerable significance in the facts of the present case. What exactly was the disclosure made by the child to her teacher would definitely be a material fact and the withholding thereof effects the veracity of the prosecution case.

57. Though the prosecution is not obliged to examine each and every witness cited during investigation, it is unquestionably under a duty to examine those witnesses whose evidence goes to the root of the matter and is essential to elicit the truth. Where a material witness, capable of throwing light on the genesis of the occurrence is withheld without any plausible explanation, the Court would be justified in drawing adverse inference against the prosecution, particularly when such witness occupies a pivotal position in the chain of events.

58. In this regard, we may profitably refer to a judgment rendered by 3-Judge bench of this Court in Takhaji Hiraji v. Thakore Kubersing Chamansing, (2001) 6 SCC 145 wherein this Court held as follows: -

"19. So is the case with the criticism levelled by the High Court on the prosecution case finding fault therewith for non-examination of independent witnesses. **It is true that if a material witness, who would unfold the genesis of the incident or an essential part of the prosecution case, not convincingly brought to fore otherwise, or where there is a gap or infirmity in the prosecution case which could have been supplied or made good by examining a witness who though available is not examined, the prosecution case can be termed as suffering from a deficiency and withholding of such a material witness would oblige the court to draw an adverse inference against the prosecution by holding that if the witness would have been examined it would not have supported the prosecution case.** On the other hand if already overwhelming evidence is available and examination of other witnesses would only be a repetition or duplication of the evidence already adduced, non-examination of such other witnesses may not be material. In such a case the court ought to scrutinise the worth of the evidence adduced. The court of facts must ask itself — whether in the facts and circumstances of the case, it was necessary to examine such other witness, and if so, whether such witness was available to be examined and yet was being withheld from the court. If the answer be positive then only a question of drawing an adverse inference may arise. If the witnesses already examined are reliable and the testimony coming from their mouth is unimpeachable the court can safely act upon it, uninfluenced by the factum of non-examination of other witnesses....."

(Emphasis supplied)

Violation of the circulars and guidelines, refusal to grant rehabilitation package in accordance with the circulars, false information or misrepresentations being made to initiate coercive action against a borrower, do not attract POA Act, more so, when the action was not based on caste discrimination.

2026 0 INSC 1133; 2026 0 Supreme(SC) 1262; Chavan Dharmendar & Ors. Vs. The State of Telangana & Ors.; Criminal Appeal No. 4930 of 2026 (@Special Leave Petition (Crl.) No. 13161 of 2026); Decided On : 12-10-2026

Allegations galore are made of documents forged and false and frivolous information submitted to higher authorities, causing the superior officers to use their lawful power to cause injury or annoyance to the promoters of the company. The contention is that it attracts Section 3(1)(q) of the SC&ST Act.

Non-compliance of the RBI's guidelines and circulars cannot result in a criminal prosecution, merely on the ground that the Directors of the enterprise are the members of scheduled castes and scheduled tribes. There is no specific allegation as to any of the officers having denigrated the directors merely on the basis of their caste. In fact, the very contention of the de facto complainant, as noticed in the order of the High Court is that it is a small-scale industry, predominantly managed by women belonging to the scheduled castes and scheduled tribes; but the Managing Director of the company, the second respondent is not a woman.

10. We are not convinced that the criminal prosecution should be continued on the allegations raised. However, we make it clear that the contentions of the respondent could be urged in the appropriate forum, obviously, the Debts Recovery Tribunal, where there would be proceedings initiated. Violation of the circulars and guidelines, refusal to grant rehabilitation package in accordance with the circulars, false information or misrepresentations being made to initiate coercive action against a borrower could all be agitated in a recovery proceedings, and it is for the adjudicating authority to decide as to whether such allegations are legally valid and could interfere with a valid recovery sought by the bank. Hence, leaving open such contentions, we interfere with the criminal prosecution initiated against the appellants as per FIR No.1 of 2019 dated 04.02.2019, registered at Police Station CID, P.S. Hyderabad, District Hyderabad, Telangana. The proceedings, pursuant to the said FIR shall stand quashed.

the order directing investigation under Section 156(3) Cr.P.C. must reflect application of mind of the learned Magistrate to the facts and circumstances of the case

https://indiankanoon.org/doc/43582513/; H.R. Department Of Infosys Company vs State Of Telangana on 12 October, 2026; CRIMINAL PETITON No.4300 of 2015; (CNR.No.HBHC010684252015)

9. The undisputed facts of the case are that respondent No.2, who was removed from the services of the petitioner-Company, on the complaint made against him by accused No.2 herein, pursuant to the recommendation of the Grievance Redressal Board, has made a private complaint against the petitioner and one Neha Dangwal alleging commission of offences punishable under Sections 211, 182, 193, 204, 420 and 120-B read with Section 34 IPC. The learned Magistrate referred the complaint to the police under Section 156(3) Cr.P.C., pursuant to which a case in Crime No.124 of 2015 came to be registered.

10. Perusal of the material discloses that the complaint filed by respondent No.2 before the learned Magistrate was not accompanied by a sworn affidavit as contemplated in

Priyanka Srivastava's case (cited supra). Along with the private complaint, copies of the address proof of respondent No.2, educational qualifications and termination order are filed. The complainant i.e., respondent No.2 did not bring to the notice of the learned Magistrate the pendency of the proceedings initiated by him against the petitioner challenging his termination, the order passed therein by the Authority, the enquiry conducted by the Grievance Redressal Board pursuant to the complaint made by Accused No.2. Further, in Jitendra Rao Veeramalla's case (cited supra), it has been reiterated that the order directing investigation under Section 156(3) Cr.P.C. must reflect application of mind of the learned Magistrate to the facts and circumstances of the case. In the present case, the order of the learned Magistrate does not LNA, J disclose consideration of the aforesaid relevant circumstances or demonstrate due application of mind to the allegations.

11. It is also pertinent to note that the allegations made in the complaint do not prima facie attract the ingredients of the relevant Sections of Indian Penal Code. The allegations relating to Sections 193 and 211 IPC, particularly in the context of the proceedings before the Authority, are subject to the statutory requirements contemplated under Section 195 Cr.P.C. and cannot be set in motion by way of a private complaint in the manner adopted by respondent No.2. Likewise, the allegation that the signatures of respondent No.2 were obtained on blank papers and that the documents were subsequently fabricated upon by the petitioner-Company does not, by itself, constitute an offence under Section 204 IPC, particularly when there is no allegation of the petitioner secreting or destroying or obliterating any document which was legally required to be produced before a Court or public servant Similarly, the private complaint does not disclose any act of inducement or deception so as to attract the essential ingredients of cheating under Section 420 IPC.

12. The allegation concerning the signatures of respondent No.2 on the documents relied upon by the petitioner-Company also requires to be considered in the context in which the said allegation was raised. It is not in dispute that the issue concerning the disputed signatures had already arisen in the proceedings before the Authority and that the petitioner-Company itself had sought forensic examination of the documents. Thus, mere assertion of respondent No.2 that his signatures were obtained on blank papers, in the absence of material prima facie disclosing the ingredients of the relevant Sections of law, cannot by itself constitute a basis for continuation of the criminal proceedings.

The alleged failure to complete the sale transaction or refund the advance amount does not, in itself, establish entrustment of property within the meaning of Section 405 IPC.

https://indiankanoon.org/doc/151165207/; Varun Raool Akella vs The State Of Telangana on 12 October, 2026; CRIMINAL PETITION No.3304 OF 2024; (CNR No. HBHC010146312024)

13. In the present case, the prosecution relies upon a significant circumstance, namely, the certified documentary material relating to the earlier registered agreement of sale-cum-General Power of Attorney, allegedly executed in respect of the very same property, with possession delivered to a third party. The specific allegation is that, notwithstanding the said prior transaction, accused Nos. 1 and 2 entered into the subsequent agreement of sale in 2019 and received money from the complainant without disclosing the earlier dealing with the property. Whether the 2015 transaction continued to subsist, whether the petitioners retained the authority to deal with the property, whether they were aware of the legal effect of the earlier transaction, and whether the same was deliberately

suppressed while entering into the subsequent transaction are matters requiring consideration on the basis of evidence.

14. At this threshold, therefore, the existence of the prior registered transaction prevents the allegation under Section 420 IPC from being rejected merely by treating the dispute as one arising out of contractual non-performance. Whether the said circumstance ultimately establishes dishonest intention at the inception of the transaction is a matter to be determined at the appropriate stage of the proceedings. As regards Section 406 IPC, the offence of criminal breach of trust, as defined under Section 405 IPC, requires entrustment of property or dominion over property, followed by dishonest misappropriation or conversion to one's own use, or dishonest use or disposal of such property contrary to law or the terms governing the entrustment.

15. In the present case, the amount allegedly received from the complainant was paid towards advance or part sale consideration under an agreement of sale. The alleged failure to complete the sale transaction or refund the advance amount does not, in itself, establish entrustment of property within the meaning of Section 405 IPC. Even accepting the complainant's allegations regarding payment and non- refund of the amount, the foundational requirement of entrustment followed by dishonest misappropriation or conversion is not disclosed from the material presently available. The allegations may give rise to civil remedies, but the essential ingredients of the offence punishable under Section 406 IPC are not made out.

17. In view of the foregoing discussion, the allegation under Section 406 IPC cannot be sustained, as the material collected during investigation does not disclose the essential ingredient of entrustment followed by dishonest misappropriation or conversion. However, insofar as the offences punishable under Sections 420 and 506 IPC are concerned, the proceedings cannot be quashed merely on the ground that the dispute also possesses a civil dimension. The earlier registered transaction concerning the very same property constitutes material requiring consideration in determining whether the subsequent transaction was entered into with dishonest intention at its inception. Likewise, the specific allegations attributed to accused No. 3, concerning the alleged threats issued when the complainant demanded registration or repayment, require examination with reference to the ingredients of criminal intimidation under Section 503 IPC. The disputed questions concerning the prior transaction, the knowledge and intention of the accused, the alleged representations, the payments made, and the alleged threats involve matters of evidence. Their ultimate truth or otherwise cannot be conclusively adjudicated in exercise of the inherent jurisdiction under Section 482 Cr.P.C. at this stage.

Section 409 of 'the I.P.C.'/Section 316(5) of 'the BNS' and Section 420 of 'the I.P.C.'/Section 318(4) of 'the BNS', operate in distinct spheres.

https://indiankanoon.org/doc/87063121/; APHC010526502026; Dontham Lakshmi vs The Station House Officer on 12 October, 2026; CRIMINAL PETITION NO: 8843/2026

8. Section 406 of 'the I.P.C.'/Section 316(2) of 'the BNS' deals with criminal breach of trust, which presupposes lawful entrustment of property followed by dishonest misappropriation or conversion. Section 409 of 'the I.P.C.'/Section 316(5) of 'the BNS' addresses criminal breach of trust public servant, or by banker, or merchant or agent. In contrast, Section 420 of 'the I.P.C.'/Section 318(4) of 'the BNS' addresses cheating and dishonestly inducing delivery of property, which requires deception at the inception of

the transaction. Thus, while Section 409 of 'the I.P.C.'/Section 316(5) of 'the BNS' arises from a breach of an existing fiduciary relationship by a public servant, Section 420 of 'the I.P.C.'/Section 318(4) of 'the BNS' is predicated upon fraudulent inducement at the very outset. The two offences, therefore, operate in distinct spheres.

The order of the High Court regarding stay of investigation could only have bearing on the action of the investigating agency. The order of remand which is a judicial act, as we perceive, does not suffer from any infirmity.

Transit warrant not required if the arrestee is produced before the jurisdictional court within 24 hours

https://indiankanoon.org/doc/140871044/; Sabena Prakash vs The State Of Andhra Pradesh; WRIT PETITION No.26235 OF 2026 Date:13.10.2026;

49. Thus, considered, we conclude that the order of remand by the jurisdictional Magistrate is valid. It is not invalid on the ground of challenge that the transit remand was not taken from the nearest non-jurisdictional Magistrate, after arrest, for production before the jurisdictional Magistrate. The detenu was produced within 24 hours of his arrest before the Jurisdictional Magistrate and was granted remand. It is not mandatory to obtain transit remand to produce the arrested person before the Jurisdictional Magistrate for remand. If the transit remand is not taken but still the arrested person is produced before the Jurisdictional Magistrate within 24 hours of his arrest, excluding the journey time, there would be no violation of Article 22(2) of the Constitution of India. The detenu is, in detention pursuant to the remand order, which is valid and his detention is not an illegal detention.

