



Prosecution Replenish

An endeavour for Learning and Excellence

“Aano Bhadra Kratvo Yantu Viswatah”
Let all good things come to me in all directions

यद्यत्परवशं कर्म तत्तद्यत्नेन
वर्जयेत्।यद्यदात्मवशं तु स्यात्तत्तत्सेवेन
यत्नतः॥

जो-जो कार्य दूसरे के अधीन हो उन्हें यत्नपूर्वक छोड़ देना चाहिए, जो-
जो कार्य अपने वश में हो उसे यत्नपूर्वक अवश्य पूर्ण करना चाहिए।

Whatever work is under the control of another, they should be given up
with care, whatever work is in one's control, one must complete it
diligently.

CITATIONS

2026 0 INSC 942; 2026 0 Supreme(SC) 1061; Mahavir @ Avnish Vs The State Of Madhya Pradesh; Criminal Appeal No. 4173 of 2026 (Arising Out Of Special Leave Petition (Criminal) No. 5654 of 2026); Decided On : 02-09-2026

This Court further held that all Courts, whether civil or criminal, possess in the absence of any express provision as inherent in their constitution all such powers as are necessary to do the right and to undo a wrong on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsa esse non potest*. Besides the frequently used expression “to prevent abuse of the process of the Court” which is generally reflected in the orders quashing the criminal proceedings in the exercise of inherent power under section 482 of the Code of Criminal Procedure, this Court has approved the exercise of powers by the High Court to interfere with its own decision, order or judgment by carving out exceptions to the general prohibition on the power to the criminal Court to alter its decision, order or judgment.

The High Court has undoubted jurisdiction to recall its own order or judgment which results in miscarriage of justice. Subject to a decision in any case on the merits by this Court, a fundamental issue which will change the course of the decision remains open in the case so long as the High Court is seized with the matter. The High Court shall have inherent jurisdiction to correct its order or judgment and do complete justice. The limitation on inherent power of the High Court is a kind of self-restraint originating from the philosophy of judicial propriety. This shall, however, not be an issue falling in the realm of inherent limitations under section 482 of the Code of Criminal Procedure, if the High Court decides to recall its previous order or judgment because a mistake was committed by the Court. If the juvenile was denied a statutory benefit and thereby a grave prejudice was caused to him, the High Court has all powers to remedy the situation and secure the ends of justice.

This case brings to the limelight a serious issue which has hindered the implementation of the JJAs. We must remember that the impact of industrialisation,

urbanisation and migration changed the people's daily lives. They started migrating from rural areas to the cities as a result of which there was an explosion in population. The cohesiveness of communities started weakening and the family gradually lost effective control over the children. Poverty, inequality, illiteracy and the discriminatory environment in which a child grows trigger delinquent behavior in the child, and he becomes a victim of the crime. The rise in the number of cases coming to this Court raising the plea of juvenility for the first time in this Court indicates in ample measures that there is a huge gap in the understanding of law by the stakeholders. "Gopinath Ghosh" (supra) took notice of this fact and made certain suggestions. The investigating officers are generally obsessed with the motto to bring the culprit to book and the Courts before whom a juvenile is produced do not focus attention on the assessment of age of the juvenile. But in the process, the mandate of law is overlooked and the rights of a juvenile in conflict with law get violated; the child becomes a casualty. A child should not be treated as a criminal. He is a victim of the circumstances. Sometimes he is drawn to the crime world due to socio-economic or emotional and psychological reasons. The State owes a responsibility to reintegrate the juveniles in society, rather than permanently stigmatizing them. It is well remembered that children are the greatest assets of any nation and they should be nurtured and grown as responsible citizens, mentally alert, physically fit and morally healthy to contribute to the betterment of society. The greatest recompense that the State can gain from expenditure on children is in the form of a powerful human resource which would be ready to take its place in the forward march of the nation. In conclusion, the existing system needs further strengthening, effective monitoring of investigative processes and implementation of the statutory provisions.

{Contributed by Mr. David Raj (Senior Program Manager, CPRC of UNICEF)}

2026 0 INSC 940; 2026 0 Supreme(SC) 1059; M/S ABC Express Vs. State of Gujarat; Criminal Appeal No. 4172 of 2026 (Arising OUT of S.L.P. (CRL.) No. 10301 of 2026); Decided On : 02-09-2026

Section 98(2) of the Prohibition Act is not absolute embargo and the Trial Court must exercise its powers under Section 451 of the Code of **Criminal** Procedure, 1973⁶[Hereinafter, 'Cr.PC'] to pass appropriate order on the interim custody of the articles produced before the Court. We make particular reference to Khengarbhai Lakhabhai Dambhala v. The State of Gujarat, [2024 INSC 285](#) which arose in an analogous factual matrix and this Court dealing with an identical contention of statutory embargo under Section 98(2) of the Prohibition Act had examined the issue and the broader scheme of the Prohibition Act in some detail to held thus:

"7. The respondent State has also raised the contention that Section 98(2) of the said Act puts an embargo against release of the vehicle till the final judgment of the court if the quantity of seized liquor is more than the prescribed quantity. Since, such contention is often raised, we deem it necessary to deal with the provisions contained in Section 98 of the Act also. Section 98 reads as under:-

"98. Things liable to confiscation- (1) Whenever any offence punishable under this Act has been committed,

(a) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(b) where, in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers, or molasses,

(c) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,

(d) where, in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses, shall be confiscated by the order of the Court.

(2) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (1) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in, carrying any such article shall likewise be liable to confiscation by the order of the Court. [but it shall not be released on bond or surety till the final judgement of the Court where the quantity of the seized liquor is exceeding the quantity as may be prescribed by the rules.]”

8. Sub-section (1) of Section 98 deals with the articles liable to confiscation, whenever any offence punishable under the Act has been committed. However, sub-section (2) of Section 98 is in two parts. The first part upto the conjunctive word “but”, states about the confiscation of the articles like receptacle, package or covering and about the confiscation of the animals, carts, vessels or any other conveyances used in carrying any such article, and the second part starting with the conjunctive word “but” is perceived to be an embargo against release of the conveyance used for carrying the article liable to be confiscated if the quantity of the seized liquor carried in such conveyance is more than the prescribed quantity, till the final judgment of the court. It may be noted that the second part of subsection (2) of Section 98 was incorporated by the Gujarat Act 29 of 2011. However, in our opinion, this incorporation of the second part by amendment in 2011 is not very happily worded, and therefore, it is seen as an embargo.

9. When the conjunction “but” is used in a provision, after the punctuation mark “comma”, it is deemed that such conjunction is used to carve out an exception or proviso to the main provision. Meaning thereby, when the entire provision is divided into two parts by using the punctuation mark “comma” followed by the conjunctive word “but”, the second part is required to be construed as an exception or proviso to the first part. However, so far as sub-section (2) of Section 98 is concerned though it is in two parts connected with the conjunctive word “but”, there is hardly any co-relation between the first part and the second part thereof. It is difficult to comprehend the second part of sub-section (2) as an exception or proviso to the first part thereof. Since it is not happily worded, applying the doctrine of harmonious construction, we will have to harmonise the provisions contained therein with the other provisions of the Act and with the provisions contained in the Cr.P.C.

14. Thus, on the conjoint reading of the provisions contained in Section 98 and 132 of the said Act and of Section 451 Cr.PC, it is discernible that all these provisions operate in different fields. Section 98 deals with the Confiscation of the Articles whenever any offence punishable under the Act has been committed. The second part of sub-section (2) thereof would come into play when the Prohibition Officer or Police Officer sends the seized article liable to be confiscated but not required as an evidence, to the Collector as per Clause (b) of Section 132. However, Section 451 of the Cr.P.C. would

come into play when the article property seized during the course of inquiry or investigation is produced before the jurisdictional Court as per Clause (a) of Section 132 and the Court is called upon to pass appropriate orders for the proper custody of such article/property pending the conclusion of the inquiry or the trial.

16. It is true that when the property/vehicle is seized during the course of investigation and the same is produced before the concerned **Criminal** Court, it is incumbent on the part of the concerned Court to pass appropriate orders for keeping the vehicle in proper custody pending the trial. It is also true that as held by this Court in case of *Sunderbhai Ambalal Desai vs. State of Gujarat*, [2002] Supp. 3 SCR 39 : (2002) 10 SCC 283, it is of no use to keep the seized vehicles at the police stations for a long period and it is for the magistrate to pass appropriate orders for the proper custody of the said such vehicles during the pendency of the trial. However, as observed earlier, the appellant without approaching the concerned **criminal** court under Section 451 of the Cr.P.C seeking custody of the vehicle in question, directly approached the High Court by filing Special **Criminal** Application under Article 226/227 of the Constitution of India, which was not the proper course as adopted by the appellant.”

2026 0 INSC 967; 2026 0 Supreme(SC) 1086; Gopal Lodhi Vs. State Of M.P. & Anr.; Special Leave to Appeal (Crl.) No(s). 7332 of 2026; Decided On : 03-09-2026

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.

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 at.

2026 0 INSC 935; 2026 0 Supreme(SC) 1054; Dhrub Singh Vs The State of Bihar: Criminal Appeal Nos. 1434-1438 of 2017; Decided On : 01-09-2026

The I.Os testimony goes contrary to what the Government Advocate argued, of the victims having gone on a ridge. PW9 specifically speaks of the place of occurrence being a lane which led from Madanpur Distributary Canal towards Arara on the east; a clear pathway made for pedestrians. It is also stated by the I.O that on both sides of the pathway there were fields, which were ploughed recently. Though a sketch of the place of occurrence was prepared, the blood stained earth seized from the place was not sent for testing in a laboratory. He spoke of a tension in the area due to the kidnapping of a girl and also spoke of naxalite movement in the area. The I.O also did not seize the clothes of the deceased or the clothes worn by the witnesses, who, allegedly carried the body to the hospital, in the petrol car. The High Court noticed that though the I.Os attention was drawn to the previous statement of the witnesses, the cross examination was long, winding and utterly undecipherable.

9. The High Court having narrated the prosecution case and the testimonies of the witnesses, looked into the records of the case and found a complaint against the I.O accusing him of having made a collusive investigation. We cannot but notice that no such complaint was elicited from any of the eyewitnesses and in any event this does not explain the shoddy investigation carried out by the I.O. However, the High Court relying on the complaint made against the I.O found that this is the reason for not recording the statements of the independent witnesses, the blood stained earth being not sent for chemical examination and the failure to seize the blood stained clothes of the deceased and the witnesses. Observing that the investigation was collusive, reliance was placed on the testimony of the witnesses, terming it as 'consistent evidence' to accept their version, to convict the accused. The expert evidence on the possibility of the deceased being shot in a sitting position was brushed aside with the conjecture that a shooting hand would shake and when the target is moving, the shape of the injuries are not relevant. The High Court peremptorily came to the finding that the accused armed with a variety of weapons, ambushed the victim and fired indiscriminately causing the death of one person thus proving the common intention/object to commit murder of the deceased, based only on the eye-witness testimony.

10. We cannot but observe that the motive projected is sticky to say the least. The expert medical opinion was against the eye-witness testimony on how the incident occurred. There was no recovery of weapons nor were any cartridges seized from the scene of occurrence; especially when the eye-witnesses spoke of indiscriminate shooting. The eyewitnesses also spoke of five of them walking in a straight line with the deceased leading from the front. The clear case was that the accused came from the back and shot at the deceased on the back. Very unlikely, when the party led by the deceased was walking in a straight line and the ambush as also the firing came from the back. The expert evidence that there was an indication from the nature of the wound, that victim was sitting and that the firing was made from close quarters persuades us to disbelieve the eye-witness testimony. The eyewitnesses were all close to the deceased and admittedly there was a tension in the locality between the group led by the father of A1 in the adjacent village and that led by the deceased; which could have prompted the eyewitnesses to frame the accused. The motive projected of the sister of A3 having been kidnapped by a villager of the deceased cannot be believed since there is no connection established between the boy, who is said to have kidnapped the girl and the deceased. The eyewitnesses were all related witnesses and their presence could have been established by their clothes, which would have been blood-stained if they carried the victim in the patrol car to the hospital. Their presence is doubtful and they had a running dispute with the accused, coupled with the non-examination of independent witnesses puts the prosecution case under a cloud and makes it highly doubtful.

11. We are unable to find the prosecution having established the culpability of the accused beyond reasonable doubt. As we noticed, the eye-witness testimony does not inspire confidence and there are no recoveries made or seizures effected as would have been done in a proper investigation. The case is not of a faulty investigation but of no investigation having been carried out. Even the inquest was carried out before the FIS was recorded; making it pre-meditated. The High Court egregiously erred in looking at a complaint against the I.O not produced in the trial, to find the evidence led to be clinching insofar as the culpability of the accused. A faulty investigation cannot inure to the benefit of the accused, but when there is no reliable evidence, merely because the I.O was recalcitrant or a complaint of collusion was raised against him,

the Court cannot presume the guilt of the accused. There is complete lack of evidence in the present case and the testimonies, as we observed, do not inspire confidence.

2026 0 INSC 951; 2026 0 Supreme(SC) 1070; Kondapaka Sridhar @Shekar @Madhu @Gopi @Chinna Vs. The State of Telangana; Criminal Appeal No. 4512 of 2025; Decided On : 03-09-2026

The money too, though, asserted to have been withdrawn by the accused as evident from the CCTV footage taken from the ATM counter, the CCTV footage could not be properly proved in evidence for reason of non-production of certificate under Section 65B of the Evidence Act. The High Court has also noticed that there was no clarity in the footage to identify the accused as such. The money recovered from A1 and A6, hence, cannot be connected with the crime. More importantly, there was a deposit made in an account in the name of one Geetanjali, there was no investigation on that front and the person who maintained that account has not been brought to the dock. The account statement showing the withdrawals through an ATM counter were also not produced and proved, by examining an official of the Bank, in which the account was maintained.

2026 0 INSC 945; 2026 0 Supreme(SC) 1064; Sahab Singh Alias Sat Pal Vs State Of Haryana; Criminal Appeal No. 4158 of 2026 (@ Special Leave Petition (Crl) No. 3710 of 2026); Decided On : 02-09-2026

Confession made to a police officer is not admissible, except in terms of section 27 of the Indian Evidence Act, 1872 which lays down that when there is a discovery of a fact, in consequence of information received from an accused, so much of an information as distinctly related to the fact thereby discovered may be proved. In the present case no new fact is discovered. As per the prosecution the accused is alleged to have identified the spots, which as noticed above were already in the knowledge of the prosecution. Thus the alleged disclosure statement cannot be taken into consideration.

2026 0 INSC 970; 2026 0 Supreme(SC) 1089; Khanindra Kr. Dutta Vs. Central Bureau of Investigation; Criminal Appeal No. 1882 of 2024; 08-09-2026

We cannot but notice that in corruption cases voluminous evidence is led, which is often intimidating to the Court, especially since many aspects attempted to be led in evidence are way off the mark, in providing a substantiation of the allegation, or to bring home the guilt of the accused-public servant. In this case the prosecution has examined 62 witnesses, obviously to no avail, since the High Court refers to only 9 of such witnesses; 8 being the in-charge of the Veterinary Dispensaries in the various parts of the State, at the relevant period to prove the supply of medicines having not been effected, as per the challans issued and bills passed. The one other witness referred to is the actual owner of the firm, who was the supplier, who appeared and denied receipt of any money or even the supply of medicines.

8. We do not see any investigation having been taken to find out the money trail when the amounts were so disbursed from the department. Prosecution in corruption cases have a history of long pendency; especially because of the voluminous evidence led, which often is unnecessary and as we noticed, mostly irrelevant. Be that as it may, in the present case, we find absolutely no reason to uphold the conviction under the provision in which the High Court has chosen to convict the appellant.

2026 0 INSC 971; 2026 0 Supreme(SC) 1090; Ashok Upadhyay And Anr. Vs. The State of Bihar; Criminal Appeal No. 1223 of 2022; Decided On : 08-09-2026

We narrated the testimony of this witness only to again emphasize the suspicious conduct, of the dead body having been taken to the police station and the expert opinion of the Doctor who conducted the post-mortem that the person who suffered the wound, which turned fatal, could have survived for 3-6 hours. Coupled with this, is the fact that there is nothing recovered from the scene of occurrence, though explained as due to the heavy rains. Not even the map of scene of occurrence was prepared by the I.O. The weapons of assault, the gun and the pistol remained elusive. No attempt was made to recover or seize it, nor was even the license produced to show one of the accused having a licensed firearm. The nature of the licensed firearm would have been evident from the license, and it could have led to forensic examination of the cover of the cartridge, which was recovered from the dead body, whether it matches the type of gun for which the license was issued.

2026 0 INSC 957; 2026 0 Supreme(SC) 1077; Sanofi India Ltd. Vs Central Bureau of Investigation; Criminal Appeal No. 4250 of 2026 (Arising out of Special Leave Petition (Criminal) No. 3597 of 2019); Decided On : 07-09-2026

We do not think either question framed above should be answered in the affirmative. Take the role angle first. What the chargesheet must disclose, on its face, is that the corporation itself has committed the offence, not that it has also identified the particular individual through whom it did so. The corporation's role can be disclosed through averments concerning its own conduct, decisions, and dealings without naming the individual who carried them out. Non-identification of the natural person does not, by itself, render the allegations incapable of disclosing the corporation's role in the offence.

The same holds for the ingredient angle. Corporate mens rea, as discussed, exists only because some natural person holds it. However, it does not follow that the materials before the court dealing with quashing must identify particular persons for the allegations to disclose the ingredient of mens rea. In most circumstances, mens rea can be averred through the surrounding facts and conduct themselves, without being tied to a specifically named individual.¹⁰⁶ [Somjeet Mallick v. State of Jharkhand, [\(2024\) 10 SCC 527](#).] Thus, where the surrounding facts and circumstances, taken as a whole, disclose the possibility that the corporation acted with the requisite mens rea, that disclosure is not defeated merely because no particular individual has been identified as its source.¹⁰⁷ [17-18, Rupan Deol Bajaj v. Kanwar Pal Singh Gill, [\(1995\) 6 SCC 194](#); Umashankar Yadav v. State of U.P., 2025 SCC OnLine SC 1066.] Therefore, the ingredient of mens rea can still be disclosed even where no individual has been identified.¹⁰⁸ [See Teamsters Local 445 Freight Division Pension Fund v. Dynex Capital, Inc., 531 F.3d 190 (2d Cir. 2008).]

The rulings in Aneeta Hada (supra) and Hindustan Unilever (supra), respectively, cannot be read as establishing a general rule that arraignment of a natural person is a prerequisite for a corporation's prosecution to be maintainable. Such principle can be imported only where the statute in question is of the same character as those considered in the said cases, i.e., where the liability imposed on the corporation is vicarious, and the statute itself lays down a condition precedent.

2026 0 INSC 958; 2026 0 Supreme(SC) 1078; Dhanraj Vs. State of Rajasthan; Criminal Appeal No(s). 135 of 2026; Decided On : 07-09-2026

This omission assumes significance because the defence was not merely putting forth a bare suggestion of false implication. It had specifically brought to the notice of the Investigating Officer that the accused-appellant and his family members had approached the authorities alleging that the appellant was being falsely implicated and targeted on account of political rivalry. Once such complaints were admittedly received during the course of investigation, the Investigating Officer was expected to undertake at least some verification before completely discarding the same. His failure to conduct any inquiry on these complaints deprives the Court of an important circumstance which could have either fortified or dispelled the defence plea.

The test identification proceedings undertaken during investigation cannot be treated as substantive proof of identity. Substantive proof would be the identification of the accused by the witnesses while testifying on oath or dock identification in common parlance.