51. In Manubhai Railal Patel TR. Ushaben vs. State of Gujarat and others13, referring to Ummu Sabeena v. Stae of Kerala (2011) 10 SCC 781) and various other judgments it was held that a writ of habeas corpus is not to be entertained when a person is committed to judicial custody or police custody by the competent court by an order which prima facie does not appear to be without jurisdiction or passed in an absolutely mechanical manner or 2013 1 SCC 314 wholly illegal. Para 32 of Manubhai Railal Patel TR. Ushaben (supra) is as follows:

"32. Coming to the case at hand, it is evincible that the arrest had taken place a day prior to the passing of order of stay. It is also manifest that the order of remand was passed by the learned Magistrate after considering the allegations in the FIR but not in a routine or mechanical manner. It has to be borne in mind that the effect of the order of the High Court regarding stay of investigation could only have bearing on the action of the investigating agency. The order of remand which is a judicial act, as we perceive, does not suffer from any infirmity. The only ground that was highlighted before the High Court as well as before this Court is that once there is stay of investigation, the order of remand is sensitively susceptible and, therefore, as a logical corollary, the detention is unsustainable. It is worthy to note that the investigation had already commenced and as a resultant consequence, the accused was arrested. Thus, we are disposed to think that the order of remand cannot be regarded as untenable in law. It is well accepted principle that a writ of habeas corpus is not to be entertained when a person is committed to judicial custody or police custody by the competent court by an order which prima facie does not appear to be without jurisdiction or passed in an absolutely mechanical manner or wholly illegal. As has been stated in the cases of B.R. Rao (supra) and Kanu Sanyal (supra), the court is required to scrutinize the legality or otherwise of the order of

detention which has been passed. Unless the court is satisfied that a person has been committed to jail custody by virtue of an order that suffers from the vice of lack of jurisdiction or absolute illegality, a writ of habeas corpus cannot be granted. It is apposite to note that the investigation, as has been dealt with in various authorities of this Court, is neither an inquiry nor trial. It is within the exclusive domain of the police to investigate and is independent of any control by the Magistrate. The sphere of activity is clear cut and well demarcated. Thus viewed, we do not perceive any error in the order passed by the High Court refusing to grant a writ of habeas corpus as the detention by virtue of the judicial order passed by the Magistrate remanding the accused to custody is valid in law."

Sec 179 BNSS can be given to accused too. Sec 530 BNSS does not cover sec 35 BNSS or Sec 179 BNSS notice, it cannot be served through whatsapp.
https://indiankanoon.org/doc/143237648/; APHC010522512026; Kessireddy Rajasekhar Reddy vs The State Of Andhra Pradesh on 13 October, 2026; WRIT PETITION NO: 28366/2026

11. Coming to the first argument, Section 179 of the BNSS starts with the heading, 'Police Officer's power to require attendance of witnesses'. As per sub- section (1) of Section 179, any Police Officer making an investigation under Chapter XIII of the BNSS may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required. The judgment relied upon by the learned senior counsel for the petitioner in N.M.T. Joy Immaculate (supra) was rendered by a three-Judge Bench of the Hon"ble Apex Court. One of the Hon'ble Judges in the separate judgment held that Section 160 Cr.P.C. is applicable only to the witnesses and not to the accused. It was not the opinion of the majority in the said judgment. In this regard, as rightly argued by the learner senior counsel for the respondents, it is apposite to mention that the three-Judge of the Hon"ble Apex Court in the case of Nandini Satpathy v. P.L. Dani and Another 4 had an occasion to decide whether the police have power under Section 161 Cr.P.C. to question a person, who, in future, may incarnate as an accused. The three-Judge Bench of the Apex Court unanimously held as follows:

"We hold that „any person supposed to be acquainted with the facts and circumstances of the case" includes an accused (1978) 2 SCC 424 SUN, J person who fills that role because the police suppose him to have committed the crime and must, therefore, be familiar with the facts. The supposition may later prove a fiction but that does not repel the section. Nor does the marginal note „examination of witnesses by police" clinch the matter. A marginal note clears ambiguity but does not control meaning.

Moreover, the suppositions accused figures functionally as a witness. „To be a witness", from a functional angle, is to impart knowledge in respect of a relevant fact, and that is precisely the purpose of questioning the accused under Section 161 Cr.P.C. The dichotomy between „witnesses" and „accused" used as terms of art, does not hold good here. The amendment, by Act XV of 1941, of Section 162(2) of the Cr.P.C. is a legislative acceptance of the Pakala Narayana Swamy reasoning and guards against a possible repercussion of the ruling. The appellant squarely fell within the interrogational ring. To hold otherwise is to fold up investigative exercise, since questioning suspects is desirable for detection of crime and even protection of the accused. Extreme positions may boomerang in law as in politics."

12. As regards Article 20(3) of the Constitution of India also, the three-Judge Bench of the Hon"ble Apex Court held that it has no application to examination of the accused under Section 161 of Cr.P.C. Relying on the said judgment of Nandini Satpathy (supra), the Madras High Court in the case of Pulavar B.M. Senguttuvan & Others v. The State5 held as follows:

"Therefore, there is no gainsaying that either the act of the respondent is against the law or against the spirit of Article 20(3) of the Constitution of India and hence even interpreting Section 160(1) Cr.P.C. in conformity with the above constitutional provision, the conclusion that could be arrived at is „any person" mentioned in Section 160(1) Cr.P.C. means and includes „any accused person" and they could be summoned to appear as witnesses since such a summons issued to an accused in a case under investigation by the Investigating Officer is not at all violative of the Article 20(3) of the Constitution of India.."

2004 Cri.L.J.558 SUN, J

13. So, the contention relating to the bar under Article 20(3) of the Constitution of India has no legs to stand in view of the aforesaid judgment of the Hon"ble Apex Court. It does not amount to testimonial compulsion. Having regard to the aforementioned principles, this court is of the considered view that both accused persons and witnesses fall within the ambit of the expression „any person" employed in Section 179 (1) of the BNSS. Therefore, the contention of the petitioner that the impugned notice is unsustainable on the ground that no such notice can be issued under the said provision cannot be accepted and as such, the impugned notice dated 28.09.2026 is legally sustainable.

16. As a notice under Section 35 of BNSS could have an immediate bearing on the liberty of an individual in the event of non-compliance, it has been held that electronic communication is not a valid mode of service under Section 35 of the BNSS. Therefore, treating electronic communication as a valid mode of service of notice under Section 35 of the BNSS would be contrary to the legislative, as no such mode of service has been specifically provided for by the legislature. It has also been observed by the Hon'ble Supreme Court that the usage of electronic communication by the investigating agency has been provided for only in relation to the procedure contemplated under Sections 94 and 193 of the BNSS.

17. Section 179(1) of the BNSS provides that a person who has been served with a notice is required to attend as directed. In the absence of any specific provision in the BNSS prescribing the mode of service of notice under Section 179(1), service of such notice through WhatsApp or any other electronic mode cannot be considered a legally recognized alternative to, or substitute for, the mode of service prescribed under the BNSS. Accordingly, the impugned notice SUN, J sent through WhatsApp to the petitioner/accused No.4 is liable to be treated as an invalid.

The Hon'ble Court further noted that the Legislature had specifically excluded the notices issued under Section 35 of the BNSS, 2023 from the procedures that may be undertaken through electronic communication, as provided under Section 530 of the BNSS, 2023.

Sec 91 CrPC can be filed by the accused, at the time of raising the defence and not before and any consequential 311 CrPC applications can also be filed.
https://indiankanoon.org/doc/118777384/; Aswa Satyanarayana vs The State Of Andhra Pradesh; CRLP Nos: 7085 and 7176 of 2026: 13.10.2026; APHC010429322026;

13. Furthermore, the dictum of the Three-Judge Bench of Apex Court was subsequently reiterated and followed by the Hon'ble Division Bench of Apex Court in Suninder Sandha v. State of NCT of Delhi and Another 3, wherein it was also stated that an accused cannot use Section 91 Cr.P.C., to seek documents as a matter of right, at any stage. By relying on the precedent in Sarla Gupta v. Directorate of Enforcement, it was held that the appropriate stage for an accused to invoke Section 91 Cr.P.C., for non-relied documents only arises when the accused enters upon their defence evidence, not beforehand. The Court must consider whether the documents sought are relevant and necessary for the case and whether the application is made at the proper stage.

14. Now coming into the case on hand, the right to summon the documents as well re-calling of witnesses are not an absolute right of the accused, but it is for the Court to perceive the material on record and to arrive apt conclusions so 2025 SCC OnLine SC 3246 as to strike a balance between the rights of the accused as well as the prosecution. However, it is also well-settled that the right to a fair trial is one of the integral facets of Article 21 of the Constitution of India.

15. Having regard to the present stage of the calendar case (CC) before the trial Court, the parameters to be considered at the stage of prosecution evidence are distinct from those applicable while appreciating the same material at the stage of defence evidence. Added to that, keeping note of settled principle that procedural laws are intended to advance the cause of substantial justice and not to defeat it. Therefore, mere procedural irregularity, i.e., stage of filing the petitions under Sections 91 & 311 Cr.P.C., by itself, would not results in the denial of a fair trial to the accused.

16. In this scenario, this Court is not going to venture into the merits and demerits of the case, as the present petitions under Sections 91 and 311 Cr.P.C., filed by the accused, are admittedly before the stage of defence, but are not at the stage of defence. More so, as contended by the learned Special Public Prosecutor, prosecution is not relying upon the enclosures mentioned in Ex.P24. However, learned counsel for the petitioner/accused states that, in order to demolish the case of prosecution and to unravel the truth, those documents as well recall of witness are just and essential. Hence, in the considered view of this Court, it is always open to the petitioner/accused to invoke the relevant statutory provisions at the stage of defence. Such a course is legally tenable and plausible, as the right to a fair trial is an indispensable and inextricable facet of criminal jurisprudence.

17. It is also relevant to mention that, in view of the fact that the very filing of Section 311 Cr.P.C., is consequential in the light of facts and circumstances set out in the present lis. As the very petition filed under Section 311 Cr.P.C., to recall PW-13 in the very same case, i.e., C.C.No.10 of 2022, is consequential in nature. Thus, in view of the aforesaid categorical findings, these twin petitions are disposed of, by way of common order, leaving it open to the petitioner to file a petition under Section 311 Cr.P.C., along with a petition under Section 91 Cr.P.C., at the stage of defence before the trial Court.

18. Accordingly, these two Criminal Petitions are disposed of, permitting the petitioner to move the proper petitions under Sections 91 & 311 Cr.P.C., at the stage of defence, before the CC No.10 of 2022, if so advised, and on such filing, trial Court is directed to consider

and dispose of the said petitions by taking note of the statutory regime and constitutional ethos settled by the Apex Court, without being influenced by the earlier observations, including those made in the impugned Orders dated 21.07.2026 too.

The allegation of issuing payment receipts by fabrication or forgery will be revealed only during the investigation. The pending Civil case is not a bar.
https://indiankanoon.org/doc/130972927/; Manna Vasu Kumari vs The State Of Telangana on 13 October, 2026; CRIMINAL PETITION No. 14618 of 2026 (CNR.No.HBHC010613062026)

10. It is relevant to mention that this Court vide order dated 18.11.2025 in Crl.P.No.6378 of 2015 (Mohammad M. Khalid, Hyderabad and two others v. Public Prosecutor, Hyderabad and another), held as follows:

"It is relevant to mention that in K.Jagadish v. Udaya Kumar G.S.2, the Hon'ble Apex Court has reaffirmed the well-settled principle that the same set of facts may give rise to both civil and criminal proceedings, and that availing civil remedy does not bar the initiation of criminal prosecution. The Court relied heavily on precedents like Kamaladevi Agarwal v. State of W.B. 3 and Trisuns Chemical Industry v. Rajesh Agarwal4, to reiterate that criminal proceedings cannot be quashed merely because a civil dispute is also pending between the parties. In Kamaladevi Agarwal, it was categorically held that the pendency of civil proceedings does not justify quashing criminal proceedings, especially where the allegations disclose a prima facie criminal offence. The Court observed that many acts of cheating occur in the context of (2020) 14 SCC 552 (2002) 1 SCC 555 (1999) 8 SCC 686 commercial or financial transactions, and such a "civil profile" does not strip the act of its "criminal outfit."