In the instant case, the trial Court convicted the accused-appellant, inter alia, on the basis of the identification made by the victim during the TIP, totally ignoring the fact that no effort was made to get dock identification of the accused-appellant by the victim. This omission assumes even greater significance in the peculiar facts of the present case. The accused was not named in the FIR; the victim had admittedly been told his name by the police; the sketch allegedly prepared with the assistance of the victim was not produced on record; and the prosecution's primary thrust for connecting the accused-appellant with the offence was the identification made by the victim during the TIP. In these circumstances, the absence of dock identification cannot be treated as a mere technical or insignificant omission. The prosecution was under an obligation to lead substantive evidence establishing that the person standing trial was indeed the person whom the victim claimed to have seen and identified as her assailant. Failure to undertake this exercise during recording of substantive evidence would completely demolish the prosecution case which is based on the sole testimony of the victim (PW-2).

A criminal trial is not merely an adversarial contest between the prosecution and the accused. The ultimate obligation of the Court is to discover the truth and ensure that the finding of guilt rests upon legally admissible and reliable evidence. The Court is not expected to remain a mute spectator where an aspect of evidence bearing directly upon the guilt or innocence of the accused is left unattended. The role of the Court is not confined to passively recording the evidence as presented by the parties; it is required to ensure that the material evidence necessary for a just adjudication is properly brought on record.

Section 165 of the Indian Evidence Act, 1872 (Corresponding to Section 168 of the Bharatiya Sakshya Adhiniyam, 2023) confers wide powers upon the Court to put questions to witnesses and to direct production of documents or things in order to discover or obtain proper proof of relevant facts. In *Zahira Habibulla H. Sheikh v. State of Gujarat*, [\(2004\) 4 SCC 158](#), this Court held that Section 311 of the CrPC (Corresponding to Section 348 of the Bharatiya Nagarika Suraksha Sanhita, 2023) and Section 165 of the Evidence Act, 1872 confer vast and wide powers upon the Presiding Officer and that the Courts are not expected to function as mere recording machines, passively receiving whatever the parties choose to place before them. The Court is required to take a participatory role in the trial, evince active interest and elicit all material necessary for arriving at the truth.

Yet, owing to the sheer negligence on the part of the Public Prosecutor concerned and the gross ignorance exhibited by the learned Presiding Officer, no effort was made to have the accused-appellant identified by the victim during her deposition, so as to confirm the fact that the person standing trial was indeed the assailant. The omission was neither occasioned by any unavoidable circumstance nor beyond the control of the Court. It was a simple step that could readily have been undertaken in the course of recording the substantive evidence, particularly when the identity of the accused was itself a crucial issue in the case.

We feel that the presiding officer of the trial Court as well as the Public Prosecutor were equally responsible for this fatal omission. The significance of this omission is further amplified by the fact that the accused was not named in the FIR; the victim categorically stated that the police had disclosed his name to her and; the prosecution merely relied upon the TIP to establish the identity of the accused.

<https://indiankanoon.org/doc/150136122/>; **Inumpudi Venugopal vs The State Of Telangana on 1 September, 2026; CRIMINAL PETITION No.12587 of 2026**

It is relevant to mention that the petitioner filed the discharge petition only based upon the variations in the statements of the victim girl/LW.3 recorded under Sections 180 and 183 of the BNSS. The said discrepancies cannot be taken into consideration at preliminary stage and the same have to be adjudicated and decided after a full-fledged trial only. The learned trial Court, after hearing the respective parties and duly considering the averments made in the discharge petition as well as the counter-affidavit filed by the prosecution, held that the victim girl, in her statement recorded under Section 180 of the BNSS/161 of the [Cr.P.C.](#) before the police, had categorically corroborated the averments made in the complaint. The trial Court further held that there were minor variations between the statement recorded under Section 180 of the BNSS/[Section 161](#) of the Cr.P.C. before the police and the statement recorded under Section 183 of the BNSS/[Section 164](#) of the Cr.P.C. before the learned Magistrate. The said discrepancies are not material in nature and further held that as per the settled principles of criminal jurisprudence, at the stage of framing of charges, the Court is not expected to meticulously evaluate the evidence as if conducting a full-fledged trial. The Court must only ascertain whether the allegations, if taken at face value, constitute the offences alleged and justify proceeding against the accused. Whether the allegations levelled in the complaint and the final report as well as the statement recorded by the Investigating Officer under Section 180 of the BNSS and the statement of the victim girl recorded by the Magistrate under Section 183 of the BNSS are true or not, the same has to be revealed during the course of trial. The learned trial Court has rightly held that at stage of framing of charges, the Court is not expected to meticulously evaluate the evidence. Only the Court ascertains whether the allegations, if taken at face value, constitute the offences alleged and justify proceeding against the accused.

10. [Section 11](#) of the POCSO Act deals with sexual harassment. The Explanation to the said provision says any accusation which involves "sexual intent" shall be a question of fact. In the case on hand, there is a specific allegation in the complaint that the petitioner had entered the premises of respondent No.2 on 16.08.2025 at 04:30 a.m. and saw her minor daughter through window and he made indecent gestures towards her. Whether the petitioner had entered into the premises of respondent No.2 on 16.08.2025 at 04:30 a.m., knocked the window and called the victim girl with sexual intent or not, the same is a question of fact and the same has to be revealed during the course of trial.

11. It is relevant to mention that the petitioner is entitled to put forth his grievance about the discrepancies between the statements of the victim girl recorded under Sections 180 and 183 of the BNSS during the course of trial and based on the discrepancies and said variations, the petitioner cannot seek discharge him from all the charges, especially, when the Court is not expected to meticulously evaluate the evidence as if conducting a full-fledged trial at the time of deciding discharge petition.

12. It is relevant to mention that in [Hazrat Deen v. State of Uttar Pradesh](#) 3, the Hon'ble Supreme Court held that mere discrepancies, omissions or inconsistencies between the FIR and the subsequent statement of the victim recorded under [Section 164](#) Cr.P.C. cannot, by themselves, constitute a ground for discharge of the accused. Such discrepancies are matters of appreciation of evidence and may be raised as a defence during trial; they cannot be conclusively adjudicated at the stage of discharge by conducting a roving or mini-trial. Where the material collected during investigation otherwise discloses a prima facie case against the accused, the accused cannot seek discharge merely on the basis of such discrepancies.

13. In [State v. Ashok Kumar Verma](#) 4, the High Court of Delhi held that at the state of framing of charge, contradictions between statements recorded under [Sections 161](#) and [164](#) Cr.P.C. ordinarily 2022 SCC OnLine SC 1781 2023 SCC OnLine Del 1948 constitute a matter for trial and, by themselves, cannot be a ground for discharge where the other material on record discloses a prima facie case. However, where, upon consideration of the statement of the complainant and the supporting material on record, no grave and strong suspicion arises against the accused, the Court would be justified in declining to frame the charge.

14. In [Anil @ Kallu @ Thakur](#) (supra), the Delhi High Court held that where the statement of the victim recorded under [Section 164](#) Cr.P.C. does not disclose any sexual act or sexual intent on the part of the accused, the essential ingredient of "sexual intent" required for an offence under [Section 12](#) of the POCSO Act is not prima facie established. Therefore, in the absence of material disclosing the essential ingredients of sexual harassment, the accused is entitled to discharge, and such an order of discharge ought not to be interfered with unless it suffers from illegality or perversity. In MRP (Identity withheld) (supra), the Delhi High Court held that the absence of even the slightest indication of a sexually motivated advance in the statements of the victim negates the foundational requirement of "sexual intent", which is an essential element of an offence under [Section 10](#) of the POCSO Act. Mere touching, pressing of lips or lying next to the victim, though it may result in violation of dignity and may amount to outraging modesty, would, in the absence of any overt or inferred sexual intent, fall short of the legal threshold required to sustain a charge under [Section 10](#) of the POCSO Act. The presence of "sexual intent" is the determining factor in distinguishing an act of mere physical force from an act that constitutes sexual assault under the [POCSO Act](#).

<https://indiankanoon.org/doc/193156643/>; APHC010132452024; **Savitramma vs The State Of Andhra Pradesh; CRIMINAL PETITION NO: 1878 of 2024: 01.09.2026**

In this context, it is apt to note the dictum held in [State of Uttar Pradesh and Another Vs. Akhil Sharda and Others](#)¹, by the Apex Court in its vivid terms in the following way:

7. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under [Section 482](#) Cr.P.C., it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under [Section 482](#) Cr.P.C. As observed and held by this Court in a catena

of decisions no mini trial can be conducted by the High Court in exercise of powers 2022 LiveLaw (SC) 594 under [Section 482](#) Cr.P.C., jurisdiction and at the stage of deciding the application under [Section 482](#) Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered.

APHC010408802026; <https://indiankanoon.org/doc/20403871/>; CRLP NO: 6718 of 2026: 01.09.2026; Athmakuri Jagadheesh vs The State Of Andhra Pradesh

Coming to the facts of the present case and as seen from the order of the Joint Collector dated 27.05.2023, no such finding of the petitioners doing any clandestine business was recorded. On the other hand, the learned Joint Collector observed that there is negligence on the part of the petitioners herein, in not producing the bill and other documents to the inspecting officials during the inspection. Under such circumstances, this Court finds merit in the submission made by the learned counsel for the petitioners and as the proceedings initiated against them is an offshoot of the inspection dated 25.02.2022 on the very same set of facts, in the absence of any finding of clandestine business in PDS rice is inclined to hold that continuation of the proceedings in question constitutes abuse of process of Law.

<https://indiankanoon.org/doc/24648225/>; Mr. Sandeep Gupta vs The State Of Telangana on 2 September, 2026; CRIMINAL PETITION No. 12736 of 2026

It is already stated supra that there are specific allegations levelled in the complaint that the petitioner along with other accused entered into a contract by giving false promise and assurances, received huge amount and not completed the work and thereby violated the terms and conditions of the PO with a dishonest intention from the inception, inducement, cheating, breach of trust and misappropriation of the amounts by fraudulent means. The said allegations prima facie disclose cognizable offences and the investigation is under progress. Hence, this Court is of the view that the petitioner is not entitled to seek quashing of the proceedings, at this stage.

Insofar as the other submission made by the learned Senior Counsel that the petitioner is ready and willing to cooperate with the investigation and requested this Court to issue necessary direction to the Investigating Officer not to take any coercive steps against the petitioner, is concerned, the Hon'ble Supreme Court in [Neeharika Infrastructure Pvt. Ltd. \(supra\)](#) and [State of U.P. and another v. Mohd. Arshad Khan and another](#) 14, held that the Court cannot grant a blanket order of "no coercive steps" or "not to arrest", as such protection is in the nature of anticipatory bail, which must be sought before the competent Court under [Section 438](#) of Cr.P.C. and granting such relief while refusing to quash the F.I.R. is wholly impermissible. In view of the said principles [laid down by](#) the Hon'ble Supreme Court, this Court is not inclined to grant the relief (2026) 6 SCC 383 of protection as sought by the learned Senior Counsel for the petitioner in the present case.

<https://indiankanoon.org/doc/3414880/>; Neelima Gandhi Gurram And Another vs The State Of Telangana And Another; 2.9.2026; CRLP No. 6671 OF 2022

The Investigating Officer examined witnesses, conducted the scene-of-offence panchanama, collected caste certificates and, upon completion of the investigation, filed the charge sheet, finding prima facie material against the petitioners. Whether the witnesses are trustworthy; whether their statements require corroboration; whether independent or scientific evidence ought to have been collected; and whether the prosecution can ultimately establish the charges beyond reasonable doubt, are matters for trial. The absence of scientific evidence or seizure of incriminating material,

by itself, is not a ground for quashing the proceedings. Likewise, the contention that the dispute arose out of the official functioning of the Gram Panchayat, particularly in relation to the IFMIS password or OTP, does not warrant quashing of the proceedings. The existence of an underlying official or administrative dispute does not, by itself, exclude criminality where the allegations, taken as a whole, prima facie disclose the commission of penal offences.

As regards the offences under the [SC & ST Act](#), the statutory requirements cannot be overlooked. [Section 3\(1\)\(r\)](#) and (s) requires intentional insult or intimidation of a member of a Scheduled Caste or Scheduled Tribe with intent to humiliate such person in a place within public view, while [Section 3\(2\)\(va\)](#) concerns the commission of specified offences against a person on the ground that such person is a member of a Scheduled Caste or Scheduled Tribe. Mere insult of a person belonging to a Scheduled Caste is insufficient; the alleged offending conduct must have the requisite caste-based nexus and satisfy the statutory requirements, including, where applicable, the requirement of public view.

The registration of another crime by petitioner No.1/Accused No.1 against respondent No.2/de facto complainant, arising from the same broad occurrence, also does not, by itself, diminish the prosecution case. The counter-version may be investigated and considered on its own merits. Investigation of both versions is permissible in appropriate circumstances. Thus, the existence of a counter-case cannot, at the threshold, be treated as a ground to hold that the present prosecution is false or amounts to an abuse of the process of law. The fact that the investigation has concluded and the charge sheet has been filed does not take away the jurisdiction of the High Court under [Section 482](#) Cr.P.C. However, where the charge sheet contains prima facie material disclosing the commission of the alleged offences, interference at that stage would ordinarily be inappropriate.

The contentions raised by the petitioners regarding the reliability of the complainant and witnesses, the absence of independent corroboration, the effect of the counter-case, the circumstances in which the alleged incidents occurred, and the applicability of the statutory ingredients are matters requiring appreciation of evidence and are appropriately to be determined by the trial Court.

APHC010430202026; <https://indiankanoon.org/doc/149524414/>; WP NO: 23476 of 2026; 02.09.2026; Kona Ramakrishna vs The State Of Andhra Pradesh

In this juncture, it is appropriate to note that the issue involved in the present lis, is squarely covered by the Order of this Court dated 23.07.2026 in WP No.18425 of 2026, wherein this Court appreciated the facts and law by taking into consideration of the dictums laid down by the Apex Court including latest expression held in Sujal Vishwas Attavar and another vs. State of Maharashtra and others¹, wherein it was held as under:

"7. Keeping in view the above exposition of law, we find that the extraordinary jurisdiction under [Article 226](#) of the Constitution of India ought not to have been invoked when alternative equally efficacious statutory remedies were available. If a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being conducted, then the remedy does not ordinarily lie in invoking the writ jurisdiction in the first instance, but in seeking recourse to the statutory framework, unless of course the urgency of the circumstances warrant otherwise.

APHC010446542026; <https://indiankanoon.org/doc/192843415/>; Dadi Narendra Babu vs The State Of Andhra Pradesh; 3 September, 2026; CRLP NO: 7424/2026

It is also relevant to note that there is an inordinate delay of nearly 2 years and 9 months in setting the criminal law into motion. While delay by itself is not always fatal, more so in cases involving allegations of a sensitive and personal nature, such delay assumes significance when juxtaposed with other circumstances emerging from the record, particularly the solemn declarations made by Respondent No.2 on oath in the insolvency proceedings. The fact that Respondent No.2, while enumerating her assets, liabilities, debtors and sureties before a competent Civil Court, made no whisper of the huge sums of money or the gold ornaments now alleged to have been taken away by the Petitioner, is a circumstance that cannot be brushed aside at the threshold. Equally, the circumstance that Respondent No.2 herself stands arrayed as an accused though not in a cross-case bearing FIR No.1321 of 2025 of Nallapadu Police Station, wherein allegations and counter-allegations of monetary dealings between the very same parties are the subject matter, lends credence to the submission that the present dispute, at least prima facie, has its genesis in a monetary transaction gone sour rather than in any premeditated design to commit a heinous offence. This Court is conscious that the truth or falsity of these rival versions is a matter to be threshed out at trial and cannot be conclusively determined at this interlocutory stage; nevertheless, for the limited purpose of examining the question of custodial interrogation, these circumstances weigh in favour of the Petitioner.

Custodial interrogation is not to be viewed as a matter of course or as an automatic concomitant of registration of a criminal case but must be justified on the touchstone of necessity, whether recovery is to be effected, whether the accused is evasive, or whether confrontation with material evidence is required. In the present case, the investigation is stated to be at a nascent stage with only two witnesses examined so far, and the learned Magistrate has already recorded the statement of Respondent No.2. There is no specific averment that the Petitioner has been evasive or that his custodial interrogation is indispensable for recovery of any article or for confronting him with any particular piece of evidence that cannot otherwise be secured. In these circumstances, coupled with the fact that the Petitioner is a permanent resident with roots in the society and is not shown to be a flight risk, this Court is of the considered view that the liberty of the Petitioner need not be curtailed at this stage, subject, however, to stringent conditions ensuring his continued cooperation with the investigation.

APHC010204822026; <https://indiankanoon.org/doc/91889815/>; Kessireddy Rajasekhar Reddy vs The State Of AP on 7 September, 2026; CRLP No. 3077 OF 2026

APHC010357792026; <https://indiankanoon.org/doc/16841190/>; Donthireddy Vasudeva Reddy vs The State Of AP on 7 September, 2026; CRLP NO: 5763/2026

It is settled principle of law that pre-trial incarceration makes justification depending upon the offences, heinous nature, term of the sentence prescribed in the statute for such a crime, probability of the accused fleeing from justice, tampering the investigation, criminal history of the accused, and doing away with the victims and witnesses and further, the court is under an obligation to maintain balance between all stake holders and safeguard the interests of the victim, accused, society and the state.

Prima facie perusal of both FIRs shows that, although the nature of the allegations appears to be similar, analysis from the perusal of the instant first information report, vigilance report No.52 dated 25.11.2025 and other material, it can be culled out that

the petitioner/accused No.1/Managing SUN, J Director of APSBCL and other accused violated G.O.Ms.No.357 and committed serious financial irregularities through benami transactions and caused loss to the government exchequer to a tune of Rs.195.33 crores by introducing new state wise transportation tender policy without any prior approval for their financial benefits. Petitioner/ accused No.1, accused Nos.3 and 4 are accused in both the cases. Considering the facts and circumstances of the case coupled with the aforementioned authorities including the authorities relied upon by the both parties, this court is of the considered view that at the stage of anticipatory bail under Section 482 BNSS, this Court is not expected to conduct a threadbare comparative analysis of allegations in this case and in Crime No.21 of 2024 and hold a mini trial to decide whether allegations are identical or not. Further, whether the allegations in both crimes are same, overlapping or distinct, whether it is a case of same transaction or different transactions, are all matters to be decided on full facts and in a separate proceedings but not in a bail petition. That exercise is to be done at the time of trial or in the quash petition. Therefore, it cannot be said at this stage that second FIR is not maintainable. Plea of political vendetta/harassment/mala fides cannot be a ground for grant of anticipatory bail when the material prima facie discloses commission of cognizable offence involving huge loss to public exchequer. The allegations are in respect of an economic offence affecting State revenue. Investigation is at crucial stage. The argument that petitioner/accused No.1 is being harassed by registration of successive crimes is not a ground to grant pre-arrest bail.

<https://indiankanoon.org/doc/8574984/>; **M. Uday Krishna Reddy vs The State Of Telangana on 9 September, 2026; CRIMINAL PETITION No.13846 of 2026**

In [Kajendran](#) (supra), the High Court of Madras held that male potency testing must not be insisted upon as a routine requirement in cases involving sexual offences, including POCSO cases or offences against women. Neither the police nor the Subordinate/Special Courts should treat a potency test as a condition precedent for registering, investigating, or proceeding with a sexual-offence case. The prescribed medical Standard Operating Procedure must be strictly followed. Police personnel and Courts dealing with such cases shall not insist upon conducting a potency test unless it is specifically warranted by the facts and circumstances of the particular case.

16. In [R. Rajendran](#) (supra), the Hon'ble Apex Court held that DNA testing cannot be directed routinely merely because it is legally permissible or may establish a biological relationship or collateral fact, as it seriously intrudes upon bodily autonomy, privacy, personal liberty and dignity under [Article 21](#). Such testing must satisfy the threefold test of legality, legitimate aim and proportionality and be supported by genuine and compelling necessity. There must be a direct, demonstrable and proximate nexus between the DNA examination and the offence under investigation. Where the matter can be determined through other evidence, or privacy and dignity interests outweigh the investigative benefit, DNA testing should not be ordered. [Sections 53](#) and [53A](#) Cr.P.C. cannot be used for speculative purposes; scientific techniques must be relevant, necessary and proportionate, consistent with [Articles 20\(3\)](#) and [21](#).

17. It is also relevant to mention that in [Archana Patil v. State of Karnataka](#) 9, the High Court of Karnataka held that in cases involving sexual offences, a male potency test cannot be insisted upon or conducted as a matter of routine. The mere raising of an allegation or 2025 SCC OnLine Kar 17687 defence regarding the accused's potency does not, by itself, warrant such testing or justify interference with the criminal proceedings. The question of potency, where genuinely relevant, must be determined on the basis of the evidence adduced during trial, and a potency test may be resorted

to only where there exists a specific and compelling necessity for the same. Therefore, routine or mechanical conduct of potency tests is impermissible.

18. In [Vikram Bakshi and Others](#) (supra), the Hon'ble Apex Court held that Criminal Courts are generally barred under [Section 362](#) CrPC from reviewing or altering their own judgments or final orders once signed, except for correction of clerical or arithmetical errors or where such power is expressly conferred by law. However, a limited power of procedural recall may be exercised in exceptional circumstances, such as want of inherent jurisdiction, fraud or collusion, a mistake of the Court causing prejudice, or non- service/death of a necessary party resulting in non-representation of the estate. Such power cannot be invoked where the ground was available during the original proceedings or to circumvent the statutory bar. [Section 362](#) Cr.P.C. must therefore be applied strictly, maintaining the distinction between permissible procedural recall and impermissible substantive review.

19. The common principle emerging from [Kajendran](#) (supra), [R. Rajendran](#) (supra), and [Archana Patil](#) (supra), is that medical or scientific examinations of an accused, including potency and DNA tests, cannot be ordered routinely or mechanically. Such examinations must be based on the facts and circumstances of the particular case and satisfy the requirements of relevance, necessity and proportionality, while safeguarding the accused's privacy, bodily autonomy, personal liberty and dignity under [Article 21](#) of the Constitution. In particular, potency testing is not a mandatory requirement in sexual-offence cases and cannot be insisted upon merely because an allegation or defence relating to potency has been raised. Likewise, DNA testing cannot be ordered for speculative or collateral purposes and must have a direct and demonstrable nexus with the offence under investigation. Where the issue can be determined through other evidence, or where there is no genuine and compelling necessity, such examinations ought not to be directed. Thus, the three judgments emphasize that scientific and medical tests must be case-specific, legally justified, genuinely necessary and proportionate, and cannot be used as a routine investigative measure.

20. In [Chotkau](#) (supra), the Hon'ble Apex Court held that under [Section 53A](#) Cr.P.C., the prosecution is expected to avail itself of the statutory procedure, including collection of material for DNA profiling. The failure of the prosecution to subject the accused to such medical examination, particularly where DNA or other scientific evidence could have provided significant corroboration, may constitute a serious lapse and, depending upon the facts of the case, may give rise to an adverse inference against the prosecution. Such failure assumes greater significance where the ocular evidence is doubtful, unreliable or suffers from material contradictions, and may be fatal to the prosecution case where the omitted scientific evidence could reasonably have assisted in establishing the charge.

21. In [Siva Vallabhaneni](#) (supra), the Hon'ble Apex Court held that the accused is expected to cooperate with the Court and the investigating process, including submitting to a lawful medical examination where such examination is required in accordance with law. Unjustified non-cooperation or refusal by the accused to comply with a lawful direction of the Court may, depending upon the facts and circumstances of the case and the applicable statutory provisions, justify the drawing of an adverse inference against the accused. At the same time, any observation made by a Court while considering a petition for quashing is ordinarily confined to the limited purpose of deciding that petition and should not be treated as a final determination on the merit; any subsequent application for discharge must be considered independently by the trial court.

22. In [Rahul Aarwal](#) (supra), the Hon'ble Apex Court held that obtaining handwriting, signatures, fingerprints, or voice samples from a person for the purposes of investigation does not, by itself, amount to testimonial compulsion or violate the constitutional protection against self-incrimination under [Article 20\(3\)](#). Such samples are in the nature of physical or evidence and do not constitute the person being compelled to give evidence against himself. The sample itself does not incriminate the person; it becomes incriminating only when compared with other material or evidence collected during investigation. Therefore, a Magistrate is empowered, in accordance with the applicable statutory provisions, to direct the furnishing of such samples for investigation, notwithstanding the protection against self-incrimination.

23. The above-mentioned judgments relied upon by the learned Public Prosecutor are not applicable to the facts and circumstances of the present case on the ground that the prosecution earlier filed CrI.M.P.No.449 of 2026 for custody of the petitioner for potency test and other relief and the learned trial Court declined the relief of custody of the petitioner for potency test, by its order dated 05.08.2026, and thereafter the prosecution filed CrI.M.P.No.461 of 2026 for the same relief, without assigning any reasons, much less specific reasons as to how conducting the potency test on the petitioner is necessary or relevant for the purpose of further investigation, especially the specific case of the prosecution is that the alleged offence involves digital penetration/rape.

The learned Trial Court relied upon the judgments, in [Mr.Alfred Fernandes](#) (supra), the High Court of Bombay held that "if the act were limited to digital penetration, it falls within the meaning of 'rape'" and in [Naveen Krishna Bothireddy](#) (supra), this Court held that the power to direct a potency examination is based on [Sections 53, 53-A and 54](#) of the Cr.P.C., which provide statutory authority for medical examination, and further held that "potency test is not unconstitutional." However, in the present case, there is no dispute that digital penetration falls within the meaning of rape, nor any dispute regarding [Sections 53, 53-A and 54](#) of the Cr.P.C. or the proposition that the statutory provision authorising a potency test is not unconstitutional. The specific case of the petitioner is that when the entire case of the prosecution is digital penetration/rape on respondent No.2, how the potency test would help the prosecution.

<https://indiankanoon.org/doc/105305968/>; **Sunkari Saritha vs The State Of Telangana on 9 September, 2026; WRIT PETITION NO.23323 OF 2026 (CNR No.HBHC010482002026)**

This Court has found that the issue of authority of the Executive Magistrate in accepting the final report of suicidal death has fallen for consideration before the Madurai Bench of Madras High Court in the case of [Manohari Vs. The District Superintendent of Police, Sivagangai District and others](#) 3 and the High Court, after taking into consideration the provisions of [Section 174](#) of Cr.P.C., has observed that the final report therein was filed before RDO, Thanjavur under [Section 174](#) of Cr.P.C. and has observed that such a procedure is completely in violation of the guidelines issued by the Court. It was observed that the report has to be filed before the Judicial Magistrate and not before the Executive Magistrate. The Court therefore set aside the final report and directed reinvestigation into the matter.

It was noticed that a Coordinate Bench of this Court also, in the case of [R.Jaya Laxmi Vs. The State of Telangana](#) rep. by its Prl. Secretary for Home 4 considered [the said judgment](#) of the Madras High Court and has observed that [Section 174](#) of Cr.P.C. does not envisage filing of final report before Executive Magistrate. This Court also has

directed the police to file the final report before the jurisdictional Magistrate of First Class under [Section 173\(2\)](#) of Cr.P.C., i.e., [Section 193\(3\)](#) of BNSS.

on receipt of the representation of the petitioner on 23.06.2026, the Commissioner of Police, vide letter dt.23.06.2026 directed the Circle Inspector of Police, Sulthanabad to conduct an enquiry into the allegations made by the petitioner and submit a detailed report and accordingly, detailed enquiry was conducted and the enquiry report was submitted wherein it was stated that the allegations made by the petitioner were not supported by the contemporaneous record. It was stated that immediately after the death of her daughter, i.e., on 18.02.2026, the petitioner herself submitted a written complaint before the Sub-Inspector of Police, Kalvasrampur Criminal Appeal Nos.2040-2041 of 2012 arising out of SLP (Crl.) Nos.9185-9186 of 2009 dt.13.12.2012 Criminal Appeal No.13 of 2023 dt.24.02.2023 TMD,J Police Station stating that her daughter had committed suicide by consuming herbicide/grass poison due to stomach pain and she had no suspicion regarding the death of her daughter and that on registration of the written complaint, a case in Crime No.21 of 2026 under [Section 194](#) of BNSS was registered and statutory enquiry was conducted. It is submitted that the police have collected and examined the relevant material concerning the death and on the basis of such evidence, the case was referred as suicidal death. He submits that subsequent representation made by the petitioner was only to reopen the matter by introducing allegations which were not part of her original complaint, which were not contemporaneous to her original version.

In view of the above, the final report issued by the respondent police to the respondent Tahsildar in Crime No.21 of 2026 on the file of Kalavasrampur Police Station, Peddapalli District is set aside with a TMD,J direction to the respondent police to conduct investigation afresh based on the representations of the petitioner and take action strictly in accordance with law.

<https://indiankanoon.org/doc/158695031/>; Sivva Revanth Kumar vs State Of Telangana on 9 September, 2026; Criminal Petition No.12359 of 2026(CNR No. HBHC010520222026)

Insofar as the contention raised by the learned counsel for the petitioner that due to the pendency of the dispute in respect of the construction of the house bearing No.1-11-111/6 and with a view to avoiding the payment of Rs.30,00,000/- allegedly due and payable to the petitioner, respondent No.2 lodged the present complaint by making omnibus allegations and giving a criminal colour to a civil dispute, is not tenable under law on the ground that there are specific allegations levelled in the complaint about threatening and abusing respondent No.2 in the name of caste. It is also relevant to mention that mere pendency of the earlier Crime No.401 of 2024 lodged by the petitioner or Crime No.28 of 2026 lodged by the petitioner and his wife, is not a ground for seeking quashing of the present crime. Whether the allegations levelled in the complaint are true or not, the same will be revealed during the course of investigation, especially the investigation is under progress.

It is relevant to mention that in [Punit Beriwal v. The State of NCT of Delhi](#) and others², the Hon'ble Apex Court held that delay in registration of an FIR, in respect of offences punishable with imprisonment of more than three years, cannot by itself constitute a ground for interdicting a criminal investigation or quashing the FIR. It was further held that the delay assumes relevance only where the 2025 SCC OnLine SC 983 complainant fails to furnish a plausible explanation, and whether such explanation is plausible or otherwise is a matter to be determined by the trial Court upon

appreciation of evidence. Thus, mere delay in lodging the FIR, cannot be a sufficient ground for quashing the criminal proceedings at the threshold.

<https://indiankanoon.org/doc/21485769/>; **Kathala Katwala Suresh vs The State Of Telangana on 9 September, 2026; CRIMINAL PETITION No.13723 of 2026; CNR.No.HBHC010576802026**

Petitioner-A6 is arrested and remanded to judicial custody on 07.03.2026. Petitioner-A6 has filed CrI.M.P.No.493 of 2026 in Crime No.85 of 2023 of PS Burgampahad before the Sessions Court which came to be dismissed vide order dated 19.06.2024 holding that the quantity which is seized is 121.140 kgs which is massive.

8. Petitioner counsel submits that A7 - K.Ramesh is enlarged by the learned Sessions Court in CrI.M.P.No. 530 of 2025 dated 29.08.2025 and A8-B.Suresh is enlarged on bail in CrI.M.P.No.777 of 2025 dated 12.12.2025.

9. Charge Sheet came to be filed against A1 to A5, A7 to A9 and the same is numbered as S.C.No.24 of 2026. In the charge sheet petitioner-A6, A10-Bheema and A11-G.Sagar are shown as absconding. The material placed on record goes to show that A1 met his friends and decided to start ganja business. A2 informed A1 that his uncle A8 is there to purchase ganja. A2 made a call to A8 then A8 said he will purchase dry ganja only and also informed to bring it to Yellandu X road after crossing Palvoncha. A2 has taken a Baleno car bearing No.TS-08-JQ-2960 on hire belonging to Subhani for Rs.3,000/- per day. On 21.03.2023 at about 19 hours A1 along with A2, A5 to A7, A11 went to Polipaka forest area. A1 informed A2 to BRMR,J wait and they went inside and purchased ganja from A10 at Kalimala and loaded the ganja in car dicky. A1 and A2 with the help of A3 and A4 crossed the Godavari over boat. A1 along with A3 to A7, A11 crossed the Godavari in the boat of A9 and reached Vinjaram side along with 55 dry ganja packets and found A2 along with the car. A2 and A3 were apprehended and on seeing them from far off distance A1, A4 to A7 and A11 fled away from there. Investigation is pending for apprehending other accused, huge quantity of ganja is seized and hence petitioner-A6 is not entitled for grant of bail. Hence this petition is dismissed.

<https://indiankanoon.org/doc/152938166/>; **Imtiyaz Khan vs The State Of Telangana on 10.09.2026; CRLP No.13843 of 2026; (CNR.No.HBHC0105841032026)**

Filing of Successive bail applications without change of circumstances would be deemed to be seeking review of the earlier judgments which is not permissible under criminal law. See: [Hari Singh Mann Vs. Harbhajan Singh Bajwa and Others](#) 2. The same is followed in [State of Madhya Pradesh Vs. Kajad](#) 3.

14. Bail cannot be granted on Humanitarian grounds: See *The State of Meghalaya Vs. Lalrintluanga Sailo and Another* 4.

2026 0 INSC 999; 2026 0 Supreme(SC) 1126; Bharat Raj Meena Vs. Central Bureau of Investigation; Criminal Appeal No. 4732 of 2024 With Criminal Appeal No. 4733 of 2024; Decided On : 16-09-2026

44. Over the years, this Court has consistently held that proof of demand and acceptance of illegal gratification constitutes the gravamen of the offence and forms the indispensable foundation upon which a conviction under the Act must rest. The law in this regard is no longer res integra.

45. The jurisprudence governing offences under the Prevention of Corruption Act has evolved on the fundamental premise that criminality does not arise merely because

money changes hands. What the prosecution is required to establish is that the public servant demanded, accepted or obtained gratification other than legal remuneration as a motive or reward for performing, forbearing or facilitating an official act. Consequently, proof of demand and acceptance occupies a position of central importance in prosecutions under the Act.

46. In *C.M. Girish Babu v. CBI*, [\(2009\) 3 SCC 779](#) this Court held that mere recovery of tainted currency notes is insufficient to sustain a conviction unless the prosecution proves beyond reasonable doubt that the accused voluntarily accepted the money knowing it to be illegal gratification. The Court observed that recovery, divorced from proof of demand and acceptance, cannot by itself establish the commission of an offence under the Act.

47. The principle was reiterated and emphatically restated in *B. Jayaraj v. State of Andhra Pradesh*, [\(2014\) 13 SCC 55](#). This Court held that proof of demand is an indispensable essentiality for establishing the offence and that in the absence of proof of demand, possession and recovery of currency notes from an accused would not establish the offence. This Court further held that the statutory presumption under Section 20 of the Act does not arise unless the foundational facts giving rise to such presumption are first established by the prosecution, as under: -

“8. In the present case, the complainant did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext. P-11) before LW 9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW 1 and the contents of Ext. P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”

We are aware that in the aforesaid case, the complainant did not support the Prosecution, as in the present case, but the legal principle remains that the foundational facts have to be proved for attracting Section 20 of the Act.

48. A similar view was adopted in *P. Satyanarayana Murthy v. District Inspector of Police*, [\(2015\) 10 SCC 152](#) wherein this Court observed that proof of demand of illegal gratification is sine qua non for constituting offences under Sections 7 and 13 of the Act and that mere acceptance or recovery of money without proof of demand would not bring home the guilt of the accused.

49. The law was comprehensively examined by a Constitution Bench of this Court in *Neeraj Dutta v. State (Government of NCT of Delhi)*, [\(2023\) 4 SCC 731](#). After an exhaustive survey of precedents, the Constitution Bench reaffirmed that proof of demand and acceptance of illegal gratification remains the gravamen of offences under the Prevention of Corruption Act. At the same time, the Court clarified that proof of demand need not invariably be by direct evidence and may, in an appropriate case, be established through circumstantial evidence. The Constitution Bench also clarified that the absence of the complainant's testimony would not necessarily be fatal if demand and acceptance can otherwise be proved through reliable evidence and surrounding circumstances. The Constitution Bench further explained that the presumption under Section 20 of the Act is not intended to relieve the prosecution of its primary burden. The presumption operates only after the prosecution establishes the foundational facts necessary to show that the accused accepted or obtained gratification other than legal remuneration. Once such foundational facts are established, the burden shifts to the accused to offer a satisfactory explanation. However, where the prosecution itself fails to establish the foundational facts, the presumption does not arise.

50. Equally well settled are the principles governing prosecutions where the alleged gratification is received for another public servant. The law does not require that the public servant must personally receive the money for himself in every case. Acceptance for another person or through another person by way of an intermediary acting on behalf of the public servant may, in a given case, satisfy the statutory requirement. In this regard, it is apposite to note the legal proposition as set out in the observations of this Court in *State by Lokayuktha Police v. K. Rangayya*, 2026 SCC OnLine SC 963,:

“22. Thus, such an offending act can be done by “another public servant” also under the personal influence of the concerned public servant. What we, therefore, understand from the reading of Section 7 (a) of the PC Act read with Explanation 2, is that, it is not necessary that the public servant who has been charged of the offence under Section 7 of the PC Act has to obtain the undue benefit for himself, but it also covers cases where he does the offensive act for obtaining undue advantages for “another person”, and this act may be done by himself by abusing his position, or may be executed through another public servant by using his personal influence over the other public servant.

Therefore, in the light of the above provision, a public servant may not be directly a recipient or the executor of the offensive act and thus, may not be in the limelight and remain in the background. Nevertheless, he can be instrumental in ensuring obtaining, accepting or attempting to obtain from another person the undue advantage for “another person” by taking the help of “another public servant”. Such public servant who has been charged of offence under Section 7(a) may be the main instrumentality, through whom undue advantage is obtained and/or arranged through other public servant....

23.

24. The High Court fell into a grave error in characterizing the aforesaid conduct of the Respondent No. 1 as insufficiently proximate to constitute a ‘demand’ within the

meaning of Section 7 of the PC Act. The High Court appears to have imported a requirement of a direct, personal, and express demand by the public servant himself by not taking into consideration Explanation 2, a standard not warranted by the broad statutory language. The PC Act does not countenance any such straitjacketed formulation limiting to acts of demand and acceptance of bribe by the official himself as explained by expansive provision of Explanation 2. It can be for obtaining the undue advantage "for another person" also. Further, an attempt to obtain a bribe through subordinates who are also public servants, is precisely the kind of indirect corruption that the legislature, by enacting Explanation 2 to Section 7, has sought to bring within the fold of the statute.