Similarly in S.N. Vijayalakshmi v. State of Karnataka5, the Hon'ble Apex Court has reiterated the same principle, stating that civil and criminal proceedings may, in law, proceed simultaneously, a criminal prosecution can be sustained only where there is a clear presence of criminal intent at the inception of the transaction."

11. In Punit Beriwala (supra), the Hon'ble Supreme Court held that the object of the investigation is the discovery of truth. It is further held that the investigating authority will conclude that either the receipts in favour of the appellant are forged and fabricated or that the receipts are genuine, the same can be ascertained once the investigation is permitted to reach its logical conclusion. The above said principle laid down by the Hon'ble Supreme Court is squarely applicable to the facts and circumstances of the case on the ground that the contents of the complaint is of dishonest intention, inducement, forgery and fabrication of the receipts and whether the alleged receipts produced by the petitioners that respondent No.2 and her husband issued payment receipts for an amount of Rs.1,17,00,000/- are genuine or not, the same will be revealed during the course of investigation and are not confined to a mere civil dispute for recovery of amounts between the parties. The allegations disclose prima facie commission of cognizable offences, and the grounds raised by the petitioners involve disputed facts, which cannot be examined in a proceeding under Section 528 of BNSS.

Prosecution can file documents subsequent to filing charge sheet.
https://indiankanoon.org/doc/140908792/; Syed Ayub vs The State Of Telangana on 13 October, 2026; CRIMINAL PETITION Nos. 16008 and 16312 of 2026; (CNR Nos. HBHC010651442026 and HBHC010682832026)

7. Insofar as the contention raised by the learned counsel for the petitioner that the prosecution filed Crl.M.P.Nos.1135 and 1176 of 2026 after cross-examination of PWs.1 and 2, to fill up the gaps, especially the documents filed along with Crl.M.P.No.1176 of 2026 are not part of the final report and the said documents cannot be taken into consideration, is not tenable under law on the ground that in Central Bureau of Investigation v R.S.Pai and another1, the Hon'ble Apex Court held that the investigating officer is ordinarily required to submit all relevant documents along with the charge sheet. However, the word "shall" in Section 173(5) of Cr.P.C. is directory and not mandatory. Therefore, additional documents omitted at the time of filing the charge sheet may be produced subsequently with the permission of the Court.

8. It is relevant to mention that in Sameer Sandhir v. Central Bureau of Investigation2 the Hon'ble Apex Court held that omission to produce relevant documents along with the charge sheet does not bar their subsequent production with the Court's permission, as the requirement under Section 173(5) of Cr.P.C. is directory and not mandatory.

9. In respect of the other contention raised by the learned counsel for the petitioner that unless the khulanama between PW.1 and her husband declared by the competent Family Court is valid, the said document cannot be received on behalf of the prosecution and the Kazi is not having power either to perform the marriage or to grant decree of divorce by way of khulanama, (2002) 5 SCC 82 2025 LiveLaw (SC) 627 therefore, the khulanama cannot be received on behalf of prosecution is concerned, the learned trial Court while passing the impugned order specifically observed that validity of the documents cannot be decided at the threshold and the same can be decided at the appropriate stage, and the petitioner is also entitled to cross- examine the witness. Hence, this Court is of the considered view that the learned trial Court has rightly exercised its discretionary powers vested upon it and passed the impugned common order dated 09.09.2026 passed by the trial Court in Crl.M.P.Nos.1135 and 1176 of 2026 and this Court does not find any illegality, irregularity or legal infirmity in the impugned order to exercise the powers conferred under Section 528 of the BNSS.

Bail Applicant should disclose antecedents and previous bail applications in the petition
https://indiankanoon.org/doc/73324976/;APHC010514592026; Shaik Hussain Basha Alias Bade vs The State Of Andhra Pradesh on 13 October, 2026; CRIMINAL PETITION NO: 8656/2026

8. The revised Standing Order No.282(1) of the High Court of the Andhra Pradesh stated in every application for bail presented to the High Court, the Petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof. An application which does not contain this information shall be placed before the bench with the necessary information.

Dying Declaration forms primary basis for conviction, as no prudent person would falsely implicate an innocent person while on the deathbed. Other evidence is also consistent and reliable

https://indiankanoon.org/doc/132790470/; APHC010164412019; K.Nageswara Rao vs State Of Ap; CRIMINAL APPEAL No.455 OF 2019 14th October, 2026 ;

15. The depositions of P.W-1 and P.W-3 clearly establish the accused's motive. He bought the land when his relationship with his wife was good. After a marital dispute, they separated, and he moved to Mumbai. When he returned, he stayed with Ramprasad and tried to sell the property. The deceased intervened and stopped his activities, creating animosity that directly caused the fatal attack.

16. The deceased was immediately admitted to hospital, as stated by P.Ws-1 to 3. Although P.Ws-1 and 2 are family members and interested witnesses, their testimonies are corroborated by P.W-3 and P.W-10, who witnessed the accused inflicting knife injuries on the deceased. Immediately upon admission, a Medico Legal Intimation was sent to Amalapuram Taluk Police Station. The police subsequently recorded the dying declaration (Ex.P-6). This dying declaration forms the primary basis for conviction, as the testimonies of P.Ws-1 to 4 and P.W-10 are consistent and reliable. Furthermore, no prudent person would falsely implicate an innocent person while on the deathbed.

17. The Hon"ble Apex Court in Crl.A.No.1978 of 2022 held as follows:

"It can thus be seen that this Court has clearly held that dying declaration can be the sole basis of the conviction if it inspires the full confidence of the court. The Court is required to satisfy itself that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination. It has further been held that, where the Court is satisfied about the dying declaration being true and voluntary, it can base its conviction without any further corroboration. It has further been held that there cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. It has been held that the rule requiring corroboration is merely a rule of prudence.

The Court has observed that if after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration."

18. In the case at hand, the deceased, in his dying declaration (Ex.P-6) recorded by P.W-9, categorically stated that his brother- in-law (accused) was digging soil on his sister"s land. As his sister had entrusted him with responsibility for the land, he objected and brought the matter before the panchayat and the VRO, and the VRO stopped the accused"s attempts to dig earth. In pursuance of the same, on 07.02.2015 at about 08.30 a.m., the accused stabbed the deceased in the stomach and the right side of the throat.

19. Upon perusal of the dying declaration (Ex.P-6), we have no hesitation in holding that Ex.P-6 is consistent and corroborated by the oral evidence of the prosecution witnesses. Therefore, we accept the dying declaration Ex.P-6, which is made in a fit state of mind, and that it is not result of tutoring, prompting, or imagination. Accordingly, it inspires confidence of the Court.

20. After careful scrutiny of the oral evidence of P.Ws-1 to 4 and P.W-10, coupled with the documentary evidence of Ex.P-4 (post mortem certificate), Ex.P-6 (dying declaration), Ex.P-7 (case sheet of the deceased), Ex.P-13 (report of VRO) and Ex.P-14 (wound certificate), we have no hesitation in coming to the conclusion that the conviction and

sentence recorded by the learned II Additional Sessions Judge, Amalapuram, are sustainable on facts and law and do not warrant interference by this Court.

The absence of external injuries, an intact hymen and the non-detection of semen or spermatozoa must, therefore, be considered along with the oral evidence rather than in isolation. Delay in lodging complaint should be considered on specific facts of the case.

https://indiankanoon.org/doc/113183048/; Ankenalapally Bala Obul Reddy , Obul Reddy vs The State Of Andhra Pradesh on 14 October, 2026; CRIMINAL APPEAL No.276 of 2011; (CNR No. HBHC010340152011)

21. PW.8, the doctor who examined the victim girls on 08.12.2009 stated that no external injuries were found on either of them and that their hymens were intact. He collected vaginal smears and sent them to the Forensic Science Laboratory for examination. The medical opinion, as reflected in the record, was that sexual assault could not be ruled out. The absence of external injuries or the presence of an intact hymen cannot, by itself, conclusively establish that no sexual assault or attempt to commit such an offence occurred. Similarly, the non-detection of semen or spermatozoa does not necessarily exclude an attempt to commit rape. The significance of such findings depends upon the precise nature of the acts alleged, the interval between the occurrence and the medical examination, and the other evidence available on record. In the present case, the prosecution has adduced the direct testimony of PW.2 and PW.3 concerning the acts attributed to the appellant-accused. The absence of external injuries, an intact hymen and the non-detection of semen or spermatozoa must, therefore, be considered along with the oral evidence rather than in isolation.

22. The next contention raised by the defence concerns the interval between the alleged incidents of 05.12.2009 and 06.12.2009 and the lodging of the complaint on 08.12.2009. The prosecution version is that the victim girls disclosed the incident to their respective mothers over a public telephone on 08.12.2009, following which their parents visited the institution and the matter was brought to the notice of PW.1 and the police. The mere fact that a complaint was not lodged immediately after the alleged occurrence does not automatically render the prosecution case doubtful. Whether the delay is material depends upon the circumstances of the particular case, the explanation offered and the possibility of the delay having affected the reliability of the evidence. In the present case, the victim girls were minors residing in an institution under the supervision of the appellant-accused. Their age and circumstances are relevant in assessing the timing of disclosure. The evidence of PWs.2 and 3 regarding their subsequent disclosure to their mothers is supported, in material particulars, by the evidence of PWs.4, 5 and 6 concerning the events of 08.12.2009. In these circumstances, the interval of approximately two days between the alleged incidents and the lodging of the complaint cannot, by itself, be treated as fatal to the prosecution case. Therefore, the evidence concerning the disclosure and the surrounding circumstances cannot independently constitute a ground for setting aside the conviction.

23. Insofar as the contention that PW.2 stated in her deposition that she joined the hostel on 25.12.2009, whereas the alleged incidents occurred on 05.12.2009 and 06.12.2009, is concerned, according to the defence, this discrepancy creates a serious doubt regarding the presence of PW.2 in the institution at the time of the alleged occurrence. In this regard, the evidence of PW.1 assumes significance. PW.1, who was the founder and

Chairman of the institution, deposed with reference to the records maintained by the hostel that PW.2 was initially admitted in August 2007, remained in the institution for about seven months, thereafter left the institution and again joined in September 2008.

24. Thus, the evidence of PW.1 establishes that PW.2 had been admitted to the institution well before the dates of the alleged occurrence and had subsequently rejoined the institution. The statement of PW.2 regarding the date of joining the hostel on 25.12.2009 must be considered in conjunction with the evidence of PW.1 concerning her earlier admission and subsequent rejoining. The testimony of PW.1, being based upon the records maintained by the institution, provides an explanation for the apparent discrepancy in the date stated by PW.2. The said statement cannot be considered in isolation while ignoring the evidence of PW.1 regarding the earlier admission of PW.2 and her subsequent return to the institution.

25. The relevant question is not merely the date stated by PW.2 in isolation, but whether the evidence as a whole establishes her presence in the institution on the dates of the alleged occurrence. The evidence of PW.1 regarding the earlier admission and rejoining of PW.2, read with the testimony of PW.2 and PW.3 concerning the incidents, supports the prosecution version regarding the presence of PW.2 in the institution. Therefore, the discrepancy concerning the date of joining, when considered along with the evidence of PW.1, does not, by itself, discredit the entire prosecution case or render the testimony of PW.2 inherently unreliable. The defence has not shown that the said discrepancy necessarily establishes the absence of PW.2 from the institution on the dates of the alleged occurrence. Accordingly, the said contention cannot be accepted as a sufficient ground to discard her testimony, particularly when the prosecution case is also supported by the evidence of PW.3 by way of corroboration and the other circumstances brought on record.

26. Insofar as the contention that the other girls were also sleeping in the office room and that, in such circumstances, there was no sufficient opportunity for the appellant-accused to commit the alleged acts, is concerned, the prosecution case, as spoken to by PW.2 and PW.3, is that the appellant-accused directed the girls to sleep in the office room and used to call them during night hours. The appellant-accused was working as a teacher and warden and was entrusted with the responsibility of supervising the institution. The evidence of PW.1 and PW.6 supports the prosecution case regarding his position and presence in the institution. The mere presence of other children, does not negate the testimony of the victim girls concerning the acts attributed to him, as the victim girls were called by the appellant-accused during night hours.