25. The interpretation adopted by the High Court, if permitted to stand, would limit the broad scope of Section 7 read with Explanation 2, and would create a pernicious loophole in the anti-corruption law by permitting senior public officials to orchestrate and direct the collection of illegal gratification through their public servant subordinates and park the benefits in the account of the "another person" for whose benefit the public servant intends, while maintaining personal deniability. Such a construction would subvert the manifest purpose and policy of the PC Act and render the Explanation 2 redundant, and thus, cannot be countenanced." (emphasis supplied)

51. However, before criminal liability can be fastened upon the public servant, the prosecution must establish by reliable evidence that the intermediary was acting under the authority, direction or for the benefit of the accused and that the demand itself was attributable to the accused. Mere receipt of money by a third person cannot automatically result in criminal liability being imputed to a public servant.

52. The present case raises an additional dimension inasmuch as the prosecution relies substantially upon the testimony of persons who were originally arraigned as accused and were subsequently tendered pardon. The law relating to accomplice evidence is equally well settled. Section 133 of the Evidence Act declares that an accomplice is a competent witness and that a conviction is not illegal merely because it proceeds upon uncorroborated accomplice testimony. At the same time, Illustration (b) to Section 114 embodies a rule of prudence that an accomplice is ordinarily unworthy of credit unless corroborated in material particulars.

53. In *Sarwan Singh v. State of Punjab*, [AIR 1957 SC 637](#) and in a long line of subsequent decisions, this Court has consistently held that though a conviction based upon accomplice evidence is legally permissible, courts ordinarily insist upon independent corroboration connecting the accused with the commission of the offence. The rationale is self-evident. An accomplice who has participated in the crime and subsequently secured pardon possesses a powerful incentive to minimise his own culpability and shift responsibility onto others.

54. The principles governing approver evidence assume particular significance in corruption prosecutions where the alleged demand and acceptance are sought to be proved through intermediaries who participated in the transactions. In such cases, the Court must scrutinise the evidence with great care and caution and must satisfy itself that the testimony of the approver receives assurance from independent witnesses or circumstances and reliable corroborative material before acting upon it.

55. In this regard, it must be borne in mind that admissibility of evidence and its credibility operate on entirely different planes. That the evidence of an approver, or of a witness who claims to have paid a bribe, is admissible in law, does not by itself, answer the distinct question of whether such evidence is credible and safe to act upon. That question falls to be assessed on a careful appraisal of the surrounding

circumstances, the presence or absence of independent corroboration, and inherent probabilities of the account given, and not merely on the fact that the law permits such evidence to be received.

2026 0 INSC 1001; 2026 0 Supreme(SC) 1128; Abdul Rajik Vs. State of M.P.; Criminal Appeal No(S). 1561 of 2014 With Govind Vs State of M.P.; Criminal Appeal No(s). 1562 of 2014; Decided On : 16-09-2026

30. It is trite that the prosecution has to prove, by proper link evidence, that the samples extracted by seizure officer from the recovered contraband were properly sealed and remained in safe and secure condition from the time of seizure till their receipt at the FSL. Needless to say, for the FSL report to be admitted in evidence, the prosecution would have to establish, by credible oral and documentary evidence, the complete chain of custody essential to establish the integrity and sanctity of the samples. Additionally, the procedural safeguard provided under Section 52-A of the NDPS Act is also a relevant factor while evaluating whether the prescribed procedure was duly followed and, if not, the effect of such non-compliance on the finding of guilt recorded against the accused-appellants.

31. We may note that this Court, in *Narcotics Control Bureau v. Kashif*, [\(2024\) 11 SCC 372](#) and in *Bharat Aambale v. State of Chhattisgarh*, [\(2025\) 8 SCC 452](#) has held that mere noncompliance of the procedure provided under Section 52-A of the NDPS Act or the Standing Orders/Rules made thereunder may not, by itself, vitiate the trial or result in an automatic acquittal. The determinative factor would be whether, and to what extent, such non-compliance has caused prejudice to the accused. Section 52-A of the NDPS Act was incorporated in the Act with the object of providing a statutory mechanism to eliminate the possibility of investigational taint in the procedure of drawing of samples and to ensure expeditious disposal of seized narcotic drugs. Under this provision, the Investigating Agency is obligated to present the seized contraband before the Executive Magistrate/Judicial Magistrate, who is required to cause the representative samples to be drawn in his presence and certify the correctness of the inventory so prepared, the photographs taken thereof and the list of samples so drawn. Upon such certification, the inventory, photographs and list of samples may be treated as primary evidence of the seized goods, thereby obviating the necessity of producing the muddamal before the trial Court.

32. This Court has held that minor lapses or procedural delay in compliance with the said provision may not, by itself, result in an automatic acquittal. However, total non-compliance would definitely be a relevant factor to be taken into account while assessing the mandatory requirement of proving that the samples were kept in a safe and secure condition, i.e., the link evidence from the time of seizure till the time the samples came to be deposited in the FSL.

33. Having gone through the evidence led by the prosecution, we find that no effort whatsoever was made by the Inspector/seizure officer (PW-7) to undertake the procedure provided under Section 52-A of the NDPS Act for drawing representative samples in presence of a Magistrate and thus, there is total non-compliance with the said provision.

34. This Court, in *Nadeem Ahamed v. State of West Bengal*, 2025 SCC OnLine SC 1779, held that the failure to draw representative samples in the presence of a Magistrate and the absence of a certified inventory, in breach of Section 52-A of the NDPS Act, constituted lapses striking at the very root of the prosecution case and rendered the integrity of the seizure and sampling process wholly doubtful. Consequently, the FSL report was held unfit to be read in evidence. Likewise, in *State*

of Rajasthan v. Tara Singh, [\(2011\) 11 SCC 559](#), this Court affirmed an acquittal where the prosecution had failed to account for the custody of the seized samples between their alleged dispatch and their receipt at the laboratory. The Court emphasised that, having regard to the severity of the penalties prescribed under the NDPS Act, the questions as to how and where the samples were stored and when they were dispatched and received at the laboratory assume considerable significance. The Court held that an unexplained gap in the custody of the samples, compromises their sanctity and casts a serious doubt on the prosecution case. These decisions, therefore, underscore that the prosecution must establish the integrity of the sampling process as well as an unbroken chain of custody of the samples before the FSL report can safely be relied upon.

36. The story set up in the testimony of the Inspector/seizure officer (PW-7), that the suspected contraband was tested by burning a part thereof and that, on the basis of such test, the said officer could conclude that the substance was charas, is also unworthy of credence. There is no scientific material on record to establish that the nature or identity of the contraband could be determined as charas merely by burning a part thereof. Thus, in the absence of any scientific or other reliable material supporting such an identification, the testimony of the witness (PW-7) cannot, by itself, be relied upon to establish that the substance allegedly recovered from the accused-appellants was charas.

37. As an upshot of the discussion made hereinabove, we are of the opinion that the prosecution has failed to prove that the substance recovered from the accused-appellants was charas. Consequently, the conviction of the accused-appellants, as recorded by the trial Court and affirmed by the High Court, is unsustainable in law. The accused-appellants are, therefore, entitled to the benefit of doubt and deserve to be acquitted of the charges.

2026 0 INSC 1008; 2026 0 Supreme(SC) 1135; Deepak In JC Vs. State Govt. of NCT Delhi; Criminal Appeal Nos. 4414-4415 of 2026 (Arising out of SLP(Crl.) Nos. 21271-72 of 2025); Decided On : 17-09-2026

7.1.2 Section 29 operates to provide that where a person is prosecuted for committing any offence under Sections 3, 5, 7 and 9 of the Act and where the victim child is below the age of 16 years, the court shall presume that such person has committed the offence, unless the contrary is proved. Section 30 pre-supposes a culpable mental state mens rea on the part of the accused. At the same time, it provides that a defence is possible to be raised by the accused to prove the fact that he had no such mental state with respect to the act charged as an offence against him. The factum of culpable mental state can be said to be proved, as sub-section (2) mentions, only when the court believes it to accept beyond reasonable doubt and not on the preponderance of probability.

7.1.3 The presumptive provisions of Sections 29 and 30 of the POCSO Act are a departure from the cardinal rule in criminal jurisprudence that the accused is presumed to be innocent till proved guilty. While a presumption of innocence of an accused runs through the jurisprudence of administration of justice in criminal cases, the legislature in the modern times has enacted in certain statutes, the provision which presumes, on part of the accused, about commission of offence. These presumptive provisions presuppose by creating a statutory presumption, the commission of act of offence and the existence of culpable mental state on part of the person accused of the offence under the statute concerned, until otherwise proved.

7.1.4 The presumption that the accused is guilty until contrary is proved is described as **rule of reverse burden**, which at the threshold discards the theorem of presumption of innocence. The provisions regarding presumption of guilt are enacted having regard to the gravity of the offence provided under different statutes and because of its serious and adverse consequence on the society. The POCSO Act is one such statute which is enacted with the object that it is a law enacted to protect children from offences of sexual assault, sexual harassment and pornography conduct by the committers of such heinous crime.

7.2 Similar provisions like Section 29 and Section 30 in the POCSO Act raising presumption of guilt and providing for rule of reverse burden are found in other statutes also. They are Sections 35 and 54 in the Narcotic Drugs and Psychotropic Substances Act, 1985¹¹[Hereinafter, “NDPS Act”], Section 20 in the Prevention of Corruption Act, 1988, Section 57 in the Wild Life (Protection) Act, 1972, Section 10C in the Essential Commodities Act, 1955, Section 10(7-B) in the Prevention of Food Adulteration Act, 1954, Sections 123, 138A and 139 in the Customs Act, 1962 and Section 39 in the Foreign Exchange Management Act, 1999. Sections 138 and 139 of the Negotiable Instruments Act, 1881 also create presumption about existence of certain facts relating to negotiable instruments and their negotiability.

7.3 It has to be stated that presumptions of such kind as provided in Sections 29 and 30 of the POCSO Act are not absolute presumptions. The Bombay High Court in Navin Dhaniram Baraiye vs. State of Maharashtra, through P.S.O., P.S. Ajni, District Nagpur, 2018 SCC OnLine Bom 1281 pertinently observed about the nature and operational ambit of Section 29 of the POCSO Act,

“A perusal of the above quoted provision does show that it is for the accused to prove the contrary and in case he fails to do so, the presumption would operate against him leading to his conviction under the provisions of the POCSO Act. It cannot be disputed that no presumption is absolute and every presumption is rebuttable. It cannot be countenanced that the presumption under Section 29 of the POCSO Act is absolute. It would come into operation only when the prosecution is first able to establish facts that would form the foundation for the presumption under Section 29 of the POCSO Act to operate.”

(Para 18)

7.3.1 In the same paragraph, the High Court proceeded to state,

“Otherwise, all that the prosecution would be required to do is to file a charge sheet against the accused under the provisions of the said Act and then claim that the evidence of the prosecution witnesses would have to be accepted as gospel truth and further that the entire burden would be on the accused to prove to the contrary. Such a position of law or interpretation of the presumption under Section 29 of the POCSO Act cannot be accepted as it would clearly violate the constitutional mandate that no person shall be deprived of liberty except in accordance with procedure established by law.”

(Para 18)

7.4 The statutory presumptions cannot be read to mean that the prosecution version is liable to be treated as gospel truth in every case. It has to be additionally observed by this Court the presumptive provisions notwithstanding, the courts are not absolved from discharging their essential duty to analyse the evidence on record in light of the features emerging in a particular case. The court should not mechanically accept the ipse dixit of the prosecution riding on the provisions regarding presumption of guilt to give a stamp of approval to every prosecution even if they are absurd or improbable

in its story. At the end of the trial, the accused should not stand at a discount or at disadvantage only for the reason that the particular statute under which he is tried for the offence contains presumptive provisions about the guilt of the accused.

7.5 The reverse burden contemplated in presumptive provisions could be said to be an additional weapon in the armoury of prosecution. However, this arm could be thwarted by the accused by leading evidence to the contrary. Differently stated, the presumption of commission of offence or the presumption of culpability mental state are rebuttable presumptions. The truthfulness of the factum raised by way of statutory presumptions can be countered by the accused by leading evidence. Although the prosecution may have established the primary facts relating to commission of offence, once the accused discharges his burden of shifting onus to be able to show that the state of things are otherwise or that the accused raises a valid defence, the presumption of guilt and culpability would start disappearing.

7.5.1 The rebuttal of presumption by the accused could be in several ways as may be permissible in law. The accused may demolish the prosecution version by discrediting the prosecution witnesses or falsify them in the cross-examination. The presumption could be kept at bay by showing inherent inconsistencies and contradictions in the evidence of the prosecution. The rebuttal may be achieved by pointing out the absurdities and the gaps in the prosecution story and by bringing out the loopholes therein. The absence of proof of relevant facts, mismatch of ocular and medical evidence and non-corroboration of the evidence in different walks may also be good tools for rebuttal. The accused may also raise available statutory defence or factual defence to counter the allegations of the prosecution. He may by his version in defence show the improbability of the prosecution case.

7.5.2 The presumption of commission of offence and that of guilty mental state which has been applied at the beginning of the trial in view of the presumptive provisions in that regard, may at the stage of the conclusion of evidence, vanish if the reverse burden is successfully discharged by the accused to rebut the prosecution case. In ultimate analysis, it will be the total canvass of evidence which would play a decisive role. The presumptive provisions do not operate to oust the evidence standing in favour of the accused.

7.5.3 The provision like Section 29 and Section 30 of the POCSO Act is only a rule shifting the evidential burden. Such presumption of guilt or mens rea has a role to play in the initial stages of the trial. Normally, the prosecution would fail even if the accused does not adduce any evidence or in the event where the evidence adduced by the prosecution does not prove the guilt of the accused beyond reasonable doubt. However, when the presumption of the nature such as Section 29 of the POCSO Act operates, once the prosecution adduces the basic and foundational facts constituting the offence. It would be presumed that the accused has committed or abetted or attempted to commit the offence alleged against him, unless contrary is proved by him. In other words, once the prosecution discharges the initial burden of showing the existence of essential facts constituting the offence, the ball would lie with the accused who has to discharge thereupon the onus to disprove the fact regarding commission of offence. The burden shifts on the accused to prove his innocence.

7.6 Again, the provision raising presumption of guilt against the accused cannot operate in any way to discount the norms of fair trial and the principles governing the fair trial realm. This Court in *Naresh Kumar alias Nitu vs. State of Himachal Pradesh*, [\(2017\) 15 SCC 684](#), while speaking with reference to the similar provision under the NDPS Act inter alia observed that in the stringent nature of the provisions of the NDPS Act, the concept of reverse burden of proof, the presumption of culpability under

Section 35 and the presumption against the accused under Section 54, any reliance on Section 114 of the Evidence Act could be applied, in any case, only at the risk of a fair trial to the accused, suggesting thereby that the operation of provisions of such nature cannot be permitted to discount the fundamental norms of the fair trial, which is the right of the accused under Article 21 of the Constitution.

7.7 The provision regarding presumption of guilt or that the rule of reverse burden requiring the accused to prove his innocence does not change the rule of standard of proof as normally applied in the criminal cases. The principle is to be highlighted that even where there exists a presumptive provision with reverse burden of proof, the prosecution is obliged in law to prove the guilt against the accused beyond reasonable doubt. While the prosecution will have to establish the culpability and guilt of the accused beyond reasonable doubt and that the accused cannot be held guilty on the preponderance of probability, when it comes to proving the innocence by the accused, the standard of proof would be the preponderance of probability. In other words, the accused would be able to counter the prosecution case by raising a defence and thereby to show himself innocent on preponderance of probability.

7.8 This Court in *Noor Aga v. State of Punjab and Another*, [\(2008\) 16 SCC 417](#) observed in the context of the similar provision under the NDPS Act emphasising that the presumption of culpability against the accused would not in any manner whittle down the rights of the accused which are available as part of the fair trial and to prove his innocence,

“An initial burden exists upon the prosecution and only when it stands satisfied, would the legal burden shift. Even then, the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution. Whereas the standard of proof required to prove the guilt of the accused on the prosecution is “beyond all reasonable doubt” but it is “preponderance of probability” on the accused. If the prosecution fails to prove the foundational facts so as to attract the rigours of Section 35 of the Act, the *actus reus* which is possession of contraband by the accused cannot be said to have been established.”

(Para 58)

7.8.1 The Court further stated,

“With a view to bring within its purview the requirements of Section 54 of the Act, element of possession of the contraband was essential so as to shift the burden on the accused. The provisions being exceptions to the general rule, the generality thereof would continue to be operative, namely, the element of possession will have to be proved beyond reasonable doubt.”

(Para 59)

7.8.2 In *Naresh Kumar (supra)* also, this Court underlined that the presumption against the accused about culpability does not dispense with the obligation on part of the prosecution to prove charge beyond all reasonable doubt. It was stated that the presumptive provision could not justify the conviction on the basis of preponderance of probability. This Court held that the reversal of acquittal of the appellant by the High Court was speculative by misapplying the presumptive provision about culpability.

7.8.3 The principle was reiterated in *Gangadhar alias Gangaram vs. State of Madhya Pradesh*, [\(2020\) 9 SCC 202](#). This Court stated that the gravity of sentence and stringency of the provisions of the NDPS Act which contain the provisions regarding presumption of guilt of the accused, may in a way call for heightened scrutiny of evidence for the establishment of foundational facts by the prosecution, however, the guilt of the accused has to be invariably established beyond reasonable doubt.

7.8.4 The accused facing trial under the POCSO Act on the presumptive provision of guilt operating against him may rebut the prosecution case by offering an explanation which might reasonably be true and which is consistent with his defence of innocence. It is not that the accused is not required to establish his plea of defence by leading proper evidence, but the degree and character of proof which the accused is expected to provide in substantiation of his plea, cannot be equated with the degree and extent of proof expected from the prosecution which will have to invariably prove its case against the accused beyond reasonable doubt.

7.9 This Court in V.D. Jhingan vs. State of Uttar Pradesh, [AIR 1966 SC 1762](#) dealt with Section 4(1) of the Prevention of Corruption Act, 1947 interpreting the expression “unless the contrary is proved”, to observe thus,

“It is well-established that where the burden of an issue lies upon the accused, he is not required to discharge that burden by leading evidence to prove his case beyond a reasonable doubt. That is, of course, the test prescribed in deciding whether the prosecution has discharged its onus to prove the guilt of the accused; but the same test cannot be applied to an accused person who seeks to discharge the burden placed upon him under Section 4(1) of the Prevention of Corruption Act. It is sufficient if the accused person succeeds in proving a preponderance of probability in favour of his case; it is not necessary for the accused person to prove his case beyond a reasonable doubt or in default to incur a verdict of guilty. The onus of proof lying upon the accused person is to prove his case by a preponderance of probability. As soon as he succeeds in doing so, the burden is shifted to the prosecution which still has to discharge its original onus that never shifts i.e. that of establishing on the whole case the guilt of the accused beyond a reasonable doubt.”

(Para 2)

7.9.1 This Court in Trilok Chand Jain vs. State of Delhi, [\(1975\) 4 SCC 761](#) observed, “If the story set up by the prosecution inherently militates against or is inconsistent with the fact presumed, the presumption will be rendered sterile from its very inception, if out of judicial courtesy it cannot be rejected out of hand as stillborn.”

(Para 11)

8. The operation of the statutory presumptions would also not permit the departure from the well-recognized principle, which is the golden thread running through the web of criminal justice administration that if two views are possible on the evidence adduced in the case, one pointing towards guilt of the accused and the other towards innocence, the view which is favouring the accused should be adopted. This again reiteration in different way of the dictum that the guilt of the accused has to be proved beyond reasonable doubt and not on the basis of preponderance of probability.