27. It is also relevant that the victim girls were residing in an institution where the appellant-accused exercised supervisory authority over them. Their evidence regarding the circumstances in which they were called during night hours and subjected to the alleged acts must be assessed in that context. Accordingly, the contention that the presence of other children necessarily made the alleged occurrence impossible cannot be accepted as a ground for discarding the prosecution evidence.

28. It is relevant to note that, in the present case, the prosecution case rests primarily on the testimony of the victim girls, who deposed that the appellant-accused repeatedly called them during night hours, asked them to massage his legs, removed their clothes and subjected them to sexual acts against their will. They further spoke about the threats allegedly extended by the appellant-accused when they resisted his conduct. The evidence of PWs.1 and 6 establishes the position occupied by the appellant-accused in

the institution, while the testimony of PWs.4 and 5 lends support to the prosecution version regarding the subsequent disclosure of the incidents. Thus, the prosecution evidence is not confined to establishing the mere presence of the appellant-accused in the institution; rather, it comprises the direct testimony of the victim girls concerning the acts attributed to him, the circumstances in which the alleged incidents occurred, and the evidence relating to the subsequent disclosure thereof. When considered cumulatively, the testimony of the victim girls, read in conjunction with the evidence of the other prosecution witnesses, lends support to the prosecution case against the appellant- accused.

29. In view of the foregoing discussion and upon a careful consideration of the evidence on record, this Court is of the considered opinion that the learned trial Court rightly found the appellant-accused guilty of the offence punishable under Section 376(2)(f) read with Section 511 of the Indian Penal Code and accordingly convicted and sentenced him to undergo rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-, in default of payment of fine, to undergo simple imprisonment for six months. Having regard to the nature and gravity of the offence, the evidence on record and the sentence imposed by the learned trial Court, this Court finds no valid ground warranting interference with the impugned judgment of conviction and order of sentence. Accordingly, the conviction and sentence imposed by the learned trial Court are liable to be confirmed, and the Criminal Appeal is liable to be dismissed.

State directed to compensate the accused for false implication in a case by Police officials without any investigation

2026 0 INSC 1150; 2026 0 Supreme(SC) 1281; Arun @ Deepak Vs. State of U.P.; Special Leave Petition (Crl.) No. 4859 of 2026; Decided On : 26-10-2026

14. It is unfortunate that despite no evidence against the petitioner herein, he was imprisoned for six years as an undertrial. Based on a slipshod investigation, a haphazard prosecution was carried out, which resulted, fortunately in the acquittal of the accused. We cannot but deprecate the manner in which the investigation was carried out and the prosecution conducted. As we noticed at the initial stage, we were only concerned with a bail application in which the direction was issued to complete the trial which resulted in the acquittal of the sole accused, who faced trial. We spent our valuable time going through the judgment only to caution the State as to the manner in which investigations are carried out. The State Police would do well to educate their officers in the process of investigation. A copy of this order will be sent to the Director General of Police and Home Secretary of the State of Uttar Pradesh.

15. Be that as it may, six years have been erased from the life of a man on the strength of a concocted story built on mere surmises and conjectures. Not even a rudimentary investigation was carried out. The investigating agency also took no steps to expedite the trial, at least against the present petitioner, even if one accused was absconding, especially when the other had expired. The State cannot shirk from its responsibility to protect its citizens, especially when a person arraigned in a criminal case is presumed innocent until proven guilty. The investigation and prosecuting agencies exist not merely to, and by whatever means bring in a conviction. They should recognize themselves to be essential stakeholders in the justice delivery system, ensuring justice, not only to the victim, the de facto complainant and the injured but also to the accused. We come across such travesty of justice in many matters, but in some, so blatant and shocking, as

in this case, which requires reparation to the accused, who in turn is a victim of the system.

16. We, hence, direct the State to pay an amount of Rs.6,00,000/-; though paltry in comparison to the years spent in custody, within a period of one month to the petitioner herein. If the amount is not so paid within the time stipulated, it shall carry interest @18% per annum.

Extra judicial confession not hit by sec 25 IEA
No mini trial at the stage of Bail
No automatic cancellation of default-bail, on cancellation of Bail
2026 0 INSC 1160; 2026 0 Supreme(SC) 1291; Union of India Vs. Mohamed Rifas @ Mohamed Rigbas; Criminal Appeal No(s). 5070 of 2026 Arising out of SLP (Criminal) No(s). 7177 of 2024; Decided On : 27-10-2026

We are conscious of the fact that at stage consideration for grant or cancellation of bail, the courts cannot conduct a mini trial to appreciate the evidentiary value of each factual matrix, and the exercise is confined to prima facie satisfaction which makes the grant or cancellation of bail probable or improbable.

30. Sub-section 43D(7) commences with a non-obstante clause overriding the mandate envisaged under sub-sections (5) and (6) of Section 43D and provides that "no bail shall be granted to a person accused of an offence punishable under UAP Act, if he is not an Indian Citizen and has entered the country unauthorizedly or illegally". This happens to be the initial part of sub-section (7) of Section 43D which indicates the ingredients for its application, as such, it is pertinent to enumerate these ingredients at the outset, which in our considered view, are sine qua non for application of the said sub-section:

a. First, the person needs to be an accused of an offence punishable under the UAP Act;
b. Second, such person must not be an Indian Citizen; and
c. Third, he must have entered India unauthorizedly or illegally.

31. Thus, if these three conditions stand satisfied by the prosecution prima facie, it appears that the court would be barred from exercising jurisdiction in favour of grant of bail. However, there is more to the said sub-section than meets the eye. Pertinently, the legislature has explicitly used the conjunction "and" between second and third condition as envisaged under the said sub-section, mandating a conjunctive reading, therefore, merely because a person is not an Indian Citizen will not suffice to trigger the rigors of sub-section (7) of Section 43D rather the condition mandating "at the time he entered India", such entry must be either unauthorized or illegal must also co-exist, therefore, a probable inference that can be drawn herein is that where a foreign national enters India under an authorization or through a legal process such as a valid visa, mere fact that subsequently, such authorization is revoked or the stay becomes illegal will not retroactively convert a lawful entry into an "unauthorized or illegal entry" warranting invocation of sub-section (7) of Section 43D and what is required and necessary is that when such person entered India initially such entrance itself was unauthorized or illegal. Unless, these conditions are satisfied, the statutory bar under Section 43D(7) cannot be invoked. Therefore, the prosecuting agency will have to establish prima facie the aforesaid three conditions to restrain the courts from exercising its jurisdiction to grant bail to an accused of an offence punishable under UAP Act who is a foreign national.

32. Though it appears that judicial discretion, once all conditions are prima facie established, is absolutely barred by use of the expression "no bail shall be granted" by

the legislature, the latter part of sub-section (7) channels a narrow scope for exercise of judicial discretion even when all the condition discussed above stand fulfilled. The relevant part opening such narrow window of judicial discretion is discernible through the expressions "except in very exceptional circumstances and reasons to be recorded in writing" occurring in the latter part of said sub-section. The said expression makes it apparent that the exception for grant of bail to a foreign national even when the above three conditions stand satisfied can be carved out but again such carving out has an extremely high threshold which is inherent therein itself by use of two expressions "very exceptional circumstances" and "reasons to be recorded in writing". By the usage of said two expressions, again the legislative intent is explicitly apparent that even though the court is of the considered opinion that a foreign national, who is an accused of an offence punishable under UAP Act, is entitled for grant of bail unless there is an "exceptional circumstances" that too is qualified by the word "very" which warrants a standard extremely high showing a strong exceptional circumstance, the court shall not exercise its judicial discretion in favour of the accused person but even then where the court is of considered opinion to exercise such discretion, it has to record reasons in writing explaining such circumstances which warrants such exercise of judicial discretion for grant of bail in favour of the accused person. The burden of showing such "very exceptional circumstances" will solely lie on the shoulders of the accused person which may impel the courts to exercise the judicial discretion in favour of grant of bail. What can be a "very exceptional circumstances" would depend upon the facts and circumstances of each case and there cannot be straight jacket formula or a pigeonhole to exhaustively lay down those circumstances herein. Therefore, we are of the considered view, that Section 43D(7) creates a very high bar to be satisfied by the accused person once the prosecution establishes prima facie ingredients of sub-section (7) of Section 43D exists. The legislative intent warranting such high threshold is primarily backed by considerations of national security, larger public interest and sovereignty of India.

Through the catena of decisions discussed above, it is apt and appropriate to note that it is well-settled proposition of law that there is distinction between the consideration of factors while adjudicating an appeal against the order of grant of bail and an application for cancellation of bail. In an appeal, the Courts have to see whether the order granting bail suffers from any perversity or has been passed without due application of mind or on irrelevant considerations and in such a case the appellate court would be justified to interfere with the order of grant of bail. Whereas in an application for cancellation of bail, the considerations are entirely different, namely the Courts will have to bear in mind that bail has already been granted, the judicial discretion has been exercised in favour of accused's liberty which holds substantial constitutional value, the courts will have to be cautious while subsequently exercising the discretion cancelling the bail and where the Courts form an opinion that such discretion ought to be exercised it necessarily has to be based on some supervening circumstance which demands that if such discretion is not exercised it would tend to impair a fair trial. Such circumstances may include the violation of bail conditions through post-bail conduct of the accused person or discovery of some material fact which was suppressed during the time of grant of bail of such nature which would have refrained the court from exercising its imprimatur in favour grant of bail to the accused person. Even when there is no such supervening circumstance, this court has held in Deepak Yadav (supra) that courts have inherent power to cancel the bail. Though this court expanded the scope of power of courts while considering grant of bail

even in absence of supervening circumstances, however, such power must be based on plausible reasoning and should not be exercised capriciously but with caution since the matter pertains to liberty of an individual and prosecution cannot be allowed to trifle with such liberty unless of paramount consideration for a fair trial was likely to jeopardise.
The appellant has contended that conduct of the respondent in not disclosing the fact of his nationality amounts to suppression of material fact which would have refrained the Sessions Court from granting the bail vide order dated 05.07.2018. We are not convinced by the said submission, since we cannot lose sight of the fact that respondent was granted statutory bail under Section 167(2) Cr.P.C. due to non-filing of the chargesheet. Therefore, bail was granted to respondent as a matter of right and in the light of Section 43D(2) which enables the application of Section 167(2) Cr.P.C. to UAP Act, we fail to understand that even if sub-section (7) of Section 43D would have been attracted how it would whittle down the mandate of Section 43D(2) since the overriding effect of sub-section (7) of Section 43D is confined to sub-sections (5) and (6) of Section 43D and not sub-section (2), as such, it does not bar the grant of statutory bail.
The appellant relied upon State v. T Ganga Reddy (supra) to contend that even when a statutory bail is granted since such bail is not granted on merit, the courts have power to cancel the bail subsequently on filing of chargesheet. We fail to agree with said contention. What State v. T Ganga Reddy (supra) mandated was not a mechanical exercise of cancellation of bail after filing of chargesheet rather it was held that such cancellation can be made on making out a special and strong ground that commission of non-bailable crime is disclosed from the chargesheet.

Sentences to run Concurrently is Rule
2026 0 INSC 1161; 2026 0 Supreme(SC) 1292; Raju Shantaram Koli Vs. The State of Maharashtra; Criminal Appeal No. 5072 of 2026 (Arising out of Special Leave Petition (Crl.) No. 8535 of 2025) With Criminal Appeal No.5073 of 2026 (Arising out of Special Leave Petition (Crl.) No.20839 of 2026) (Arising out of Diary No. 49371 of 2026) Decided On : 27-10-2026
15) The correct legal position, as set out by this Court in Muthuramalingam (supra) is, life sentences awarded for multiple offences in a single Trial, cannot be directed to run consecutively. However, such sentences would be super imposed over each other so that any remission or commutation granted by the competent authority qua one, does not ipso facto result in remission of sentence awarded to the prisoner for the other.

No automatic quash of Non-compoundable cases on ground of compromise
2026 0 INSC 1164; 2026 0 Supreme(SC) 1296; Gopal Lodhi Vs. State of M.P. & Anr.; Special Leave Petition (Crl.) No. 7332 of 2026; Decided On : 26-10-2026
3. Considering the seriousness of the offence, we were slightly perturbed. The following decisions were referred to by the High Court in the impugned order, namely, Jagdish Chanana & Ors. Vs. State of Haryana and Anr. [(2008) 15 SCC 704], Madan Mohan Abbot Vs. State of Punjab [(2008) 4 SCC 582], Shiji Vs. Radhika and Anr. [(2011) 10 SCC 705], Narinder Singh and Ors. Vs. State of Punjab [(2014) 6 SCC 466], Anita Maria Dias and Anr. Vs. State of Maharashtra and Anr. [(2018) 3 SCC 290] and Gian Singh vs. State of Punjab [(2012) 10 SCC 303].
4. Madan Mohan Abbot (supra) was a case in which the allegations were under Sections 379/406/409/418/506/34 of the Indian Penal Code, wherein the High Court found that the

offence under Section 406 is not compoundable since the amount involved was more than Rs.250/-. This Court found that in purely personal matters such a strait jacket approach need not be taken, especially under Section 482, Cr. PC. Jagdish Channa (supra) was also a case in which the offence was purely personal.

5. In Shiji (supra), the complainant was a lady who alleged theft of a purse and assault, while she was waiting on the roadside while her husband and brother-in-law were inspecting a property. The matter was settled amicably since the allegation actually arose from a scuffle, the accused had with the petitioner's husband and her brother-in-law, regarding a dispute with respect to a pathway. This Court found that the origin is in a civil dispute and the trial would be an exercise in futility since there would be no witness to establish the crime, the matter having been settled.

6. In Narinder Singh (supra), the offences alleged are under Section 307/324/323/34 IPC. The accused had attacked the complainant which led to the registration of the crime. Both the accused and the complainant belonged to the same village, and the elders of the village intervened to bring in an amicable settlement. Both parties agreed to bury the hatchet, in which circumstances, this Court found continuation of the trial to be unnecessary.

7. In Anita Maria Dias (supra) the complaint arose from purely commercial transactions. In Narinder Singh and Anita Maria Dias this Court while laying down certain guidelines distinguished the power under Section 482 from that conferred under Section 320 of the Cr.PC and emphasized the inherent power being invoked to secure the ends of justice and to prevent abuse of the process of Court. However, it was cautioned that such power is not to be exercised in cases which involve heinous and serious offences indicating mental depravity or offences like murder, rape, dacoity etc. which cannot be termed private in nature, especially due to the serious impact it has on the society.

8. Gian Singh (supra) was a decision of a three Judge Bench which reiterated that the scope under Section 482, Cr. PC to quash criminal proceedings, involving non-compoundable offences is distinct and different from the compounding powers under Section 320. When the parties have settled their disputes, unless the offences are heinous and serious like that of mental depravity, murder, rape, dacoity etc. or under the Prevention of Corruption Act, the power under Section 482, Cr. PC could be invoked.

9. One other decision brought to our notice is Shambhu Kharwar Vs. State of U.P. and Anr. (2024) 16 SCC 502 wherein the crime registered on the allegation of rape and breach of promise to marry, was quashed, exercising the jurisdiction under Section 482, Cr.PC, finding from the allegations raised itself that the relationship was consensual.

10. The present case is one of rape, and we should confess that we were inclined to grant anticipatory bail. However, quashing of a case under Section 482 relying solely on a compromise, especially when it is a non-compoundable offence, would be stepping outside the jurisdiction under Section 482 that too in violation of the power conferred under Section 320. We are not only concerned with the settlements which could be arrived at on coercion by the accused but also apprehensive of the multiplicity of such false complaints being made, with the lure of a future settlement being arrived it.

11. We are not prima facie satisfied that the cases referred to by the learned Single Judge of the High Court would enable invocation of the power under Section 528 to quash the complaint, on a compromise where a heinous offence of rape is alleged; the powers of Section 482 still being distinct, but such examination of the case having not been done.

2. On the next posting date, we directed the victim to be facilitated video conferencing so that we can interact with her. Today, we interacted with her from the office of the District Legal Services Authority, Rajgarh, Pachore in the presence of the Secretary. We interacted directly with the victim and also through the Secretary DLSA. Our apprehension was justified, the victim in the same breath says that she was coerced into settlement, that she is not ready for a settlement and that she requires money for settlement. She categorically stated that she made a complaint and stated the truth therein. However, that will have to be examined in a trial and we are unable to express any opinion at this point. We make it clear that the observations made by us need not regulate the trial, but we cannot but reiterate our caution insofar as false accusations being raised on the lure of a financial settlement and also on the other hand settlements, motivated by coercion. We have already stated the law on the point insofar as quashing a case involving serious offences on mere settlement; which we cannot approve. We have distinguished the decisions relied on by the learned Single Judge. We, hence, though not directly concerned with it, set aside the order passed by the High Court in Misc. Criminal Case No.15763 of 2026 and direct the trial to be proceeded with. Insofar as the present petition is concerned, we set aside the order in Criminal Appeal No.2110 of 2026 impugned herein and direct the petitioner herein to be released on anticipatory bail on such conditions as imposed by the Trial Court. The petitioner shall cooperate with the investigation and shall appear before the Trial Court as and when summoned.

Grounds for grant of regular bail u/s. 483 BNSS

Mere procedural irregularity like serving in writing the grounds of arrest, cannot be ground for grant of regular bail.

2026 0 INSC 1169; 2026 0 Supreme(SC) 1301; State of Rajasthan Vs. Jhabra Ram; Criminal Appeal No. 5092 of 2026 (@ Special Leave Petition (Crl.) No. 13374 of 2026); Decided On : 28-10-2026

17. In an application seeking regular bail under Section 483 [Special powers of High Court or Court of Session regarding bail] of the BNSS, the Court is mandated to consider well-settled statutory and judicial parameters, including: (i) the nature and gravity of the accusation; (ii) the severity of the punishment in the event of conviction; (iii) the danger of the accused absconding or tampering with evidence; and (iv) the overarching impact on public interest and national security. A hyper-technical objection regarding the form or mode of communicating grounds of arrest cannot be treated as a self-executing, blanket key to unlock regular bail, bypassing the core parameters governing bail jurisprudence.

20. In examining the constitutional object underlying Article 22(1) [Protection against arrest and detention in certain cases] of the Constitution and Section 47 [Person arrested to be informed of grounds of arrest and of right to bail] of the BNSS, this Court in Kasireddy Upender Reddy (Supra) reiterated that the requirement of communicating grounds of arrest is designed to serve a substantive purpose rather than a mere formalistic routine. The Court observed as follows:

“32. The object underlying the provision that the grounds of arrest should be communicated to the person arrested has been very succinctly explained in Vihaan Kumar [Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799]. On learning about the

grounds for arrest, the person concerned will be in a position to make an application before the appropriate court for bail, or move the High Court for a writ of habeas corpus. Further, the information will enable the arrested person to prepare his defence in time for the purposes of his trial. For these reasons, it has been provided by the Constitution that, the ground for the arrest must be communicated to the person arrested as soon as possible.

33. For the purposes of clause (1) of Article 22, it is not necessary for the authorities to furnish full details of the offence. However, the information should be sufficient to enable the arrested person to understand why he has been arrested. The grounds to be communicated to the arrested person should be somewhat similar to the charge framed by the Court for the trial of a case."

21. Applying these principles to the present facts, the record clearly reflects that the respondent was fully cognizant of the grounds for his apprehension and was effectively represented by counsel at the stage of remand. The substantive mandate of Article 22(1) thus stands meaningfully fulfilled, with no demonstrable prejudice having been suffered.

22. As affirmed in Kasireddy Upender Reddy (supra) and State of Karnataka (supra), the constitutional framework requires that the arrestee be informed of the grounds of arrest but does not insist upon written communication as an indispensable formality irrespective of the attendant circumstances. In the absence of demonstrable prejudice or denial of an opportunity to defend, an alleged procedural defect in the mode of service cannot ipso facto invalidate detention or entitle an accused to regular bail, more so in cases involving grave allegations of espionage affecting national security and sovereign integrity.

23. The High Court fell into error in treating an alleged procedural irregularity as an automatic ground for grant of regular bail, while completely ignoring the gravity of the offences under Sections 3 [Penalties for spying] and 9 [Attempts, incitements, etc.] of the OSA, 1923, and Sections 152 [Acts endangering sovereignty, unity and integrity of India] and 238 [Causing disappearance of evidence of offence or giving false information to screen offender](b) of the BNS, as well as the material collected during investigation and placed on record. In the circumstances, we are of the considered opinion that the High Court was not justified in enlarging the Respondent on regular bail. The impugned judgment and order cannot be sustained in law and is liable to be set aside.

PC Act- Burden of proof of disproportionate Assets

2026 0 INSC 1172; 2026 0 Supreme(SC) 1304; V. Gopalakrishanan Vs. The State of Kerala; Criminal Appeal No. 5399 of 2025; Decided On : 28-10-2026

19. This Court in P. Nallamal & Anr. versus. State, (1999) 6 SCC 559 held that "the two postulates must combine together for crystallization into the offence, namely, possession of property or resources disproportionate to the known sources of income of public servant and the inability of the public servant to account for it. **Burden of proof regarding the first limb is on the prosecution whereas the onus is on the public servant to prove the second limb……."** [Emphasis supplied]

20. This Court in State of Tamil Nadu. Versus R. Soundirarasu, (2023) 6 SCC 768 held as under:

"41. While the expression "known sources of income" refers to the sources known to the prosecution, the expression "for which the public servant cannot satisfactorily account" refers to the onus or burden on the accused to satisfactorily explain and account for the

assets found to be possessed by the public servant. **This burden is on the accused as the said facts are within his special knowledge. Section 106 of the Evidence Act applies.** The Explanation to Section 13(1)(e) is a procedural section which seeks to define the expression "known sources of income" as sources known to the prosecution and not to the accused. **The Explanation applies and relates to the mode and manner of investigation to be conducted by the prosecution, it does away with the requirement and necessity of the prosecution to have an open, wide and roving investigation and enquire into the alleged sources of income which the accused may have. It curtails the need and necessity of the prosecution to go into the alleged sources of income which a public servant may or possibly have but are not legal or have not been declared. The undeclared alleged sources are by their very nature are expected to be known to the accused only and are within his special knowledge. (emphasis supplied) The effect of the Explanation is to clarify and reinforce the existing position and understanding of the expression "known sources of income" i.e. the expression refers to sources known to the prosecution and not sources known to the accused. The second part of the Explanation does away with the need and requirement for the prosecution to conduct an open ended or roving enquiry or investigation to find out all alleged/claimed known sources of income of an accused who is investigated under the PC Act, 1988. The prosecution can rely upon the information furnished by the accused to the authorities under law, rules and orders for the time being applicable to a public servant. No further investigation is required by the prosecution to find out the known sources of income of the accused public servant.** As noticed above, the first part of the Explanation refers to income received from legal/lawful sources. This first part of the expression states the obvious as is clear from the judgment of this Court in N. Ramakrishnaiah [N. Ramakrishnaiah v. State of A.P., (2008) 17 SCC 83 : (2010) 4 SCC (Cri) 454] ."

(Emphasis supplied)

21. Reference may also be had to the judgment in State of Madhya Pradesh versus Awadh Kishore Gupta, (2004) 1 SCC 691 wherein this court held that the legislature has advisedly used the expression "satisfactorily account". The emphasis must be on the word "satisfactorily" and the legislature has, thus, deliberately cast a burden on the accused not only to offer a plausible explanation as to how he came by his large wealth, but also to satisfy the court that his explanation was worthy of acceptance.

22. In a prosecution for possession of disproportionate assets, the prosecution is required, in the first instance, to establish the foundational facts, namely, the known sources of income of the public servant during the check period and the assets, pecuniary resources, and expenditures attributable to him during the same period. The expression "known sources of income" does not refer to sources known merely to the accused, but to sources known to the prosecution upon a thorough and lawful investigation. Once the prosecution discharges this initial burden and demonstrates that the assets possessed by the public servant are disproportionate to his known sources of income, a prima facie case stands established.

23. Law does not cast an impossible burden upon the prosecution to negate every hypothetical source from which the accused may claim to have derived income. Such an interpretation would render the statutory provision unworkable and defeat its very object. The prosecution is only required to establish, on the basis of material collected during investigation, the income legitimately attributable to the public servant and the extent of

the assets found in his possession. Where a disproportion emerges from such exercise, the evidentiary burden shifts to the accused to account for the same.