8.1 In Kali Ram vs. State of Himachal Pradesh, [\(1973\) 2 SCC 808](#), this Court observed that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording a finding of guilt of the accused, observed in paragraph 25.

8.1.1 Kali Ram (supra) also answered the aspect as to whether the above proposition should be applied and would hold truth for trying an accused person for the offences under the statute which raise presumption of guilt and culpability against the accused. It was observed,

“There are certain cases in which statutory presumptions arise regarding the guilt of the accused, but the burden even in those cases is upon the prosecution to prove the existence of facts which have to be present before the presumption can be drawn. Once those facts are shown by the prosecution to exist, the Court can raise the statutory presumption and it would, in such an event, be for the accused to rebut the

presumption. The onus even in such cases upon the accused is not as heavy as is normally upon the prosecution to prove the guilt of the accused. If some material is brought on the record consistent with the innocence of the accused which may reasonably be true, even though it is not positively proved to be true, the accused would be entitled to acquittal.”

(Para 23)

8.1.2 In Kali Ram (supra), following was further stated,

“It needs all the same to be re-emphasised that if a reasonable doubt arises regarding the guilt of the accused, the benefit of that cannot be withheld from the accused. The Courts would not be justified in withholding that benefit because the acquittal might have an impact upon the law and order situation or create adverse reaction in society or amongst those members of the society who believe the accused to be guilty. The guilt of the accused has to be adjudged not by the fact that a vast number of people believe him to be guilty but whether his guilt has been established by the evidence brought on record.....”

(Para 26)

8.1.3 It was further observed that if an innocent accused is not acquitted, it would be against not only the interest of the accused but also against public interest,

“...Reference is sometimes made to the clash of public interest and that of the individual accused. The conflict in this respect, in our opinion, is more apparent than real. As observed on p. 3 of the book entitled *The Accused* by JA Coutts 1966 Edition, “When once it is realised, however, that the public interest is limited to the conviction, not of the guilty, but of those proved guilty, so that the function of the prosecutor is limited to securing the conviction only of those who can legitimately be proved guilty, the clash of interest is seen to operate only within a very narrow limit, namely, where the evidence is such that the guilt of the accused should be established. In the case of an accused who is innocent, or whose guilt cannot be proved, the public interest and the interest of the accused alike require an acquittal.”

(Para 26)

9. In the case of conviction or acquittal of the accused facing trial for any criminal offence, what is necessarily involved is the issue of his personal liberty. When an issue concerning the liberty of an individual is involved to be dealt with in law, the court has to be extra careful and cautious. The court should always undertake objective assessment and appreciation of evidence. Therefore, in addressing the entitlement of the accused to the acquittal, the court should not overweigh itself with the provisions like that of Section 29 or Section 30 of the POCSO Act.

9.1 Even as the statute concerned may be containing such presumptive presumption, the appreciation of evidence should be guided by all normal standards and yardsticks to be applied in law. The court is not expected to influence itself by the existence of presumptive provision so as to lean towards the prosecution while analysing and interpreting the evidence. The presumptive provision may have its play at the primary stage to have the effect of shifting the onus on the accused, however once the evidential emptiness is found in the prosecution case and the prosecution version lacks credibility or borders perversity, the presumption of guilt would no longer remain effective.

9.2 The court should not therefore be overshadowed or inhibited by the provision of presumption of guilt and commission of offence by the accused and would weigh the evidence with usual principles. The accused should be given full room to prove to the contrary to displace the presumption and demolish the case of the prosecution.

10. In the present case, the appellant-accused has been successful in rebutting the prosecution story. Even if initially the provisions of Section 29 and Section 30 of the POCSO Act operated to raise presumption against the accused, the evidence of the prosecution manifested inconsistencies, improbabilities and material contradictions. The medical evidence was non-corroborative in all respects, suggesting the non-commission of offence on part of the appellant. The defence story put forth by the appellant was cogent and its evidentiary value had the effect of crumbling the prosecution story. In the total perspective of evidence on record, it could hardly be said that the prosecution was able to prove the guilt of the appellant, much less beyond reasonable doubt.

2026 0 INSC 1015; 2026 0 Supreme(SC) 1142; Kartika @ Kirtan @ Kirtan Charan Jena & Anr. Vs. The State of Odisha; Criminal Appeal No(s). 1047-1048 of 2010 With Criminal Appeal No(s). 2223 of 2010; Decided On : 18-09-2026

18. Further, referring to the testimonies of other eye-witnesses it is evident that the incident took place in a pitch dark night. The question which arises before us is whether it was possible for the eyewitnesses to have witnessed the incident in a dark night from a distance of 60 cubits. In this regard, it is apposite to refer to the decision of the Supreme Court in State of U.P. v. Ashok Kumar, [\(1979\) 3 SCC 1](#). In that case, the Supreme Court found the testimony of the alleged eye-witnesses to be unreliable, holding that it was improbable for them to have identified the accused even in moonlight. The relevant extract reads as follows:

“3. The first question which falls for consideration is as to whether or not the witnesses would be in a position to identify the respondents from such a large distance at night. It is true that it was a moonlit night but from a reference to the almanac it would appear that the moon had covered 3/4th distance on the night of occurrence and was to set at 2.23 a.m. Even though there may be some moonlight at that night, it is difficult for the witnesses to identify the respondents or even if they did the possibility of mistake in identification cannot be completely excluded. In this connection, we may refer with advantage to the following passage appearing in Dr Hans Gross's Criminal Investigation at p. 185:

“By moonlight one can recognise, when the moon is at the quarter, persons at a distance of from 21 feet in bright moonlight at from 23 to 33 feet; and at the very brightest period of the full moon, at a distance of from 33 to 36 feet. In tropical countries the distances for moonlight may be increased.”

4. The opinion of Gross referred to above fully fortifies our conclusions that it was not possible for the witnesses to have identified the respondents even in moonlight from a distance of about 150 yards. In these circumstances, therefore, the High Court was fully justified in holding that it was not possible for the eyewitnesses to identify the respondents from such a long distance on the night of the occurrence. The prosecution suggested that the witnesses had lighted their torches and it was in the light of torches coupled with moonlight that identification was possible. In the first place, we find it difficult to believe that after Ashok Kumar had given a call and fired, the witnesses would dare to flash the torch light and expose themselves to the risk of being shot themselves. Secondly, even if torches were lighted, in view of the large distance, it would not be possible for the witnesses to identify the respondents with absolute certainty.”

19. Though in the above referred case of Ashok Kumar (supra), the source of light was at least moonlight but in the present case, the testimony of witnesses clearly show that it was a pitch dark night and the source of light was provided by the accused

themselves i.e. the torch light to identify the deceased. Considering this very aspect, a categorical finding was recorded by the High Court that it was not possible for the prosecution witnesses to have witnessed the incident on a pitch dark night or to identify the assailants merely on the basis of sound of the assault. The testimony of the alleged witness cannot be relied upon.

20. Further, the testimony of PW-4 reveals that the accused persons focused the torch light to identify the deceased. On this it is important to refer to *Tamilselvan v. State*, [\(2008\) 7 SCC 755](#) which held that:

“8. Before dealing with these glaring inconsistencies it may be pointed out that the incident occurred at 10.30 p.m. on 27-1-1996. It is alleged by the prosecution witnesses that they identified the accused in moonlight. We find it difficult to accept this version of the prosecution witnesses that they could have identified any of the accused merely by the moonlight. In the evidence of the prosecution witnesses it is stated that the accused were carrying torches, but there is no indication whether the victims, including the Forest Guard Swaminathan (the deceased) and Raju, the gardener, who sustained fire injuries, carried torches.

9. Since it was the accused who allegedly carried torches, we find it difficult to believe how the prosecution witnesses could have identified the assailants. The position would have been different if the forest guards had been carrying torches and had been pointing them at the assailants, but here the position is just the reverse. In fact due to the torches of the assailants the prosecution witnesses would have been partially blinded by the light of the torchlight, and would not have been able to identify anybody.”

21. In view of the aforesaid decisions and the categorical finding recorded by the High Court that it was not possible for the prosecution witnesses to have witnessed the incident on a pitch-dark night or to identify the assailants merely on the basis of the sound of the assault, the testimony of the alleged eye-witnesses cannot be relied upon.

22. Once the testimony of the alleged eye-witnesses is discarded, the prosecution case necessarily becomes one based solely on circumstantial evidence. However, having discarded the ocular version, the High Court proceeded to examine whether the prosecution had succeeded in establishing the guilt of the accused on the basis of the circumstantial evidence on record and, on that basis, upheld the conviction. The correctness of such an approach must, therefore, be examined in light of the settled principles governing cases resting entirely on circumstantial evidence.

30. We also find no merit in the theory of the prosecution that the deceased died due to hit of a 53 kg laterite stone as there is absolutely no material to show that how this heavy stone weighing 53 kg was brought and who brought it and also the prosecution was unable to recover this so-called 53 kg laterite stone which was used for commission of offence. It may not be out of place to state that the medical officer PW-18 in his testimony before Court deposed that “there is every likelihood of causing fracture as well as brain hemorrhage, if a laterite stone such as MO3 has been thrown from the height of 2 ft. on the head of the person lying on the ground”. He further deposed that “no weapon of offence including laterite stone like MO3 was sent to me by Investigating Officer for my opinion”.

31. It is worthy to refer to the judgment of this Court in *Abdul Nassar v. State of Kerala*, 2025 SCC OnLine SC 111 which enunciated the principles that courts must adhere to while appreciating and evaluating evidence in cases based on circumstantial evidence. One of the principles enunciated is that each of the circumstance must be proved individually. The relevant extract is as follows:

“30. We deem it essential to enunciate the principles that courts must adhere to while appreciating and evaluating evidence in cases based on circumstantial evidence, as follows:

....(iii). Each of the links of incriminating circumstantial evidence should be meticulously examined so as to find out if each one of the circumstances is proved individually and whether collectively taken, they forge an unbroken chain consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence.....”

32. Thus, it is a settled position of law that to convict the accused on the basis of circumstantial evidence each circumstance must be established beyond doubt and collectively point towards the guilt of the accused.

<https://indiankanoon.org/doc/163746372/>; **Metta Appana vs The State Of Andhra Pradesh on 11 September, 2026; W.P.NO. 25988 OF 2024**

21. As rightly contended by the learned Assistant Government Pleader, once the criminal prosecution has been set in motion pursuant to a valid sanction, the authorities cannot withdraw the sanction by invoking their power of review in the absence of any new material warranting such reconsideration. In the present case, it is not the case of the prosecution that certain new material came to light after the grant of sanction or after filing of the charge sheet, which warranted withdrawal of the sanction. The recommendation for withdrawal was made on the basis of the same material that had already been considered while granting the sanction. The question as to whether the disproportionate assets of petitioner exceeded or were less than 20% of his known sources of income is a matter that can be considered by the competent criminal Court during the trial. Petitioner has an opportunity to raise all his contentions in this regard before the said Court. Therefore, the said issue cannot be made a ground for withdrawing the sanction after the criminal prosecution has already been set in motion. Though [Section 19](#) of the Prevention of Corruption Act, 1988, is intended to protect public servants from unnecessary or vexatious prosecution, in the present case, the Government had considered the material available on record and, upon being satisfied that there are sufficient grounds to proceed against the petitioner, had granted sanction for prosecution. In absence of any new material, subsequent withdrawal of such sanction on the basis of very same material cannot be sustained. Therefore, the withdrawal of sanction under G.O.Ms.No.63, without there being any new material warranting such reconsideration, cannot be countenanced. Respondent No.2, having subsequently brought the relevant material and the applicable judicial pronouncements to the notice of the Government, rightly sought reconsideration of the decision taken under G.O.Ms.No.63. Upon consideration of the said report, the Government issued the impugned order withdrawing the earlier decision to withdraw the sanction and thereby allowing the criminal prosecution to proceed in accordance with law.

<https://indiankanoon.org/doc/151527732/>; **C.Ravindranath, Tamilnadu State vs Chairman And M.D., Nicl., West Bengal ... on 15 September, 2026; WRIT PETITION No. 46784 of 2016 (CNR No. HBHC010036642016)**

29. Notwithstanding the distinction between criminal liability and departmental misconduct, when the same factual allegations form the foundation of both proceedings, and where the criminal Court, after a full- fledged trial, has found that the essential allegations were not proved, the disciplinary authority must meaningfully

address the effect of those findings before sustaining the extreme penalty of removal from service.

36. In the instant case, when the substantive allegations/charges in the criminal proceedings in C.C. No. 30 of 2004, relating to conspiracy, fraudulent claims, non-existent hospitals, criminal misconduct, misuse/abuse of official position and obtaining pecuniary advantage were not proved by the prosecution, and thereby the petitioner was honourably acquitted of the charges under [Sections 120-B](#) and [420](#) of the IPC, as well as [Sections 13\(1\)\(d\)](#) and [13\(2\)](#) of the Prevention of Corruption Act; and when the material allegations forming the basis of both the departmental proceedings and the criminal proceedings have thus remained unproved, the same ought to have been duly considered by the Appellate Authority, while reviewing the case of the petitioner.

<https://indiankanoon.org/doc/28014710/>; **APHC010447652026; Ashok Kumar vs Union Of India; CRIMINAL PETITION NO: 7438 of 2026 Date: 15.09.2026**

The role of the Petitioner came to light based on the confessional statements of Accused Nos.1 and 2. The Petitioner was arrested on 01.10.2025. He has been in judicial custody for the past 349 days. After thorough investigation, the Charge Sheet was filed well within 180 days. The prosecution alleges that the Petitioner is the mastermind in the transportation of 1300.27 kilograms of ganja.

15. The gravity of the offence under 'the [NDPS Act](#)', the magnitude of the seized contraband, the role attributed against the Petitioner as the mastermind, and in view of the statutory rigour under [Section 37](#) of 'the [NDPS Act](#)', this Court is not satisfied to grant bail to the Petitioner. Further, the Petitioner has failed to demonstrate any change in circumstances warranting reconsideration of bail.

<https://indiankanoon.org/doc/27328242/>; **Sri.P.Srinivas Rao vs The State Of Telangana on 16 September, 2026; CRIMINAL PETITION No. 15133 OF 2024 (CNR No. HBHC010672262024)**

18. The existence of civil proceedings concerning the subject property does not, by itself, constitute a bar to criminal investigation where the allegations independently disclose the commission of criminal offences. Civil and criminal remedies may, in an appropriate case, operate in their respective fields. The mere fact that a dispute has a civil or property dimension does not necessarily efface the criminality alleged in respect of independent acts such as forgery, fabrication, impersonation, cheating, intimidation or conspiracy. At the same time, the mere use of criminal terminology in a complaint cannot, by itself, convert a purely civil dispute into a criminal offence. The Court is required to examine whether the factual allegations, taken at their face value, satisfy the essential ingredients of the offences alleged.

19. Insofar as the offences under [Sections 406](#) and [420](#) of the IPC are concerned, the mere mention of those provisions in the FIR is not conclusive. The factual allegations must disclose the essential ingredients of the respective offences. [Section 406](#) IPC relates to criminal breach of trust and requires the foundational ingredients contemplated by [Section 405](#) IPC, including entrustment and dishonest misappropriation, conversion, use or disposal in violation of the legal or contractual obligation governing the property entrusted. [Section 420](#) IPC, on the other hand, concerns cheating and dishonestly inducing delivery of property and requires the ingredients contemplated by [Section 415](#) IPC, including the requisite dishonest or fraudulent inducement. The principles referred to in [S.N. Vijayalakshmi and Delhi Race Club](#) (supra), therefore require the Court to examine whether the factual allegations disclose the essential ingredients of the particular offences invoked, rather than

proceeding merely on the basis of the statutory labels attached to the allegations. However, the accusations in the present case are not confined to [Sections 406 and 420](#) IPC. The FIR also contains allegations relating to impersonation, forgery, fabrication and use of allegedly forged documents, criminal intimidation and conspiracy. Consequently, even assuming that the allegations may not ultimately sustain each and every offence initially invoked, that circumstance by itself would not justify quashing the FIR in its entirety if the remaining allegations disclose cognizable offences requiring investigation.

<https://indiankanoon.org/doc/68161782/>; **D Balaji vs The State Of Telangana on 16 September, 2026; CRIMINAL PETITION No.13680 of 2026**

8. The learned trial Court, after considering the contentions of the respective parties and relying upon the judgment of the Hon'ble Apex Court in [Nega Begum and others v. The State of Assam and another](#) (Criminal Appeal No.3910 of 2024) and [Rajaram Prasad Yadav vs. State of Bihar and another](#)², allowed the petition holding that PW.1 is a material witness to the prosecution case. If an opportunity is given to the prosecution to cross-examine PW.1, no prejudice would be caused to the petitioner and the petitioner will also get an opportunity to cross-examine PW.1. (2013) 4 SCC 461

9. Insofar as the contention raised by the learned Senior Counsel for the petitioner that the earlier petition filed by the prosecution in Crl.M.P.No.208 of 2024 was dismissed as 'not pressed' on 25.11.2024 and that thereafter, the prosecution filed another petition i.e. Crl.M.P.No.459 of 2025, on the very same grounds, thereby amounting to a review of the earlier order and the same is not maintainable under law by virtue of [Section 362](#) of Cr.P.C., is not tenable under law, on the ground that the prosecution filed Crl.M.P.No.459 of 2025 is not on the same grounds and it was filed in different grounds, wherein it was stated that PW.1 was not supported the prosecution and due to oversight, PW.1 was not declared hostile and he was not cross-examined by the prosecution. The record also discloses that the earlier petition was not decided on merits only basing upon the submission of the learned Special Public Prosecutor, the said petition i.e., Crl.M.P.No.208 of 2024, was dismissed as not pressed.

10. Even according to the parties, PW.1 is a material witness and he was not supported the prosecution and the prosecution has not declared the said witness as hostile and also not cross-examined him. The prosecution in the petition specifically averred that due to oversight, PW.1 was not declared hostile and was not cross-examined. The learned trial Court, duly taking into consideration the above said facts, rightly exercised the discretionary powers vested upon it and passed the impugned order and by virtue of re-opening and recalling PW.1 for further examination/cross-examination by the prosecution, no prejudice would be caused to the petitioner, especially the petitioner is also entitled to cross-examine PW.1. Hence, this Court does not find any illegality or irregularity or jurisdictional error in the impugned order dated 09.06.2026 passed by the learned trial Court.

11. In [N.Seenivasagan](#) (supra), the Hon'ble Apex Court held that the power under [Section 311](#) Cr.P.C. is intended to enable the Court to arrive at a just decision on the basis of complete and relevant evidence. The Court may, at any stage of the proceedings, summon, examine, recall, or re-examine a witness where such evidence is essential for the just decision of the case. The decisive consideration is the necessity of the evidence, and not merely the stage at which the application is filed. Where the proposed evidence is material and necessary for a proper adjudication, the Court should exercise its power to secure the ends of justice.

12. It is relevant to mention that in [K.P.Tamilmaran V. State by Deputy Superintendent of Police](#)³, the Hon'ble Apex Court held that [Section 311](#) Cr.P.C. confers wide powers on the Criminal Court to summon, examine, recall or re-examine any witness at any stage 2025 SCC OnLine SC 958 of the proceedings. The first part of Section 311 uses "may", conferring discretion on the Court. The second part uses "shall", making the exercise of power mandatory when the evidence is essential for the just decision of the case. Thus, the essentiality of the evidence for a just decision is the decisive test. The Court is duty-bound to exercise this power where such evidence is necessary for a fair and proper adjudication. The power can be exercised even at a later stage, irrespective of the stage of the proceedings.