24. The rationale underlying this principle is that the source, nature, and mode of acquisition of any undisclosed income, asset, or pecuniary resource are matters peculiarly and exclusively within the knowledge of the public servant. Such facts are not ordinarily accessible to the prosecution and are incapable of being established except through disclosure by the person concerned. Consequently, any income or asset not reflected in the disclosed or known sources of income falls within the realm of the accused's special knowledge. The statutory scheme, read in conjunction with the principles underlying Section 109 of the Bharatiya Sakshya Adiniyam[9][S. 109. Burden of proving fact especially within knowledge.

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations:

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.] (Section 106 Evidence Act, 1872), places the obligation upon the public servant to furnish a satisfactory and credible explanation regarding the existence and acquisition of such assets.

25. Once the prosecution establishes the disproportion between the assets possessed and the known sources of income, the burden squarely rests upon the accused to demonstrate, through cogent and reliable material, that the assets in question were acquired from lawful and legitimate sources. In the absence of such explanation, the prosecution cannot be faulted for its inability to establish facts which lie exclusively within the knowledge of the accused himself.

26. This Court in R. Soundirarasu (supra), elaborately considered the scope and effect of the Explanation to Section 13(1)(e) of the PC Act. It held that the Explanation defines the parameters of the investigation required to be undertaken by the prosecution and clarifies the meaning of the expression "known sources of income." The legislative intent underlying the provision is to require the prosecution to investigate and establish such lawful sources of income as are reasonably ascertainable and known upon investigation, and not every conceivable source which the accused may subsequently choose to assert. The statutory framework does not contemplate an open-ended, limitless, or roving enquiry obliging the investigating agency to explore every possible avenue of income that may be imagined or claimed by the accused. Such a construction would impose an impracticable burden upon the prosecution and would permit an accused public servant to defeat the objective of the provision merely by advancing speculative or belated claims regarding undisclosed sources of income. Law does not require the investigating agency to embark upon inquiries into sources which were never disclosed, never reflected in any record, and never brought to the notice of the authorities during the relevant period.

27. Where an accused seeks to rely upon income from sources not disclosed in statutory returns, official records, financial documents, or other contemporaneous material, the burden necessarily rests upon him to establish the existence, legitimacy, and availability of such sources. Undisclosed sources of income are, by their very nature, matters falling within the exclusive and special knowledge of the accused. The prosecution cannot

reasonably be expected to investigate sources about which it has no prior knowledge and which are known only to the person asserting them.

28. Explanation to Section 13(1)(e) of the PC Act, therefore, embodies a legislative recognition of this practical reality. It relieves the prosecution of the obligation to undertake an endless search for every possible source of income and places the corresponding responsibility upon the public servant to disclose and substantiate any source relied upon to explain the assets found in his possession. Once disproportionate assets are shown with reference to the known sources of income established during investigation, it becomes incumbent upon the accused to furnish a satisfactory, credible, and verifiable explanation for the excess assets. Failure to do so necessarily entitles the Court to draw an adverse inference against the accused and to hold that the disproportion remains unexplained.

29. As noticed hereinabove, Prosecution has established that the Appellant accumulated assets disproportionate to his known source of income by over 51%. Even if the explanation given by the Appellant were to be taken on a demurrer, the disproportionate assets exceed 26% of his known sources of income. Looked at from any angle, Appellant has failed to render a satisfactory explanation to the disproportionate assets accumulated during the check period.

30. We find no infirmity in the view taken by the Trial Court in holding the Appellant guilty of the offence under Section 13(2) read with Section 13(1)(e) of the PC Act and the High Court in affirming the same. There is no merit in the appeal. The same is accordingly dismissed. Consequently, the interim bail granted to the Appellant by order dated 28.03.2025 is vacated. He is granted two weeks' time to surrender before the concerned Trial Court to undergo the remaining sentence.

Not all decisions which are not guided by moral values, do not attract criminal offence.

physical intimacy that occurred during the currency of a functioning relationship cannot be retrospectively branded as acts of rape merely because the relationship soured and no longer subsists.

2026 0 INSC 1179; 2026 0 Supreme(SC) 1311; Santhosh Kumar N.P. Vs. State-Station House Officer, Kadirur Police, Tellicherry, Kannur District & Another; Criminal Appeal Nos. 5137-5138 of 2026 (Arising Out of SLP (Crl.) Nos.10173-10174 of 2025) Decided On : 30-10-2026

43. We wish to note a worrying trend in recent years wherein consensual relationships that have come to an end are retrospectively combed with a fine tooth so as to identify what can post-facto be construed as violence and sexual assault. There is thus a need to distinguish between an absence of consent in its entirety because of it having been built entirely on a mirage of deceit and falsehood at the outset on the one hand from the experiencing of regret over having consented to past sexual acts, owing to the later demise of the relationship. While the latter scenario is unfortunate, such hindsight on its own cannot constitute a consensual relationship as a crime and set the gears of the criminal justice system into motion in a manner that deprives the accused of his liberty and reputation. In fact, such an approach denudes the man of any agency entirely, as the mere factum of being in a consensual relationship at one point would bind him to it entirely for fear of being accused of rape at a subsequent point of time.

45. This Court has time and again witnessed the disturbing trend where failed relationships are being converted into criminal cases. Rape, being a heinous offence, must be reserved for situations where there is real sexual violence, coercion, or manipulation of consent. When every consensual relationship which sours is converted into an accusation of rape, it not only dilutes the gravity of the offence alleged or rather negates the very allegation of crime. It also subjects the accused to irreparable stigma, harassment and injustice. This is not merely a matter of personal dispute. The abuse of the criminal justice process in such cases is a matter of serious concern and must be condemned. Hence, courts would have to view the entire relationship holistically rather than from the perspective of its end.

46. At this juncture, this Court must also sound a note of caution. Rape is an offence that strikes at the core of a woman's bodily autonomy and dignity. It continues to be heavily underreported and victims are encouraged to choose silence so as to protect their and their family's honour and reputation over seeking justice. For every case where the provisions related to rape are misused, there are several cases that never see the light of day. We must emphasise that genuine cases must be pursued with vigour where the facts clearly show sexual assault and violence. But equally, the justice system must not be turned into a tool of vengeance when relationships fail. The legislature has never intended that consensual sexual acts between adults occurring during a mutually affectionate relationship, to be retrospectively criminalised merely because the relationship came to an end. It is unfortunate that despite judicial deprecation, this trend is increasing, and it is a matter of concern for the courts as often settlement of disputes comes with huge monetary considerations to be borne by the male accused.

47. In the facts of the present case, in our view, the materials do not support an inference of rape. The relationship was consensual between two adults. The acts were not forced. The appellant merely decided, for reasons best known to him, to withdraw from the relationship which was claimed to be in the nature of a marital relationship. The repeated sexual acts were part of the ongoing relationship and cannot be severed from it artificially to bring them under Section 376(2)(n).

59. It is conceivable that such consent may stand vitiated if it is subsequently revealed that the woman was genuinely kept in the dark entirely about the true nature of her marriage, and that the husband had been married earlier, entirely unknown to her. There are certainly such genuine cases where trust is betrayed and dignity is compromised, lest the protective mantle of Section 376 along with Sections 493, 494 and 495 of the IPC would be rendered illusory for women who are truly wronged. However, the application of this principle must be guided by facts and evidence in each case, and not by mere allegations or moral presumptions.

60. It is trite to reiterate at this stage that this Court has not been entrusted to pass moral judgement on the varying exercises of free choice, autonomy and agency by individuals in the country. Adult, men and women may freely make decisions that are wise or unwise, prudent or reckless and considerate or callous. These decisions would necessarily be accompanied by consequences, perhaps in the form of undesirable outcomes or unexpected possibilities, some even deeply hurtful. None of this would, however, transform these decisions and their resulting circumstances automatically into criminal offences requiring the intervention of the State apparatus. Criminal law cannot be used as munitions to settle personal scores, exact revenge or coerce an individual to act in any particular way.

There being no possibility of the appeal being heard immediately, is no ground to grant bail to accused in heinous offences

2026 0 INSC 1180; 2026 0 Supreme(SC) 1313; Hanuman Prasad @ Hanuta Ram Vs. State of Rajasthan & Ors.; Criminal Appeal Nos. 5154-5156 of 2026 (@Special Leave Petition (Crl.) No. 19778-19780 of 2026); Decided On : 27-10-2026

12. Oftener than ever, this Court has cautioned the releasing of accused, especially convicted for heinous offences, after conviction by one Court on the ground of there being no possibility of the appeal being heard immediately; which questions the validity of the judicial process itself. Whatever be the reason for the pendency of cases, the Courts cannot be complacent and release criminals convicted for heinous offences, especially when they have not undergone sentence for any considerable period, since it puts to peril the life of the civil society; exposing the fault lines of the system, which we definitely cannot cover up but should always endeavour to overcome.

14. While expressing the above caution, we also have to notice that there have been cases where, for a decade the trial had continued and then the appeal had been pending for another decade when the accused were in custody for long periods. What we indicate is the circumspection with which grant of bail has to be made with respect to persons convicted in heinous crimes. This has to be done on a prima facie examination of the evidence led, which if found to be compelling, then with due weightage given to the actual incarceration suffered by the accused juxtaposed with the reality of the long pendency of appeals in the concerned court and it cannot be a knee jerk reaction to the pendency, the burden of which is more on the citizen than on the Courts. The Courts should be sensitive to the sentiments of the victims' family too while being concerned with the liberty of an individual, especially when the accused stands convicted by a Court of law, no longer being enabled the presumption of innocence, like in this case. The father, day-in and day-out, has to contend with, watching the person convicted of the murder of his son, walking free while the Judges grapple with their pendency in Courts.

Physical relationship on the false promise of marriage is a question of fact to be decided at trial

2026 0 Supreme(Telangana) 1126; Mohammed Kamaluddin Vs. The State of Telangana and another; Criminal Petition No. 16904 of 2026; Decided On : 27-10-2026

8. The allegation against the petitioner is that he sexually exploited the de facto complainant by inducing her to enter into a physical relationship with him on the false promise of marriage. At the stage of considering anticipatory bail, the Court is not required to undertake a meticulous examination of the evidence or render definitive findings on disputed questions of fact and law. Whether the petitioner had a deceptive intention from the inception or subsequently failed to fulfil a promise made in good faith is a matter for investigation.

9. In Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 9 SCC 608, the Hon'ble Supreme Court distinguished a false promise made without any intention of fulfilment from a subsequent breach of a promise made in good faith, emphasising the relevance of the promise and its nexus with the complainant's decision to engage in sexual relations. In the present case, the prosecution alleges deception, whereas the petitioner disputes the allegation and asserts that the relationship was pursued at the

complainant's instance. Any definitive conclusion on these disputed facts would therefore be premature.

whether depositions recorded in the criminal proceedings can be received in the present civil suit.

https://indiankanoon.org/doc/79829725/; Bada Narayana Reddy & 5 Others vs Tholeti Rajasekhar Reddy on 26 October, 2026; APHC010626942016; CIVIL REVISION PETITION NO: 2734/2016

17. Section 33 permits evidence given in an earlier judicial proceeding to be used in a subsequent proceeding to prove the truth of the facts stated therein only when the conditions prescribed by that section are satisfied. Those conditions include that the proceedings were between the same parties or their representatives in interest, that the adverse party had the right and opportunity to cross-examine the witness, and that the questions in issue were substantially the same. The Explanation treats a criminal trial or inquiry as a proceeding between the prosecutor and the accused.

18. The illustrations, 'fact' (Sec.3-(c)) means and includes a man had said certain words. This fact has to be placed for evidence. If the averments are that, a man has said certain words or statements, it is to be examined to cull out the truth as to his statements, evidenced by oral or documentary evidence.

Chapter II deals with the relevancy of facts. To this case, relevancy of fact is the fact that a man has given a statement or said some words in judicial proceeding or before any person authorised by law, becomes a fact that, is so relevant to prove that statement.

19. The statement of such a person, if want to be brought as relevant, the issue to be considered is, the person who made that statement is alive or not. Then comes, in which judicial proceedings the statement was made, either civil or criminal. If it is criminal proceedings, the relevancy would come upon the conditions laid under Sec. 33 of Indian Evidence Act, 1872 (herein after referred as 'Evidence Act'.

20. The conditions required for consideration under Sec.33 of Indian Evidence Act, 1872 are that, the proceedings shall be between the same parties. Adverse party had an opportunity to cross-examine the said party i.e.the party who gave statements in criminal proceedings, had been cross examined. The questions in issue have to be substantially the same in first and subsequent proceedings.

21. The learned counsel for the plaintiffs relied on the distinction between the parties to a criminal proceeding and those to a civil suit. In a criminal proceeding, the parties are the prosecution and the accused; in a civil suit, they are the plaintiff and the defendant. The applicability of Section 33 must, however, be assessed by applying the statutory conditions to the facts of the particular case.

22. In the case on hand, the prosecution was not a party to the criminal proceeding, and the defendant was an accused. The third plaintiff was examined as a prosecution witness. But he a party to that proceeding, as to the relevant facts of statement in the criminal proceeding. If he is a party as to the fact of statement in that case, that statements of him as to the said facts, becomes relevancy to the civil suit. This requires for consideration. The third plaintiff, who stated in the criminal proceedings, is alive. It do not satisfy the conditions under Section 33 of the Evidence Act, as he is alive. But statements previously made by the party before authority can be confronted under Section 145 of the Evidence Act.

23. The documents sought to be received comprise the deposition of the third plaintiff and the depositions of three other persons. The third plaintiff is a party to the present suit and is available for examination. His deposition in the criminal proceedings as can discussed above may be considered as a previous statement. If the statement is relied upon to contradict him, the procedure prescribed by Section 145 of the Evidence Act, for cross- examination as to previous statements in writing would follow. Mere receipt of the deposition does not, by itself, prove the truth of its contents. It can be tested in examination.

24. Thus, by provision of Section 145 read with Section 33 of the Evidence Act, to prove the relevant fact of statements can be applied from the statements made before the criminal Court. The witness in criminal case is 3 rd plaintiff is the party on behalf of deceased first plaintiff, and in civil case, he is a party as LR of deceased first plaintiff. Thus, the 3rd plaintiff is per se not original complainant or a party to the criminal proceedings but becomes a party as a witness for the original complainant i.e. 1st plaintiff (died) likewise in the present suit, he is not the original plaintiff but on behalf of original deceased 1st plaintiff, he came on record as a party being the LR of deceased 1st plaintiff. Thus, in both the cases, he becomes the party of the proceedings.

25. The depositions of T. Narayana Reddy, K. Kristappa and J. Sankar Rao stand on a different stage. They are not parties to the present suit, and the record does not show that they are to be examined as witnesses in it. Their depositions cannot be treated as previous statements made by the third plaintiff, on the premise that all four witnesses were examined in the same criminal proceedings. For the above three persons, the issue arise, Section 33 of the Evidence Act, 1872, that they were have to be parties in the criminal and civil proceedings. They are not parties in civil proceedings. Therefore, they do not fall under Section 33 read with Section 145 of the Evidence Act, 1872.

26. The defendant relied on Jerrypothu Shamu John Babu v. Peddipoga Anandarao and another 1 . In that case, the plaintiff had filed a suit for recovery of money on a promissory note and sought to recall P.W.1 under Order XVIII Rule 17 CPC to receive the deposition of the second defendant recorded in an earlier suit, O.S.No.111 of 1988, instituted by the defendants. The objection was that the deposition could not be received in view of Section 33 of the Indian Evidence Act, 1872. The trial Court rejected the application, and the matter was carried in revision. This Court held, relying on the decision of the Supreme Court in Union of India v. Moksh Builders and Financiers2, that an admission made by the opposite party in an earlier proceeding may be relevant even where Section 33 does not apply. The Court also noted that the earlier evidence had been recorded in a suit between the same parties. The relevant passage reads as follows:

"8. After hearing both the learned Counsel for the parties and considering the material on record, I find merit in the contention of the learned Counsel for the petitioner, especially in the light of the decision of the Supreme Court in the case of Union of India v. Moksh Builders and Financiers (supra), that the petition is liable to be allowed. As per the said decision of the Apex Court even though the situation is not covered by Section 33 of the Evidence Act, still the party is entitled for admission of such evidence where the other side has made admissions. Further, it is also a fact that the evidence was recorded in the suit instituted between the same parties. Therefore, it is appropriate that the admissions made in an earlier suit should be received as evidence and the same should be marked as an exhibit on behalf of the present plaintiff. The decisions of the Calcutta High Court relied upon by the learned Counsel also support his contention."

2002 (3) ALT 510 (1977) 1 SCC 60

27. The High Court set aside the order rejecting the application and permitted the earlier deposition to be received, having regard to the admissions relied upon and the fact that the evidence had been recorded in a suit between the same parties.

28. The facts of the present case are distinguishable. First, the deposition sought to be produced in this case was in criminal proceedings. Secondly, Sri T. Narayana Reddy, Sri K. Kristappa and Sri J. Sankar Rao are not parties to the present suit. They were examined as witnesses in the criminal case. Sri B. Ramana Reddy, on the other hand, is a party to the present suit and was examined as a prosecution witness in the criminal proceedings.

29. The earlier proceeding was a criminal case, whereas the present proceeding is a civil suit. The nature of the proceedings and the purpose for which the depositions are sought to be used are therefore to be considered.

30. The three other witnesses are not parties to the present suit. Their depositions cannot be treated as the previous statements of Sri B. Ramana Reddy on behalf of deceased 1st plaintiff. The admissibility and evidentiary use of those depositions has to be assessed independently. For these reasons, the above ruling is distinguishable.

31. The learned trial Judge allowed the application in respect of all four depositions without separately considering their nature and the purpose for which each was sought to be used. The deposition of Sri B. Ramana Reddy can be considered as his previous statement. The other three depositions cannot be treated as statements of Sri B. Ramana Reddy and must be dealt with in accordance with law.

31. In view of the foregoing discussion, I am of the view that, allowing the application in respect of all four depositions without distinguishing between them, is not proper. The certified copy of the deposition of B. Ramana Reddy, examined as P.W.1 in C.C.No.336 of 2015, can be received on record, subject to objections as to its admissibility, relevance and permissible use.

32. As to the objection of certified copy of the document concerned, it is the deposition of the party relevant to confront. Thus, per se, certified copy, in the circumstances, cannot be said secondary evidence. It is production of a previous statement to the witness. It is not an entire document that sought to be produced. The relevant statements in the depositions are required to prove the fact/relevant fact of a statement of a person. The document of deposition is the statement recorded by the concerned authority that may not be equated with the entire document. Hence the stand that, certified copy of the deposition becomes secondary evidence in the present circumstances of the case is not tenable. The certified copies of the depositions of Sri T. Narayana Reddy, Sri K. Kristappa and Sri J. Sankar Rao cannot be received under the same reasoning or treated as previous statements of Sri B. Ramana Reddy. The revision petition therefore deserves to be allowed in part.

Bail granted without following or discussing Sec 37 NDPS Act

https://indiankanoon.org/doc/189939728/; CRIMINAL PETITION NO: 9232 of 2026 Date: 27.10.2026; Vakada Pawan Kumar Alias Mukka vs The State Of Andhra Pradesh; APHC010553332026

7. The learned Assistant Public Prosecutor submits that an application was filed seeking for extension of the judicial custody of the petitioners beyond 180 days. Such application cannot be allowed when the petitioner is in the judicial custody beyond 180 days. That application would have been considered and allowed by the learned Trial Court before

completion of 180 days. Charge sheet has not yet been filed. Criminal Petition against Accused Nos.1 and 2 is dismissed as withdrawn.
8. The Accused No.3 was arrested on 13.04.2026. He has been in judicial custody for the past 197 days. The prosecution alleges that the Petitioners were indulged in dealing with 24 kgs of ganja. There is one similar adverse antecedent reported against the Accused No.3.
Bail granted

Bail granted without discussing or following sec 37 NDPS
https://indiankanoon.org/doc/42822229/; CRIMINAL PETITION NO: 7745 of 2026 Date: 28.10.2026; Alugu Sangaiya vs The State Of Andhra Pradesh on 28 October, 2026; APHC010463752026
The Criminal Petition has been filed under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS'), seeking to enlarge the Petitioner/Accused No.1 on bail in Crime No.124 of 2026 of Gannavaram Urban Police Station, Krishna District, registered for the alleged offences punishable under Sections 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the NDPS Act').
5. On perusal of the record, this is the second bail application filed by the petitioner. This Court dismissed the first bail application in Crl.P.No.6138 of 2026 on 30.07.2026. The petitioner is arraigned as Accused No.1. Even after completion of 180 days of judicial custody, the charge sheet has not been filed. No application has been filed seeking extension of the remand of the petitioner beyond 180 days. The petitioner has been in judicial custody for the past 189 days pursuant to his arrest on 22.04.2026. There is one similar adverse antecedent reported against the petitioner.

Bail granted without discussing or following Sec 37 NDPS Act
https://indiankanoon.org/doc/58226886/; CRIMINAL PETITION NO: 8122 of 2026 Date: 28.10.2026; Pandillapalli Siva Kumar vs The State Of Andhra Pradesh on 28 October, 2026; APHC010481952026
5. On perusal of the record, this is the fourth bail application filed by the petitioner. This Court dismissed the first and third bail applications in Crl.P.Nos.544 and 5017 of 2026 on 04.02.2026 and 07.07.2026, respectively. The second bail application filed by the petitioner was withdrawn by him. The petitioner was arrested on 16.06.2025 and has been in judicial custody for the past 499 days. The allegation against the petitioner is that he indulged in dealing with 110.640 kgs of ganja, which is not only a commercial quantity but also a colossal quantity. After completion of the investigation, the charge sheet has been filed. No remand extension petition has been filed seeking his custody beyond 180 days. There are no adverse antecedents reported against the petitioner. The learned counsel for the petitioner submits that Accused No.2 has been released on bail by this Court in Crl.P.No.9299 of 2026, vide order dated 23.10.2026, and that the present petitioner is also standing on a similar footing. The petitioner is a permanent resident of YSR Kadapa District and has got fixed abode.

NOSTALGIA

Nostalgia

circumstances under which this court may entertain an appeal from an order of acquittal, and also when it may interfere with an order of acquittal.

In Rajesh Prasad v. State of Bihar and another, (2022) 3 SCC 471, a three-Judge Bench of this Court after considering a number of decisions summarised the circumstances under which this court may entertain an appeal from an order of acquittal, and also when it may interfere with an order of acquittal. The relevant paragraphs are reproduced below:

"31.1. Ordinarily, this court is cautious in interfering with an order of acquittal, especially when the order of acquittal has been confirmed up to the High Court. It is only in rarest of rare cases, where the High Court, on an absolutely wrong process of reasoning and a legally erroneous and perverse approach to the facts of the case, ignoring some of the most vital facts, has acquitted the accused, that the same may be reversed by this Court, exercising jurisdiction under Article 136 of the Constitution. Such fetters on the right to entertain an appeal are prompted by the reluctance to expose a person, who has been acquitted by a competent court of a criminal charge, to the anxiety and tension of a further examination of the case, even though it is held by a superior court. An appeal cannot be entertained against an order of equity which has, after recording valid and weighty reasons, has arrived at an unassailable, logical conclusion which justifies acquittal.

31.2. However, this court has on certain occasions, set aside the order of acquittal passed by a High Court. The circumstances under which this Court may entertain an appeal against an order of acquittal and pass an order of conviction, may be summarized as follows:

31.2.1. Where the approach or reasoning of the High Court is perverse:

(a) Where incontrovertible evidence has been rejected by the High Court based on suspicion and surmises, which are rather unrealistic. For example, where direct, unanimous accounts of the eyewitnesses, were discounted without cogent reasoning.

(b) Where the intrinsic merits of the testimony of relatives, living in the same house as the victim, were discounted on the ground that they were "interested" witnesses.

(c) Where testimony of witnesses had been disbelieved by the High Court, on an unrealistic conjecture of personal motive on the part of witnesses to implicate the accused, when in fact, the witnesses had no axe to grind in the said matter.

(d) Where dying declaration of the deceased victim was rejected by the High Court on an irrelevant ground that they did not explain the injury found on one of the persons present at the site of occurrence of the crime.

(e) Where the High Court applied an unrealistic standard of "implicit proof" rather than that of "proof beyond reasonable doubt" and therefore evaluated the evidence in a flawed manner.

(f) Where the High Court rejected circumstantial evidence, based on an exaggerated and capricious theory, which were beyond the plea of the accused; or where acquittal rests merely in exaggerated devotion to the rule of benefit of doubt in favor of the accused.

(g) Where the High Court acquitted the accused on the ground that he had no adequate motive to commit the offence, although, in the said case, there was strong direct evidence establishing the guilt of the accused, thereby making it unnecessary on the part of the prosecution to establish "motive".