13. It is also relevant to mention that in [Satbir Singh v. State of Haryana](#) and others⁴, the Hon'ble Apex Court held that the power under [Section 311](#) Cr.P.C. is very wide and is intended to enable the Court to arrive at the truth and render a just decision. The Court observed that a witness may be recalled at any stage of the trial if such recall is essential for the just decision of the case and when the party seeking recall did not have an earlier opportunity to elicit relevant facts. It was further held that recall should not be refused on technical grounds when such examination would assist the Court in proper adjudication of the matter and when no prejudice would be caused to the opposite party, who would still have the opportunity to cross-examine the witness. Accordingly, the Hon'ble Supreme Court set aside the orders of the courts below and allowed the recall of the witness under [Section 311](#) Cr.P.C. for further examination. 2023 SCC OnLine SC 1086

14. The consistent principle [laid down by](#) the Hon'ble Supreme Court in [N. Seenivasagan](#) (supra), [K.P. Tamilmaran](#) (supra) and [Satbir Singh](#) (supra) is that [Section 311](#) Cr.P.C. confers wide powers on the Criminal Court to summon, examine, recall, or re-examine a witness at any stage of the proceedings when such evidence is essential for a just and proper decision of the case. The necessity, relevance, and materiality of the evidence, rather than the stage at which the application is filed, are the decisive considerations. The power is intended to enable the Court to discover the truth and ensure a fair and complete adjudication. Where further examination or recall of a witness is necessary and does not cause prejudice to the opposite party, the application should not be rejected on mere technical grounds. Thus, the Court is required to exercise its power under [Section 311](#) Cr.P.C. whenever the proposed evidence is essential for the just decision of the case and to secure the ends of justice. In the case on hand, as per the prosecution case, PW.1 is a material witness and he was not supported the case of the prosecution and due to oversight, he was not declared as hostile and he was also not cross-examined. The trial Court considering the said aspects, allowed the petition.

15. It is relevant to mention that the prosecution has not prosecuting the proceedings before the learned trial Court in diligent manner. The record discloses that the evidence of PW.1 was closed on 28.06.2017. On 20.10.2023, the prosecution filed Crl.M.P.No.208 of 2024 and the same was dismissed as not pressed on 25.11.2024 at the instance of learned Special Public Prosecutor. Thereafter, on 13.08.2025, the prosecution filed Crl.M.P.No.459 of 2025 on the ground that PW.1 is a material witnesses to bring the foundational facts of the case and he was not supported the prosecution and due to oversight, he was not declared hostile and was not cross-examined by the prosecution and the said petition was allowed by the trial Court on 09.06.2026. The prosecution is having knowledge about the factum of PW.1 was not declared as hostile and he was not cross- examined by the prosecution. However, the prosecution filed petition i.e., Crl.M.P.No.459 of 2025, after lapse of nearly eight

months after dismissal of CrI.M.P.No.208 of 2024 and that the matter has been pending before the trial Court since 2024 and that even according to the parties, the matter is posted for arguments. It is trite law that due to the mistake on the part of the counsel/prosecutor, the party could not be suffered. Hence, this Court is of the considered view that the learned trial Court while allowing CrI.M.P.No.459 of 2025 ought to have awarded costs against the respondent/complainant.

<https://indiankanoon.org/doc/43531613/>; APHC010298632023; **Kakani Madhava vs The State Of Andhra Pradesh on 16 September, 2026; CRLP NO: 4307/2023**

10. It is also significant that the petitioner has not demonstrated before this Court how the proposed further cross-examination is indispensable for arriving at a just decision in the case. A mere assertion that certain questions were not put to the witness earlier cannot be treated as sufficient to exercise the inherent jurisdiction of this Court, particularly when the witness had already been cross-examined at length. The power under [Section 311](#) Cr.P.C. is not intended to provide a party with an opportunity to repair omissions or improve its case after completion of cross-examination.

12. Further, the passage of considerable time from the examination and cross-examination of PW.1 is also a relevant circumstance. The submission that PW.1 is now residing at Bengaluru cannot, by itself, determine the issue; however, it reinforces the need for caution before directing recall of a witness in the absence of a demonstrated necessity for such further evidence. The interests of a fair trial require a balance between the right of the accused to effectively defend the case and the need to avoid unnecessary and repeated examination of a witness.

<https://indiankanoon.org/doc/70528203/>; APHC010328432026; **Yenduri Ashok Chakravarthi vs The State Of Andhra Pradesh on 16 September, 2026; CRIMINAL PETITION NOs: 5252 and 6891 of 2026**

9. In this context, it is apposite to refer the judgment of the Hon'ble Apex Court in [G.R. Ananda Babu v. State of Tamil Nadu](#)¹, wherein at para No.6 it is held as under:

"6...As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (Respondent 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge."

(2021) 16 SCC 725

<https://indiankanoon.org/doc/44692300/>; APHC010467412026; **Pangi Siman Alilas Seemon vs The State Of Andhra Pradesh; CRLP NO: 7817 of 2026 Date: 16.09.2026**

8. In this regard, it is apposite to refer to the judgment of the Hon'ble Apex Court in [Zeba Khan v. State of U.P.](#)¹ wherein, at Paragraph Nos. 47 and 48, it was observed that bail applications are often considered on the basis of prima facie material placed before the Court at different stages of the proceedings. The Court held that non-disclosure of material facts, such as criminal antecedents, prior bail rejections, custody period, and the stage of trial, may result in an erroneous grant or refusal of bail. It was further held that every bail applicant is under an obligation to disclose all material particulars, including criminal antecedents and any coercive processes pending against him, duly supported by an affidavit. Such disclosure is necessary to ensure transparency, uniformity, and integrity in bail adjudication.

<https://indiankanoon.org/doc/180465100/>; Dr.V.Raja Gopal Reddy vs State Of Telangana on 17 September, 2026; CRIMINAL PETITION No. 8877 OF 2023; (CNR No. HBHC010459292023)

19. As regards the OTS and subsequent recovery, this Court is conscious that settlement of a banking dispute does not invariably extinguish criminal liability, particularly where serious offences such as forgery, cheating and conspiracy are alleged. The OTS, therefore, cannot be treated as an independent or automatic ground for quashing the criminal proceedings. Nevertheless, the OTS, the substantial amounts recovered by the Bank and the subsequent satisfaction recorded in the recovery proceedings constitute surrounding circumstances, which may be taken into consideration along with the absence of specific material connecting the petitioner with the alleged criminal acts. The decisive factor in the present case is not the OTS by itself. Rather, it is the absence of sufficient material establishing the petitioner's conscious participation in the alleged fraudulent transactions and conspiracy.

22. In the ultimate analysis, the material placed before this Court establishes that the petitioner was the Branch Manager during the relevant period and was associated with the processing of the loan proposals. However, mere association with the banking transactions cannot, by itself, be equated with participation in the alleged criminal conspiracy. The enhanced credit facilities were beyond the petitioner's delegated sanctioning powers and were sanctioned by the Circle Office. The proposals were prepared by the Credit Officer and were supported by legal opinions and valuation reports, which formed part of the relevant records. No material has been brought to the notice of this Court to establish that the petitioner fabricated any title document, procured the forged documents, or had knowledge that the documents were forged and nevertheless intentionally used them as genuine. There is also no material demonstrating that the petitioner deliberately suppressed the alleged prior mortgage in furtherance NTR,J of the conspiracy or entered into any agreement with the borrowers or the other accused to cheat the Bank. Equally, there is no specific material demonstrating that the petitioner possessed dishonest intention, misappropriated any property, or forged any document entrusted to him, so as to attract [Section 409](#) of the IPC. Likewise, there is no material to show that, by abusing his position as a public servant, the petitioner obtained or attempted to obtain for himself or for any other person any valuable thing or pecuniary advantage by corrupt or illegal means, so as to satisfy the ingredients of the applicable provision of the [Prevention of Corruption Act](#). The material relied upon by the prosecution may, at the highest, give rise to a question concerning the adequacy of the petitioner's supervision or the manner in which he discharged his official duties. However, criminal prosecution cannot be sustained merely on the basis of such supervisory lapses, particularly in the absence of material establishing the requisite knowledge, dishonest intention or conscious participation in the alleged conspiracy.

23. This Court is, therefore, of the considered view that, insofar as Accused No.7 is concerned, the prosecution has failed to demonstrate sufficient material establishing a specific nexus between the petitioner and the alleged forged documents or the alleged conspiracy. The allegations and the material, even when considered cumulatively, do not disclose the essential ingredients of the offences alleged against the petitioner in the NTR,J absence of material establishing his knowledge of the alleged forgery, dishonest intention, conscious use of forged documents, or an agreement or concert with the principal accused to commit the alleged offences. In such circumstances, permitting the prosecution to continue against the petitioner

would amount to subjecting him to criminal proceedings without the foundational material necessary to establish individual criminal culpability. The petitioner is, therefore, entitled to invoke the inherent jurisdiction of this Court under [Section 482 Cr.P.C.](#) to prevent abuse of the process of law and to secure the ends of justice.

{ The Hon'ble Court went on to decide the facts of the case, without trial}

Anticipatory bail in NDPS Act Case

<https://indiankanoon.org/doc/179885208/>; APHC010459222026; Akula Sunitha vs The State Of Andhra Pradesh; CRIMINAL PETITION No.7661 of 2026 Date: 17.09.2026

8. The Hon'ble Apex Court in [Satpal Singh v. State of Punjab](#) 1 , at paragraph Nos.14 & 15, held as under:

14. Be that as it may, the order dated 21-9-2017 [[Beant Singh v. State of Punjab](#), 2017 SCC OnLine P&H 3801] passed by the High Court does not show that there is any reference to [Section 37](#) of the NDPS Act. The quantity is reportedly commercial. In the facts and circumstances of the case, the High Court could not have and should not have passed the order under Section 438 or 439 CrPC without reference to [Section 37](#) of the NDPS Act and without entering a finding on the required level of satisfaction in case the Court was otherwise inclined to grant the bail. Such a satisfaction having not being entered, the order dated 21-9-2017 [[Beant Singh v. State of Punjab](#), 2017 SCC OnLine P&H 3801] is only to be set aside and we do so.

15. Consequently, the order dated 31-10-2017 passed by the Sessions Court is also set aside. All the three accused in both these appeals are directed to surrender before the trial court. However, we make it clear that they are free to apply for regular bail, in which case, the Sessions Court will consider the matter on the merits of the application. Before parting with the judgment, we also painfully note that even in the inquiry conducted pursuant to the orders passed by this Court, there was no reference to the regular bail granted to Beant Singh and Gurwinder Singh and that too, on production of an interim order passed by the High Court. Had the same been noticed, the State would have certainly taken steps much earlier. This is once again to remind the police and the prosecutor that they need to show due diligence and vigilance while dealing with the cases under the [NDPS Act](#)."

9. The High Court of Rajasthan in Prabhulal & Anr. v.State of Rajasthan², at paragraph No.6 held as under:

"6. On the other hand, Mr. V.S. Gujar and Mr. Suresh Pareek have vehemently contended that in view of stringent provisions of [Section 37 \(1\)](#) of the N.D.P.S. Act, petitioners are not entitled to get bail even under Section 439, Cr. P.C. and there is hardly any ground to grant them anticipatory bail in such cases. Learned counsel further contended that petitioners are avoiding their arrest and there is sufficient material to establish their involvement in the crime. It was also contended that (2018) 13 SCC 813 1995 Supreme(Raj) 935 Dr. YLR, J Dated 17.09.2026 the bail application under Section 439, Cr. P.C. of co-accused Ram Kumar to whom the contraband articles were to be delivered, as well as the application of co-accused Bharat Singh were rejected by this Court on 15.12.94 and 15.7.94, respectively. In 1994 (3) W.L.C. ([Raj.] 622, while considering the scope of anticipatory bail in a case registered under the [N.D.P.S. Act](#), it was observed by me, as under:-

"The object and reason behind passing the amendments was to make stringent provisions of bail as it was thought that such powers should not be used to defeat the object of the Act and a technical plea should not be a ground for under -serving liberty under the Act. The non-obstante clause in [Section 37 \(1\)](#) of the /Act makes is clear

that the accused of an offence under the Act is to be severally dealt with and that he should not be allowed to be released on bail unless the conditions contained in [Section 37](#) are satisfied. Though the Act specifically does not prohibit the grant of anticipatory bail under Section 438, Cr. P.C., but the legislative intent can be gathered from [Section 37](#) of the Act which restricts the bail even after the arrest of the offender.

[The Narcotic Drug and Psychotropic Substances Act, 1985](#) is a special enactment and was enacted with a view to making stringent provisions for the control and regulation of operation relating to narcotic drugs and psychotropic substances. The underlying object of the Act and the stringent provisions of bail introduced by Act No. 2 of 1989 make it clear that anticipatory bail should not be granted in such cases unless the Court is satisfied that the investigating agency was abusing the provisions of the Act with mala fide object to arrest any person. In such cases, the law should be allowed to have its own course."

[Section 25](#) of the Act provides punishment to the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance to be used for the commission by any other person of an offence punishable under any provision of this Act."

10. Further the Hon'ble Apex Court in [Anarul SK v. State of West Bengal](#)³ at para No.4 observed that the grant of anticipatory bail in cases involving Narcotic Drugs and Psychotropic Substances (NDPS) is a very serious issue and directed the State to consider as to whether it proposes to file an application for the cancellation of bail granted to the other accused.

11. Therefore, request for grant of pre-arrest bail to the Petitioner/Accused No.3 does not appear to be convincing or reasonable inasmuch as investigation is at a progressive stage. There are no merits in the petition. Hence, the Criminal Petition is devoid of merit and is liable to be dismissed.

<https://indiankanoon.org/doc/144016475/>; **Tirumalasetty Tejaswi vs The State Of Telangana on 18 September, 2026; CRIMINAL PETITION No.13386 of 2026**

10. In [Naresh Aneja Alias Naresh Kumar Aneja](#) (supra), the Hon'ble Supreme Court held that for an offence of criminal intimidation to be prima facie established, the intention to cause alarm must be clearly visible and established by evidence on record. The threat must be intended to cause the complainant to do or omit to do any act. Mere expression of words, without intention to cause alarm, is not sufficient to attract the offence. The threat must be communicated by the accused with the intention of influencing the mind of the victim; mere statement without such intention would not attract the offence.

11. In [Pasupuleti Chinchennaiah](#) (supra), the High Court of Andhra Pradesh at Amaravathi held that to attract [Section 509](#) IPC, there must be material showing an intention to insult the modesty of a woman. The ultimate test is whether the alleged act is capable of shocking the sense of decency of a woman. Mere use of "filthy language", in isolation and without contextual material indicating a deliberate intent to insult modesty, does not constitute an offence under [Section 509](#) IPC.

12. In [G.P.Hemakoti Reddy](#) (supra), the High Court of Andhra Pradesh at Amaravathi, held that the offence under [Section 3\(1\)\(x\)](#) of the SC/ST (Prevention of Atrocities) Act, 1989, is not established merely because the informant belongs to a Scheduled Caste or Scheduled Tribe; there must be an intention to humiliate the victim for the reason of his/her caste. Mere conversation over phone, in the absence of any averment that it was overheard by the public, does not constitute the offence. Where the essential

ingredients of the Act are absent, continuation of proceedings amounts to abuse of the process of law.

13. The above said judgments relied upon by the learned counsel for the petitioner are not applicable to the facts and circumstances of the present case on the ground that there are specific allegations levelled in the complaint as well as in the charge sheet that the petitioner abused respondent No.2 and her father over phone in vulgar language and respondent No.2 in her statement also specifically mentioned the role of the petitioner and also the abusive words used by the petitioner. The Investigating Officer after recording the statements of other witnesses i.e., LWs.2 to 20 and after collecting the call data and FSL report filed charge sheet. The allegations in the complaint and charge sheet disclose cognizable offences and the grounds raised by the petitioner have to be decided by the trial Court after a full-fledged trial.

2026 0 INSC 1021; 2026 0 Supreme(SC) 1149; The State of Maharashtra & Anr. Vs. Momin Moiuddin Gulam Hasan @ Moin Mistri & Anr.; Criminal Appeal No. 4469 of 2026 (Arising out of Special Leave Petition (Criminal) No. 12932 of 2024): 21-09-2026

27. There is no doubt and the legal position is very clear that the requirement of producing sanction for prosecution comes at the stage of cognizance and a charge sheet can be forwarded to the Court without a sanction order from the appropriate Government. “Judgebir Singh @ Jasbir Singh Samra @ Jasbir” (supra) and “Suresh Kumar Bhikamchand Jain v. State of Maharashtra and Anr.”²⁹[Suresh Kumar Bhikamchand Jain v. State of Maharashtra and Anr. : [\(2013\) 3 SCC 77](#)] re-affirmed this legal position.

28. In “Judgebir Singh alias Jasbir Singh Samra alias Jasbir” (supra) the issue was whether a charge sheet filed without sanction for prosecution is incomplete and the accused person becomes entitled to bail under first proviso to section 167 (2) of the Code of Criminal Procedure, on expiry of the statutory period for completion of the investigation. This Court held that no right to default bail accrues to the accused person, if the investigation is concluded within the prescribed period and a final report is filed within the stipulated time. This Court further held that the process of obtaining sanction is a separate process and any delay in obtaining sanction for prosecution shall not invalidate the final report. This Court held as under:

“45. We find no merit in the principal argument canvassed on behalf of the appellants that a charge sheet filed without sanction is an incomplete charge sheet which could be termed as not in consonance with sub-section (5) of Section 173 CrPC. It was conceded by the learned counsel appearing for the appellants that the charge sheet was filed well within the statutory time period i.e. 180 days, however, the court concerned could not have taken cognizance of such charge sheet in the absence of the orders of sanction not being a part of such charge sheet. Whether the sanction is required or not under a statute, is a question that has to be considered at the time of taking cognizance of the offence and not during inquiry or investigation. There is a marked distinction in the stage of investigation and prosecution. The prosecution starts when the cognizance of offence is taken. It is also to be kept in mind that cognizance is taken of the offence and not of the offender. It cannot be said that obtaining sanction from the competent authorities or the authorities concerned is part of investigation. Sanction is required only to enable the court to take cognizance of the offence. The court may take cognizance of the offence after the sanction order was produced before the court, but the moment, the final report is filed along with the documents that may be relied on by the prosecution, then the investigation will be deemed to have been

completed. Taking cognizance is entirely different from completing the investigation. To complete the investigation and file a final report is a duty of the investigating agency, but taking cognizance of the offence is the power of the court. The court in a given case, may not take cognizance of the offence for a particular period of time even after filing of the final report. In such circumstance, the accused concerned cannot claim their indefeasible right under Section 167(2) CrPC for being released on default bail. What is contemplated under Section 167(2) CrPC is that the Magistrate or Designated Court (as the case may be) has no powers to order detention of the accused beyond the period of 180 days or 90 days or 60 days as the case may be. If the investigation is concluded within the prescribed period, no right accrues to the accused concerned to be released on bail under the proviso to Section 167(2) CrPC.

46. Once a final report has been filed with all the documents on which the prosecution proposes to rely, the investigation shall be deemed to have been completed. After completing investigation and submitting a final report to the court, the investigating officer can send a copy of the final report along with the evidence collected and other materials to the sanctioning authority to enable the sanctioning authority to apply his mind to accord sanction. According sanction is the duty of the sanctioning authority who is not connected with the investigation at all. In case the sanctioning authority takes some time to accord sanction, that does not vitiate the final report filed by the investigating agency before the court. Section 173 CrPC does not speak about the sanction order at all. Section 167 CrPC also speaks only about investigation and not about cognizance by the Magistrate. Therefore, once a final report has been filed, that is the proof of completion of investigation and if final report is filed within the period of 180 days or 90 days or 60 days from the initial date of remand of accused concerned, he cannot claim that a right has accrued to him to be released on bail for want of filing of sanction order.”

29. In “Suresh Kumar Bhikamchand Jain” (supra) this Court held that the investigation ends with filing of the charge sheet and whether cognizance is taken or not is not material as far as section 167 of the Code of Criminal Procedure is concerned. This Court held as under:

“17. From the above dates, it would be evident that both the charge sheet as also the supplementary charge sheet were filed within 90 days from the date of the Petitioner's arrest and remand to police custody. It is true that cognizance was not taken by the Special Court on account of failure of the prosecution to obtain sanction to prosecute the accused under the provisions of the PC Act, but does such failure amount to non-compliance of the provisions of Section 167(2) Cr.P.C. is the question with which we are confronted. In our view, grant of sanction is nowhere contemplated under Section 167 Cr.P.C. What the said Section contemplates is the completion of investigation in respect of different types of cases within a stipulated period and the right of an accused to be released on bail on the failure of the investigating authorities to do so. The scheme of the provisions relating to remand of an accused, first during the stage of investigation and, thereafter, after cognizance is taken, indicates that the Legislature intended investigation of certain crimes to be completed within 60 days and offences punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, within 90 days. In the event, the investigation is not completed by the investigating authorities, the accused acquires an indefeasible right to be granted bail, if he offers to furnish bail. Accordingly, if on either the 61st day or the 91st day, an accused makes an application for being released on bail in default of charge sheet having been filed, the Court has no option but to release the accused on bail. The said provision has been considered and interpreted in various cases, such as the ones

referred to hereinbefore. Both the decisions in Natabar Parida's case (supra) and in Sanjay Dutt's case (supra) were instances where the charge sheet was not filed within the period stipulated in Section 167(2) Cr.P.C. and an application having been made for grant of bail prior to the filing of charge sheet, this Court held that the accused enjoyed an indefeasible right to grant of bail, if such an application was made before the filing of the charge sheet, but once the charge sheet was filed, such right came to an end and the accused would be entitled to pray for regular bail on merits.

18. None of the said cases detract from the position that once a charge sheet is filed within the stipulated time, the question of grant of default bail or statutory bail does not arise. As indicated hereinabove, in our view, the filing of charge sheet is sufficient compliance with the provisions of Section 167(2)(a)(ii) in this case. Whether cognizance is taken or not is not material as far as Section 167 Cr.P.C. is concerned. The right which may have accrued to the Petitioner, had charge sheet not been filed, is not attracted to the facts of this case. Merely because sanction had not been obtained to prosecute the accused and to proceed to the stage of Section 309 Cr.P.C., it cannot be said that the accused is entitled to grant of statutory bail, as envisaged in Section 167 Cr.P.C. The scheme of the Cr.P.C. is such that once the investigation stage is completed, the Court proceeds to the next stage, which is the taking of cognizance and trial. An accused has to remain in custody of some court. During the period of investigation, the accused is under the custody of the Magistrate before whom he or she is first produced. During that stage, under Section 167(2) Cr.P.C., the Magistrate is vested with authority to remand the accused to custody, both police custody and/or judicial custody for 15 days at a time, up to a maximum period of 60 days in cases of offences punishable for less than 10 years and 90 days where the offences are punishable for over 10 years or even death sentence. In the event, an investigating authority fails to file the charge sheet within the stipulated period, the accused is entitled to be released on statutory bail. In such a situation, the accused continues to remain in the custody of the Magistrate till such time as cognizance is taken by the Court trying the offence, when the said Court assumes custody of the accused for purposes of remand during the trial in terms of Section 309 Cr.P.C. The two stages are different, but one follows the other so as to maintain a continuity of the custody of the accused with a court."

30. However, the decisions in "Judgebir Singh @ Jasbir Singh Samra @ Jasbir" (supra) and "Suresh Kumar Bhikamchand Jain" (supra) do not deal with the question involved in the present case. The question that falls for consideration in this case is whether the High Court can curtail power of the police to investigate a crime and declare that the investigation in a particular case was complete.

31. The investigation of a crime is the exclusive domain of the police. It is not the jurisdiction of the Court to decide when the investigation in a case should stop. It must be left to the discretion of the investigating agency to decide the course of investigation and to proceed in its own manner. The Court cannot curtail the statutory powers vested in the police except in an exceptional case on facts or where there is a statutory bar to carry investigation by the police. In "The King Emperor v. Khawaja Nazir Ahmad"³⁰[The King Emperor v. Khawaja Nazir Ahmad : (1944) SCC OnLine PC 29] the Privy Council held that the Court cannot interfere with the statutory right of the police to investigate the circumstances of a cognizable crime. In "State of Bihar & Anr. v. J.A.C. Saldanha & Ors."³¹[State of Bihar C Anr. v. J.A.C. Saldanha C Ors. : [\(1980\) 1 SCC 554](#)] this Court held that it is the bounden duty of the Executive through the police department to investigate the offence and bring the offender to book. "J.A.C. Saldanha" (supra) declared in no uncertain terms that there is a clear-cut and

demarcated sphere of activity in the field of crime detection and crime punishment. The duty of the police to investigate the crime comes to an end when a report is submitted to the Court requesting the Court to take cognizance of the offence under section 190 of the Code of Criminal Procedure, 1973, subject to further investigation to be carried out under section 173(8).

32. A charge sheet is the final report of investigation by the investigating officer under section 173(2) of the Code of Criminal Procedure, 1973, which requires the investigating officer to submit a report in the prescribed form on completion of the investigation into a cognizable offence. A charge sheet is the gist of the prosecution's case. It gives a summary of the materials collected during the investigation by the investigating agency. It gives a brief narration of the allegations against the accused person and the manner in which the accused person is sought to be roped in based on the materials collected during the investigation. It is, therefore, necessary that the investigating agency submits a report to the Court after full and complete investigation. This is the case set up by the investigating agency that it needed further time for analysing the data retrieved through the Forensic Laboratory. The investigating agency sought time to analyse how the data retrieved from the mobile phones, computers and other electronic gadgets seized from the accused persons connect them with the terrorist activities intended to undermine the sovereignty and integrity of India. The investigating agency is also required to indicate in the charge sheet how the flow of money in the bank accounts of the accused persons connects them with the terrorist activities. The analysis of data retrieved from the Forensic Laboratory is a part of the investigation and cannot be done after filing of the charge sheet.

33. The requirement of filing a complete charge sheet is not a mere formality. An order granting sanction for prosecution entirely depends on the materials collected in course of the investigation. This needs no reiteration that the sanctioning Authority may refuse sanction for prosecution if it thinks that the materials on record are not sufficient to forward the person accused of committing a crime to face trial. The prosecution has to establish and satisfy the sanctioning Authority by leading evidence and producing the entire relevant facts that this is a fit case for grant of sanction for prosecution. Anyways, the grant of sanction by the appropriate Government is not a mechanical exercise and the sanctioning Authority is required to apply his mind to the materials produced by the prosecution. Sub-section (2) to section 45 of the UAPA specifically requires that the sanction for prosecution shall be given only after considering the report of the Authority appointed by the Central Government/ State Government. It is, therefore, necessary that the prosecution must produce necessary and sufficient documents to persuade the sanctioning Authority to grant sanction for prosecution. At the cost of repetition, we may indicate that the prosecution specifically pleaded that it required some time to analyse the scientific data collected during investigation and for furnishing a complete report to the Government. While such facts were pleaded in the second application for extension of time, it is not possible, rather imaginary, to think that the investigation in the case by the ATS was complete in all respects.

2026 0 INSC 1022; 2026 0 Supreme(SC) 1150; Jaskaran Jeet Singh Deol Vs. State Of Punjab; Criminal Appeal No. 4234 of 2026 (Arising out of Special Leave Petition (Crl.) No.11103 of 2026); Decided On : 21-09-2026

23. Having discussed the judgments, it would be apposite to sum up the core principles qua Article 22(1). The grounds of arrest must be in writing and in a language which is understood by the accused. A copy of such written grounds of arrest has to be furnished to the arrested person as a matter of course and without exception. An

accused has a fundamental and statutory right to be informed about the grounds of his arrest in writing and a copy of such written grounds of arrest has to be furnished to the arrested person as a matter of course and without exception at the earliest. Any attempt to encroach upon the fundamental rights guaranteed under Article 22(1) of the Constitution has to be frowned upon by the courts and dealt with strictly. It would vitiate the process of arrest and remand. Such a fundamental right being sacrosanct, cannot be breached under any situation. Any breach or non-compliance would entail immediate release of the arrested person because such arrest is unconstitutional. We cannot tinker with the most important safeguards provided under Article 22. Subsequent filing of chargesheet and order of cognizance will not validate such an arrest. Article 22(1) applies across the spectrum including offences under the IPC or under special enactments. It is not statute specific. It is not a mere formality or a matter of procedure. It is a mandatory binding constitutional safeguard. When there is violation of the Constitution, question of prejudice or demonstrable prejudice does not arise. The safeguards adumbrated in Article 22(1) are not mere procedural safeguards; these are fundamental principles which are required to be followed in the event liberty of a person is sought to be curtailed. Therefore, it is not correct at all to say that procedural lapses in furnishing grounds of arrest do not ipso facto render custody illegal or entitles the accused to bail. When an accused is released for violation of his fundamental rights under Article 22 (1), he is not enlarged on bail. He is released from illegal and unconstitutional detention.

24. While we are bound by the ratio laid down in *Mihir Rajesh Shah* with the conclusions summarized in paragraph 66 of the said judgment and endorse the course of action declared in paragraph 65 thereof, we would like to further stress upon and strengthen the safeguards introduced by way of the said judgment when it comes to re-arrest of an accused who is released from custody for breach of Article 22(1). If upon release of such an accused, the investigating agency is still of the opinion that for furthering the course of investigation it is necessary to have custodial interrogation of the accused, then as directed in paragraph 65 of *Mihir Rajesh Shah*, the investigating agency has to file an application before the concerned Magistrate for custody mentioning therein the reasons for re-arrest of the accused and the necessity for the same. The application should also contain the explanation for non-supply of the grounds of arrest to the accused at the first instance. However, this application can only be moved after furnishing the grounds of arrest to the accused. To rule out any foul play or collusion, such an application must have the endorsement of the immediate superior authority. This is because the immediate superior authority should know that the concerned officer has committed an unbecoming act of violating a constitutional provision for which necessary remedial steps will have to be taken. On receipt of such application with the endorsement, the concerned Magistrate shall decide the same expeditiously and as directed in *Mihir Rajesh Shah* preferably within a week of its submission by adhering to the principles of natural justice.

25. What is sought to be highlighted is that once there is a breach of Article 22(1) of the Constitution, the power to rearrest the accused must not be left to the discretion of the very same authority who had violated the said provision of the Constitution. It must have the judicial imprimatur. It is only when the Magistrate is satisfied that for bona fide reasons the grounds of arrest could not be furnished to the arrestee at the first instance but furnished subsequent to his release and on further satisfaction that the accused needs to be re-arrested, he may pass an order permitting the investigating agency to rearrest.

25.1. On the administrative side, the superior authority when presented with the application seeking his endorsement for custody of the accused who has been released for violation of Article 22(1) shall hand over the investigation of the case to another officer, further directing departmental enquiry for such a serious lapse. If the enquiry culminates in adverse finding against the erring police officer(s), it would entail departmental action with entry in the service book of such officer(s).

29.2. If the police officer is forbidden for keeping an arrested person beyond 24 hours without the order of a Magistrate, what should happen to the arrested person after the said period? This Court answered the question by holding that it is a constitutional mandate that no person shall be deprived of his liberty except in accordance with the procedure established in law. Close to its heels, the Constitution directs that the person arrested and detained in custody shall be produced before the nearest Magistrate within 24 hours of such arrest with only the time necessary for going from the place of arrest to the court of the Magistrate to be excluded. There are only two exceptions to this constitutional command: the first being that the arrested person is an enemy alien; and the second contingency is when the arrest is made under any law for preventive detention. In all other cases, the Constitution has prohibited peremptorily that no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

29.3. This Court held that when the State of Madhya Pradesh, whose police made the arrest of the appellant in connection with the Madhya Pradesh case on 07.08.1998 admitted that after the arrest, he was not produced before the nearest Magistrate within 24 hours, its inevitable corollary is that detention made as a sequel to the arrest would become unlawful beyond the said period of 24 hours. State of Madhya Pradesh cannot validly press for further detention of the accused beyond 24 hours. That arrest had become otiose.

30. A Single Bench of the Gauhati High Court in *Kamal Dutta Vs. Union of India*, (2016) 1 GLR 539 (judgment by Justice Ujjal Bhuyan) also dealt with a similar case where the accused petitioner was not produced before the Magistrate within the constitutionally mandated time limit of 24 hours. There was thus violation of Article 22(2); therefore, the continued detention of the accused beyond 24 hours became illegal and unconstitutional. Since the detention of the petitioner accused was found to be unconstitutional, Gauhati High Court observed that question of payment of compensation would arise in such a case. When there is violation of Articles 21 and 22 of the Constitution, a writ court exercising its jurisdiction under Article 226 of the Constitution of India can certainly award compensation as a public law remedy. Following the decisions of this Court in *Rudul Sah Vs. State of Bihar*, (1983) 4 SCC 141 and *Nilabati Behera @ Lalita Behera Vs. State of Orissa*, (1993) 2 SCC 746, it was held that order for compensation in such a proceeding would be in the nature of a palliative and would not preclude the affected person from bringing in a suit to recover appropriate damages from the State and its erring officials. Compensation awarded under the public law remedy is in the nature of exemplary damages for violation of civil liberties of a person which is not compensation as is understood under the private municipal law.

31. A two-Judge Bench of this Court in *Subhash Sharma* held that where detention continued beyond 24 hours without the accused being produced before the Magistrate, the arrest of the accused was rendered completely illegal as a result of violation of clause (2) of Article 22 of the Constitution of India. Continuation of the accused in custody without being produced before the nearest Magistrate within the stipulated time frame of 24 hours is completely illegal and infringes the fundamental rights of the

accused under clause (2) of Article 22 of the Constitution of India. Therefore, his arrest gets vitiated on completion of 24 hours in custody. Since there is a violation of Article 22(2) of the Constitution, even his fundamental right to liberty guaranteed under Article 21 has been violated.

31.1. Once a court while dealing with a bail application finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution have been violated while arresting the accused or after arresting him, it is the duty of the court dealing with the bail application to release the accused. When arrest is illegal or vitiated, bail cannot be denied notwithstanding non-fulfilment of the twin tests under Section 45(1)(ii) of the PMLA. It is because it is the duty of every court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution.

32. As noticed supra, the above judgments are in complete sync with the constitutional jurisprudence which has evolved in our country over the years.

33. Long back, in the celebrated case of Khatri, this Court had strongly urged that the constitutional requirement to produce an arrested person before a Judicial Magistrate within 24 hours of his arrest must be strictly and scrupulously observed. We have come a long way since then but this constitutional mandate continues to remain firm and unshaken, as if engraved in stone.

34. We are unable to concur with the reliance placed by the learned Additional Advocate General for the State of Punjab on the decisions of this Court in Sanjay Dutt and Rakesh Kumar Paul. Reliance placed on the above two judgments is misplaced because those two decisions dealt with cases of default bail. In Sanjay Dutt, the Constitution Bench made it clear that an indefeasible right accrues to the accused in the event of non-filing of chargesheet within the statutory period of 60 days or 90 days or 180 days, as the case may be, and is enforceable only prior to filing of the chargesheet; it does not survive or remain enforceable thereafter, if already not availed of. In other words, the Constitution Bench took the view that the indefeasible right of default bail continues till the chargesheet or challan is filed and it gets extinguished thereafter. In the case of Rakesh Kumar Paul, the chargesheet was not filed within the period of 60 days. In the above factual backdrop, this Court held that accused Rakesh Kumar Paul was entitled to the grant of default bail but that would not prohibit or otherwise prevent the arrest or re-arrest of the petitioner-accused on cogent grounds in respect of the subject charge. Of course, upon arrest or re-arrest, the petitioner-accused would be entitled to petition for grant of regular bail which application should be considered on its own merit.

35. There is a fundamental difference to the proposition of law laid down in those two cases and the present one. In the former, the question for consideration was whether upon grant of default bail for failure to file the chargesheet within the statutory period, can an accused be arrested or re-arrested again? The view of this Court is in the affirmative. In the present case, we are dealing not only with the violation of statutory rights of the appellant but also his fundamental rights under clauses (1) and (2) of Article 22; both infringements being at the threshold of arrest, unlike in a case of default bail.

36. Similar to what we have held and directed in paragraphs 24 to 25.1 above, the same procedure has to be followed when there is a breach of clause (2) of Article 22 of the Constitution of India and if the investigating agency still wants custody of the accused after his release for such constitutional violation. Additionally, depending upon the facts and circumstances of the case, the High Court may direct payment of compensation as part of the public law remedy in a case of violation of Article 22(2) of

the Constitution, with the liberty to the accused to avail his remedy under the private civil law.

37. Before we wind up, we need to remind ourselves that the Constitution or a constitutional provision cannot be interpreted in a vacuum. Interpretation of the Constitution cannot also be left to imponderables in the form of ifs and buts. The Constitution is based on certain basic principles, much above the statutory threshold. Therefore, violation of the Constitution or a constitutional provision cannot be countenanced. It has to be dealt with strictly. It is not dependent on the nature or gravity of the offence, encompassing within its sweep all offences. It cannot be interpreted in a restrictive manner. Though observed in the backdrop of an order of preventive detention, nonetheless, it is worth mentioning and reiterating what a three-Judge Bench of this Court held in Prabhu Dayal Deorah Vs. District Magistrate, Kamrup, (1974) 1 SCC 103. This Court observed in no uncertain terms that the gravity of the evil to the community resulting from anti-social activities can never furnish an adequate reason for invading the personal liberty of a citizen except in accordance with the procedure established by the Constitution and the laws. When a certain procedure is prescribed by the Constitution or the laws for depriving a citizen of his personal liberty, it is the duty of the court to ensure that such procedure is rigorously observed, howsoever, strange this might sound to some ears.

2026 0 INSC 1030; 2026 0 Supreme(SC) 1158; Kusumavati Gowda Vs. The Government of Karnataka & Ors.; Criminal Appeal No. 4477 of 2026 (@ Special Leave Petition (Crl.) No. 5763 of 2026); Decided On : 21-09-2026

53. The Supreme Court in *Neetu Kumar Nagaich* (supra) held that normally when an investigation has been concluded and police report submitted under Section 173(2) of the Criminal Procedure Code, it is only further investigation that can be ordered under Section 173(8) of the Criminal Procedure Code. But where the Constitutional Court is satisfied that the investigation has not been conducted in a proper and objective manner, fresh investigation with the help of an independent agency can be considered to secure the ends of justice so that truth is revealed. It held that the power to direct fresh investigation may be exercised if the court comes to the conclusion that the investigation has been done in a manner to help someone escape the clutches of the law. In such exceptional circumstances the court may, in order to prevent miscarriage of criminal justice, direct de novo investigation.

54. The Supreme Court held that a fair investigation is as much a part of a constitutional right guaranteed under Article 21 of the Constitution as a fair trial, without which the trial will naturally not be fair. Investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure of justice, the court must interfere.