31.2.2. Where acquittal would result in gross miscarriage of justice:

(a) where the findings of the High Court, disconnecting the accused persons with the crime, were based on a perfunctory consideration of evidence, or based on extenuating circumstances which were purely based in imagination and fantasy.
(b) Where the accused had been acquitted on ground of delay in conducting trial, which delay was attributable not to the tardiness or indifference of the prosecuting agencies, but to the conduct of the accused himself; or where accused had been acquitted on ground of delay in conducting trial relating to an offence which is not of a trivial nature.

When Charge can be framed
in the case of State of Andhra Pradesh versus Golkonda Linga Swamy, reported in (2010) 9 SCC 368, where it is held that it is immaterial whether the case is based on direct or circumstantial evidence and the charge can be framed if there are materials showing the possibility about commission of the offence by the accused as against certainty. ***"

Provision Vs Observation in Judgment
It is well-settled in law that the observations made in a judgment are not to be read as provisions of a statute, nor are they to be read divorced from the context of the facts in which they were made. A difference in facts may make a material difference to the precedential value of a decision[1] [State of Orissa v. Sudhansu Sekhar Misra & Ors., AIR 1968 SC 647; and State of Uttar Pradesh & Anr. v. Mohd. Arshad Khan & Anr., (2026) 6 SCC 383].

Cancellation of Bail
38. It is settled principle of law that parameters of setting aside a perverse or illegal order of grant of bail are different than those of cancellation of bail. The scope of power of High Court to cancel bail has been discussed by this Court in Gurcharan Singh and Others v. State (Delhi Administration), (1978) 1 SCC 118, wherein this court observed:
"16. Section 439 of the new code confers special powers on the High Court or Court of Session regarding bail. This was also the position under section 498 CrPC of the old Code. That is to say, even if a Magistrate refuses to grant bail to an accused person, the High Court or the Court of Session may order for grant of bail in appropriate cases. Similarly under Section 439(2) of the new Code, the High Court or the Court of Session may direct any person who has been released on bail to be arrested and committed to custody. In the old Code, Section 498(2) was worded in somewhat different language when it said that a High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody. In other words, under Section 498(2) of the old Code, a person who had been admitted to bail by the High Court could be committed to custody only by the High Court. Similarly, if a person was admitted to bail by a Court of Session, it was only the Court of Session that could commit him to custody. This restriction upon the power of entertainment of an application for committing a person, already admitted to bail, to custody, is lifted in the new Code under Section 439(2). Under Section 439(2) of the new Code a High Court may commit a person released on bail under Chapter XXXIII by any court including the Court of Session to custody, if it thinks appropriate to do so. It must, however, be made clear that a Court of Session cannot cancel a bail which has already been granted by the High Court unless new circumstances arise during the progress of the trial after an accused person has been admitted to bail by the High Court. If, however, a Court of Session had admitted an

accused person to bail, the State has two options. It may move the Session Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that Court. The State may as well approach the High Court being the superior court under section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances thathave cropped up except those already existed, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-à-vis the High Court."

39. A two-Judge bench of this Court in Dolat Ram and Others v. State of Haryana, (1995) 1 SCC 349, laid down the grounds for cancellation of bail as follows:

i. Interference or attempt to interfere with the due course of administration of Justice.
ii. Evasion or attempt to evade the due course of justice.
iii. Abuse of the concession granted to the accused in any manner.
iv. Possibility of accused absconding
v. Likelihood of/actual misuse of bail
vi. Likelihood of the accused tampering with the evidence or threatening witnesses.

40. This Court in Prakash Kadam and Others v. Ram Prasad Vishwanath Gupta and Another, (2011) 6 SCC 189 held that gravity of the offence would also be taken into consideration and has further held that:

"18. In considering whether to cancel the bail, the court has also to consider the gravity and nature of the offence, prima facie case against the accused, the position and standing of the accused, etc. if there are serious allegations against the accused, his bail may be cancelled even if he has not misused the bail granted to him.

19. In our opinion, there is no absolute rule that once bail is granted to the accused then it can only be cancelled if there is likelihood of misuse of bail. That factor, though no doubt important, is not the only factor. There are several other factors also which may be seen while deciding to cancel the bail"

41. This Court in Abdul Basit v. Mohd. Kadir Chaudhary, (2014) 10 SCC 754, while relying upon Gurcharan Singh (supra) has observed that:

"19. Therefore, the concept of setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court."

42. This Court again in Neeru Yadav v. State of Uttar Pradesh and Another, (2014) 16 SCC 508, examined the precedents pertaining to principles on cancellation of bail and observed that:

"12....It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail and have not been taken note of bail or it is founded on irrelevant considerations, indisputably the superior court can be set aside the order of such a grant of bail. While dealing with a case of second nature, the court does not dwell upon the violation of

conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the Court"

43. A three-Judge bench of this Court in Deepak Yadav v. State of Uttar Pradesh and Another, (2022) 8 SCC 559, held that cancellation of bail cannot be limited to the occurrence of supervening circumstances and observed:

"33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:

33.1. Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.

33.2. Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.

33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.

33.4. Where bail has been granted on untenable grounds.

33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.

33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case."

44. In State of Karnataka v. Sri Darshan and Others, (2025) SCC OnLine SC 1702, and Yogendra Pal Singh v. Raghvendra Singh alias Prince and Another, (2025) SCC OnLine SC 2580, this Court authoritatively held that cancellation of bail on account of post-bail misconduct stands on a fundamentally different footing from annulment of a bail order which is itself unjustified or legally unsustainable at its inception. An order granting bail is liable to be interfered with where it reveals reliance on irrelevant considerations, ignores relevant material, or suffers from perversity without the necessity of waiting for supervening circumstances.

45. In Zeba Khan v. State of U.P. & Others, (2026) SCC OnLine SC 188, this Court again while considering the legal principles of governing annulment/cancellation of bail observed:

"18.Equally well-settled is the distinction between an appeal against an order granting bail and an application seeking cancellation of bail founded on post-bail conduct or supervening circumstances. In an appeal against the grant of bail, the focus of judicial scrutiny is the legality, propriety, and sustainability of the bail order as it stood at the time of its grant. Where such an order is shown to suffer from non-application of mind, reliance on disputed or prima facie suspect material forming the subject-matter of trial, suppression or non-consideration of material facts, or disregard of binding legal principles, annulment of the bail order is not only permissible but warranted in order to avert a miscarriage of justice.

19. Accordingly, where a bail order is demonstrated to be legally untenable or fundamentally perverse, interference by the appellate court is not an exception, but a

judicial imperative. Such interference does not trench upon the sanctity of personal liberty; rather, it subserves the rule of law by ensuring that discretionary relief is granted in conformity with settled legal standards and that the administration of criminal justice is not undermined by arbitrary or capricious orders."

Extra Judicial Confession made to other than police officer

it is settled position of law by this court through catena of decisions including Sivakumar v. State by Inspector of Police, (2006) 1 SCC 714, R. Kuppusamy v. State represented by Inspector of Police, Ambeiligai, (2013) 3 SCC 322, Baskaran and Another v. State of Tamil Nadu, (2014) 5 SCC 765 and Kadamanian Alias Manikandan v. State represented by Inspector of Police, (2016) 9 SCC 325, that an extra-judicial confession made to the Village Administrative Officer who is not acting under the authority of a police officer is not inadmissible under Section 25 of the Evidence Act (corresponding to Section 23(1) of Bharatiya Sakshya Adhiniyam, 2023) since a Village Administrative officer is not a police officer for the purpose of Section 25 of Evidence Act. Therefore, such confession is not hit by embargo contained under Section 25 subject to the court being satisfied as to its voluntariness, truthfulness and credibility.

"227: Discharge

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."

26. In Union of India vs. Prafulla Kumar Samal, (1979) 3 SCC 4 ("Prafulla Kumar Samal"), a two-Judge Bench of this Court observed as follows:

"10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out:

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

27. In Sajjan Kumar vs. Central Bureau of Investigation, (2010) 9 SCC 368 ("Sajjan Kumar"), placing reliance on Prafulla Kumar Samal this Court reiterated and elaborated upon the parameters in terms of which the powers under Section 227 of CrPC could be exercised.

"21. On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:-

(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

(iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

28. A perusal of the aforesaid judgements of this Court reveal that what is required of the concerned court at the stage of discharge under Section 227 of the CrPC is a limited examination of the material on record to ascertain if a prima facie case is made out against the accused or not. While this can involve a consideration of the evidence, such consideration cannot translate to a sweeping probe of such evidence akin to the conduct of a pre-trial. It cannot also mean deference to the prosecution's version of events and must involve the due consideration of other possibilities put forth by the accused. What is truly being evaluated at the stage of discharge is the probability or likelihood that the offence has been committed by the accused. It is not the higher standard of the offence having been committed beyond reasonable doubt that is required for conviction.

29. The aforementioned principles elucidate that if the material on record discloses that such commission of an offence was probable or likely, the case would likely not be a fit one for discharge. Such a determination is necessarily fact-specific and it is for the Judge to apply their mind to determine, as to, whether, such a probability warrants the continuance of criminal proceedings against the accused or if such probability is weak or non-existent enough that discharge would be justified.
30. While such a determination is straightforward in cases where the probability of the commission of an offence by the accused therein is either very strong or very weak/non-existent, what is a more nebulous inquiry is in cases where neither is the case and it would be possible to both identify scenarios that would make the commission of the offence both probable or improbable by the accused therein. No threshold as such can be laid down as to how improbable the version of events should be to operate as grounds for discharge. It is an individuated act of reasoning that may be guided, but not made subject to precise constraints.

APHC- Customer liable under Sec 370A(2) BNS
In Vasanthavada Raghubabu v. State of A.P.,2wherein at paragraph Nos.34 to 37 it is held as under:
"34. Therefore, in the considered view of this court, specific facts and circumstances shall be looked into while determining fastening of liability under Section 370A(2) of the Criminal Procedure Code, 1973. As held supra, a Customer is liable to be prosecuted under Section 370A of the Penal Code, 1860, in the event the facts prima facie disclose that a customer is knowingly or having reason to believe that a person has been trafficked and having such knowledge or reason to believe, engages such person for sexual exploitation in any manner. Unless those ingredients are met, a Customer cannot be prosecuted under Section 370A of the Criminal Procedure Code, 1973. Hence, we are of the view that there exists no conflict.
35. Therefore, at the cost of repetition, a Customer is liable to be prosecuted under Section 370A of the Penal Code, 1860, in the event the facts prima facie disclose that a customer is knowingly or having reason to believe that a person/minor has been trafficked and having such knowledge or reason to believe, engages such minor or person for sexual exploitation in any manner. However, it is needless to state that, in the event, a customer merely visits the said premises or mere presence of such customer at the spot during any raid which indicates that they were customers who had gone to said spot, and without meeting the essential ingredients under Sections 370A of the Penal Code, 1860, does not attract criminal liability under Section 370A of the Penal Code, 1860.
36. However, one cannot lose sight over the fact that a Customer cannot be considered as an innocent victim in a flesh trade. Article 23 expressly prohibits Trafficking of Human beings & inter alia also prohibits sexual exploitation. That, Section 370A (2) of the Penal Code, 1860 amply discloses that, whoever, knowingly or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.
2025 SCC OnLine AP 3869
37. That, in order to prevent abuse of process of any court or to secure the ends of justice, the High Court is amply empowered under Section 482 of the Criminal Procedure Code, 1973, to pass appropriate orders. Therefore, the High Court, if it deems fit, may direct the

concerned Magistrate to take cognizance of offence under Section 370A of the Criminal Procedure Code, 1973 in case the facts prima facie disclose that a customer knowingly or having reason to believe that a person has been trafficked and having such knowledge or reason to believe, engages such person for sexual exploitation in any manner, in appropriate cases."

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ON A LIGHTER VEIN

On a lighter vein

A surgeon, an architect an a lawyer are having a heated pub discussion about which of their professions is actually the oldest.

The surgeon says: “Surgery IS the oldest profession. God took a rib from Adam to create Eve and you can’t go back further than that.”

The architect says: “Hold on! In fact, God was the first architect when he created the world out of chaos in 7 days, and you can’t go back any further than THAT!”

The lawyer smiles and says: “Gentlemen, Gentlemen…who do you think created the CHAOS??!!

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