55. Relying upon the decision in *Zahira Habibulla H. Sheikh* (supra), the Supreme Court in *Neetu Kumar Nagaich* (supra) held that if deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, courts have to deal with the same with an iron hand appropriately within the framework of law. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases this Court can even constitute Special Investigating Team and also give appropriate directions to the Central and State Governments and other authorities to give all required assistance to such specially constituted investigating team in order to book the real culprits and

for effective conduct of the prosecution. And in exceptional circumstances the Court in order to prevent miscarriage of criminal justice and if considers necessary may direct for investigation de novo.

56. Reference was also made by the Supreme Court in Neetu Kumar Nagaich (supra) to the judgment in Pooja Pal (supra) wherein it has been held that a criminal offence is one against the society at large casting an onerous responsibility on the State, as the guardian and purveyor of human rights and protector of law to discharge its sacrosanct role responsibly and committedly, always accountable to the law-abiding citizenry for any lapse.

57. The power of the constitutional courts to direct further investigation or reinvestigation is a dynamic component of its jurisdiction to exercise judicial review, a basic feature of the Constitution and though has to be exercised with due care and caution and informed with self-imposed restraint, the plenitude and content thereof can neither be enervated nor moderated by any legislation.

58. The Supreme Court in Neetu Kumar Nagaich (supra) also relied upon the decision in Rattiram (supra) wherein it was held that the victim cannot be afforded to be treated as an alien or total stranger to the criminal trial and criminal jurisprudence with the passage of time has laid emphasis on victimology, which fundamentally is the perception of a trial from the viewpoint of criminal as well as the victim when judged in the social context.

59. In a case where a minor girl of 17 years of age is brutally raped and murdered, the manner in which the investigation had progressed and the manner in which the various investigating agencies conducted the investigation and gathered and evaluated the evidence shocks the very conscience of the court. The person who was prosecuted was held to be incapable of committing the offence. Clearly the investigation has been conducted in a manner that causes injustice to the victim. The possibility of the real culprit(s) manipulating the investigation cannot be ruled out. Such lax and improper investigation gives premium to the Investigating Officers who failed to do their job correctly and diligently.

60. Injustice to a person who was falsely charged can always be compensated, however injustice to the victim who was brutally raped and then murdered can never be compensated. Society would be failing in its duty if it does not provide justice to the victim of such a heinous crime by conducting a proper investigation and bringing the real culprits to the book.

2026 0 INSC 1031; 2026 0 Supreme(SC) 1161; Jaswinder Singh (Dead Through Lrs.) Vs State of Punjab; Criminal Appeal No. 2137 of 2014; Decided On : 22-09-2026

14.1. After analyzing various decisions of this Court as well as provisions of the Indian Evidence Act, 1872 and the PC Act, the conclusions have been summarized as under:

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.

88.3. (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

88.4. (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

2026 0 INSC 1032; 2026 0 Supreme(SC) 1162; Antonetto J D'Souza Vs. Aldila Braganza And Others; Criminal Appeal No. 4092 of 2026; Decided On : 22-09-2026

19. It is, thus, clear that absence of the original document relied upon by the prosecution to bring home the charge of forgery would be a matter to be considered at the trial and its absence by itself cannot be made the basis for quashing the entire prosecution. In other words, the prosecution can attempt to bring home the charge on the basis of circumstantial evidence. However, the entire proceedings would not be liable to be quashed without affording an opportunity to the prosecution to attempt to prove the charge at the trial as seen in the facts of the present case.

20. Yet another reason that is apparent from the record is the detailed analysis undertaken by the learned Single Judge while exercising jurisdiction in a challenge to an order passed under Section 227 of the Code. At that stage, it would not be permissible to sift through the entire evidence forming part of the chargesheet with a view to find whether such evidence could result in conviction of the accused. It would be sufficient if a grave suspicion is raised against the accused on the basis of such material so as to sustain a trial. In this regard, we may refer to the broad parameters to be borne in mind while exercising such jurisdiction. In *K.H. Kamaladini Vs. State*, [2025 INSC 745](#), this Court observed as under:

“As far as the scope of hearing at the time of framing of the charge is concerned, the law is well settled. Firstly, at this stage, the Court can examine only the documents forming part of the charge sheet, and no other material can be considered. Secondly, after considering the material on record, the Court has to decide whether or not there exists a sufficient ground for proceeding with the trial against the appellant. Thirdly, at this stage, the Court cannot sift the evidence forming a part of the chargesheet with a view to separating the grain from the chaff. Fourthly, if the Court is of the view that the evidence without cross-examination or rebuttal shows that the accused has not

committed any offence, then an order of discharge must be passed. Lastly, if the evidence adduced before the Court creates a grave suspicion against the accused, the Court will not discharge the accused.”

In *Ram Prakash Chadha Vs. The State of Uttar Pradesh*, [2024 INSC 522](#), this Court after referring to Section 227 of the Code held that the question of framing a charge would arise only in a case where the Court satisfies itself about existence of a prima facie case revealing from ‘the record of the case and the documents submitted therewith’ against the accused. The conclusion on existence or otherwise of a ground to proceed against the accused concerned cannot be based on mere suppositions or suspicions or conjectures not founded on material available before the Court.

2026 0 INSC 1048; 2026 0 Supreme(SC) 1178; Naval Kishore & Anr. Vs. State Of Punjab: Criminal Appeal No. 4546 of 2026 (Arising out of SLP(Crl.) No. 18390 of 2026) [Diary No. 56431 of 2025]: Decided On : 24-09-2026

15. It is well settled that, as per Section 53 read with Section 45 of the IPC, imprisonment for life means imprisonment for the remainder of the natural life of the convict. At the same time, such sentence is subject to the statutory powers of remission and commutation vested in the appropriate Government under Sections 432 to 435 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”) and the constitutional powers under Articles 72 and 161 of the Constitution of India.

16. In the present case, the distinction between an ordinary sentence of imprisonment for life and a special category sentence directing that the convict shall not be released for the remainder of his natural life by excluding the statutory remission regime, is to be considered. Therefore, the question that falls for our consideration is whether a Court of Session, while imposing a sentence under Section 302 IPC, is competent to issue a direction that the convict shall remain imprisoned for the remainder of his natural life, thereby excluding or curtailing the statutory powers of remission and commutation vested in the appropriate Government.

22. At this stage, we consider it appropriate to examine the legislative developments subsequent to the decision in *V. Sriharan alias Murugan* (supra). The Criminal Law (Amendment) Act, 2018, was enacted against the backdrop of grave sexual offences against women and children and sought to substantially enhance the punishment prescribed for certain aggravated forms of rape. The Parliament, inter alia, introduced Sections 376AB, 376DA and 376DB into the IPC and in each of these provisions, expressly provided that the punishment of imprisonment for life “shall mean imprisonment for the remainder of that person’s natural life”. During the Parliamentary Debate on the Criminal Law (Amendment) Bill, 2018, it was pointed out that the Bill defined life imprisonment as imprisonment for the natural life of convict and unlike the ordinary remission regime applicable to life imprisonment, such a sentence would not contemplate release merely on account of good behaviour. Therefore, it is evident that when the Parliament intended the expression “imprisonment for life” to mean imprisonment for the remainder of the natural life of convict, it used specific and unambiguous language to that effect.

23. We are of the considered view that this legislative choice is of considerable significance when Section 302 IPC is examined, as Section 302 IPC has not been amended in the similar terms and continues to provide that whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine. Thus, the legislative intent to use such express language in those provisions, while retaining Section 302 IPC in its existing form, cannot be disregarded while interpreting

the scope of the sentencing power under Section 302 IPC. Therefore, it would be impermissible to read into Section 302 IPC, a punishment, which the Parliament has expressly incorporated in other penal provisions and in doing so, the Sessions Court would be supplementing the punishment prescribed by the legislature.

25. In light of the decisions considered hereinabove, we are of the view that there is no doubt that the Trial Court was competent to impose the punishment of imprisonment for life upon the appellants for the offence under Section 302 read with Section 34 IPC, however, at the same time, the Trial Court was not competent to impose a special category sentence that the appellants “to remain in prison till rest of their life”, which in substance and effect, excludes the statutory power of remission or commutation. Therefore, the High Court, while affirming the sentence imposed by the Trial Court, did not examine the competence of the Trial Court to impose such a sentence and thus, to that extent, the impugned judgment requires interference of this Court.

26. Having held that the direction issued by the Trial Court that the appellants shall “remain in prison till rest of their life” cannot be sustained, the next question that arises for our consideration is as to the sentence to be imposed upon the appellants having regard to the facts and circumstances of the present case.

27. As noted hereinabove, the power to impose a special category of sentence, whereby a convict is required to undergo imprisonment for a specified period beyond the ordinary remission or commutation regime, is vested only in the Constitutional Courts.

2026 0 INSC 1049; 2026 0 Supreme(SC) 1179; ‘R’ Vs. ‘E’ & Anr.; Civil Appeal No. 13119 of 2026 (@ Special Leave Petition (C) No. 1092 of 2024) With Criminal Appeal No.4534 of 2026 (@ Special Leave Petition (Crl.) No. 7710 of 2024) Criminal Appeal No. 4533 of 2026 (@ Special Leave Petition (Crl.) NO. 7711 of 2024) Contempt Petition (Civil) No. 208 of 2024 In Civil Appeal No. 13119 of 2026 (@ Special Leave Petition (C) No. 1092 of 2024) And Criminal Appeal Nos. 4535-4536 of 2026 (@ Special Leave Petition (Crl.) Nos. 10197-10198 of 2024); Decided On : 24-09-2026

54) It would be apposite that we look into the parameters laid down under Section 35 of the BNSS (erstwhile Sections 41 and 41-A of the Cr.P.C.) which provides a protective shield against unnecessary, hasty or mechanical arrests. Since, we are primarily concerned with offences under the POCSO Act, we only need to deal with the conditions governing arrest for cognizable offences, particularly those in Section 35(1) (b) of the BNSS (cognizable offences punishable with imprisonment for a term of up to seven years) and Section 35(1)(c) of the BNSS (cognizable offences punishable with imprisonment for a term exceeding seven years, or with death), respectively.

55) Section 35(1)(b) prescribes two conditions that must be satisfied before a police officer may exercise the discretion to arrest. First, the officer must have “reason to believe”, on the basis of the complaint, information or suspicion that the person whose arrest is sought has committed the offence. Secondly, the officer must be satisfied that arrest is necessary: (i) to prevent the person from committing any further offence; or (ii) for proper investigation of the offence; or (iii) to prevent the person from tampering with evidence; or (iv) to prevent the person from making threats or promises to persons acquainted with the facts of the case; or (v) to ensure the person’s presence in Court whenever required, which cannot otherwise be secured.

56) Section 35(1)(c), on the other hand, permits arrest where the police officer has “reason to believe” that the person has committed the offence based on credible information received. Unlike, Section 35(1)(b), it does not require the officer to be satisfied that arrest is necessary on other grounds.

57) Despite some clear differences existing between Section 35(1)(b) and Section 35(1)(c) respectively, there runs a common thread across both the provisions, i.e., arrest is only allowed when the police officer has “reason to believe” that the offence in question has been committed by the person whose arrest is sought. No doubt, the existence of such ‘reason to believe’ is a prerequisite even where arrest is sought for the alleged commission of offences under the POCSO Act.

58) In the present context, i.e., in cases where the threshold conditions are met, where a parent or relative living under the same roof is alleged to have committed an offence under the POCSO Act against the child and where a matrimonial dispute of some form exists between the parents of the child victim, the investigating authorities may encounter some difficulties. In such instances, although the nature of allegations made in the FIR may indicate that such offence has been committed, yet the surrounding circumstances, more particularly, the strained relationship between the parents, may raise a doubt as to whether those allegations simpliciter can safely be relied upon. In other words, the investigating authority may hesitate to conclude that there is ‘reason to believe’ that the accused has committed the offence. Faced with such a conundrum, the investigating officer may find himself in a dilemma to proceed insofar as arrest is concerned and satisfy the requirements laid down under Sections 35(1)(b)(i) and 35(1)(c) of the BNSS, respectively. In such circumstances, something more would be needed to assist and aid the investigating authorities.

59) In this regard, in the facts of the present case, the role played by Dr. Lakshmi Sravanti Tanuku, Assistant Professor of the Department of Child and Adolescent Psychiatry, NIMHANS and Dr. Anamika Sahu, Assistant Professor of the Department of Clinical Psychology, NIMHANS, was an eye-opener for us.

60) Therefore, we are of the opinion that in aforesaid situations, the investigating officer or the Special Juvenile Police Unit (“**SJPU**”) shall engage the services of an expert in child and adolescent psychiatry/clinical psychology in consultation with the District Child Protection Unit (“**DCPU**”) or the District Legal Services Authority (DLSA) where DCPU is not available, of the concerned district, for the purpose of aiding the investigation. However, the investigating officer shall, in exceptional cases, where the material is palpable, for reasons to be recorded in writing dispense with the engagement of the services of an expert in child and adolescent psychiatry/psychology. Such an expert shall ordinarily be engaged from the register maintained by the DCPU under Rule 5(1) of the POCSO Rules, 2020, and shall hold the qualifications contemplated under Rule 5(5). Where the register does not include a suitable expert in child and adolescent psychiatry/clinical psychology, the investigating authorities may, in consultation with the DCPU, engage an expert from outside the register, provided that the expert holds equivalent qualifications.

61) Furthermore, if the Child Welfare Committee (“**CWC**”) has appointed a support person qualified under Rule 5(6) of the POCSO Rules, 2020, to render assistance to the child in accordance with Rule 4(8), then such support person may accompany the child during the aforesaid psychological/psychiatric evaluation. It must be ensured that the evaluation is conducted in an independent manner, free from any influence of the disgruntled parent and the investigating authorities. Wherever possible and considered appropriate, the investigating officer may provide any additional material collected in the course of investigation thus far, which may render some assistance to

the expert in their evaluation. After due evaluation of the child, the expert shall submit a report, as expeditiously as possible, to the investigating officer, or the SJPU as the case may be, detailing the results of the psychological/psychiatric evaluation.

62) The evaluation conducted by the expert shall be strictly in consonance with all applicable principles/provisions of the POCSO Act and the POCSO Rules, 2020, respectively, and in a manner which ensures that the child is not put under any pressure or caused any discomfort or repeated harassment, at any stage. Further, we must clarify that the aforesaid psychological/psychiatric evaluation shall not in any manner disturb the procedure already envisaged under Rules 4(4) to 4(7) of the POCSO Rules, 2020 wherein the CWC would assess whether the child needs to be taken out of the custody of the child's family or shared household.

63) Upon receipt of the psychological/psychiatric evaluation report, the investigating authorities shall take the opinion of the expert into consideration, along with other relevant material and circumstances, to decide whether there is a "reason to believe" that the accused has committed the offence, for the purpose of effectuating his arrest. At this juncture, it is important to clarify the following:

a. First, the investigating officer or the SJPU would not be bound by the findings or the contents of the expert report. As noted above, the discretion to arrest lies with the concerned police officer. The report is only a tool in aid of exercise of discretion diligently in the larger context in which the allegations of sexual abuse and/or sexual assault are levelled. It does not control it. Whether coercive steps in the form of arrest ought to be taken remains for the investigating officer to decide, after considering the report along with the other relevant circumstances of the case.

b. Secondly, the expert report shall not be the sole basis for filing of the chargesheet, or a closure report. Its purpose is limited to aiding the decision of the investigating agency. The contents of the expert report will be a relevant factor in the decision-making process of the investigating officer, in deciding whether to file a chargesheet or a closure report. The investigation shall continue in accordance with law.

(ii) IN CASE OF A COMPLAINT UNDER SECTION 33 OF THE POCSO ACT:-

64) We may also address ourselves on the manner in which the aforesaid safeguard would come into application in case a complaint made under Section 33 of the POCSO Act before the Special Court. Section 33 of the POCSO Act empowers the Special Court to take cognizance through two modes: (i) upon receiving of the complaint of facts which constitute such offence; and (ii) upon a police report of such facts. It is the first mode with which we are concerned here.

65) Remarkably, the BNSS does not envisage a complaint being filed before the Sessions Court. It prescribes the procedure for filing a complaint before a Magistrate. Whereas, in contrast, the POCSO Act vests the right in an aggrieved to approach the Special Court directly. Such an extraordinary procedure may have been envisaged by the legislature considering the sensitivity of time, vulnerability of the victim, and the need to trigger the protective measures provided under the POCSO Act at the earliest. Therefore, the exercise of jurisdiction under Section 33 via the private complaint route must not be initiated lightly and the Special Court before issuing process must find sufficient grounds to believe that an offence has taken place.

66) Once such a complaint is received by the Special Court, it would apply its mind to the complaint and the facts disclosed therein. At this stage, the Court is not obliged to proceed further in terms of taking cognizance, and it may instead order the police to investigate into the offence alleged in the complaint. This would ultimately initiate the process applicable to a case arising from a police report.

67) In case, the Special Court deems it appropriate to proceed with the complaint itself, it has to ascertain whether there is a prima facie case against the accused in the complaint. The Special Court is not bound to take cognizance of an offence merely because a complaint has been filed. This application of mind by the Court would ensure that cognizance and issuance of process are not based on a complaint that is false or vexatious. In other words, at this stage where the Special Court is applying its mind to the complaint as regards whether it should proceed to issue process, it is not conducting a full trial.

68) The Special Court would be said to have taken cognizance when it decides to proceed against the person accused of having committed that offence and not at the time when it was informed either by the complaint, or by the police report about the commission of an offence. Once the Special Court has taken note of the allegations, and applied judicial mind to the contents of the complaint and the material, it can be said that the Court has taken cognizance. What we are trying to convey is that as soon as the Special Court would take cognizance of the offence, it would issue process.

69) In the aforesaid context, the law as regards summoning of an accused is settled. Summoning is not a routine exercise of power, it requires due application of mind and caution. An order taking cognizance and summoning of an accused must reflect that there has been application of mind to the facts of the case. The formation of this opinion shall be comprehensive of the overall facts and circumstances of the case and must reflect in the order. Although, the Court summoning the accused is not expected to venture into a detailed discussion on the merits of the case, yet it has to prima facie be satisfied that there are sufficient grounds to look further into the allegations. Ultimately, the decision to issue process should be made after the Court has looked into circumstances emerging from the record of the case.

70) The safeguards discussed by us in the foregoing paragraphs comes into application when the Special Court is dealing with a complaint where the threshold conditions are met, and it has to decide whether cognizance should be taken and summons be issued to the accused. Similarly, it is at this stage that the Special Court shall involve the services of an expert in child and adolescent psychiatry/clinical psychology. Such an expert shall conduct psychiatric/psychological evaluation of the child victim and submit a report to the Special Court detailing the results of such evaluation. The Special Court shall take into consideration such report and other relevant circumstances and form an opinion on whether there are sufficient grounds for proceeding with the complaint. However, in exceptional cases, where the material is palpable, the special Court may, for reasons to be recorded in writing, dispense with the involvement of the services of an expert in child and adolescent psychiatry/psychology.

71) In our considered opinion, a Court while dealing with a complaint filed in the background of a matrimonial dispute of some form should be circumspect. This context requires the Court to take into account the overall circumstances leading to the filing of the complaint and reading between the lines. In such circumstances, the evaluation report would enable the Court to look into the allegations with care and a little more closely with abundant caution.

72) We direct that the safeguards enshrined in this judgment, for cases arising out of first information report (police report cases), shall apply to cases where investigation is still in progress on the date of this judgment. We further direct that the safeguards enshrined in this judgment insofar as private complaints under Section 33 of the POCSO Act, shall apply to cases where summons have not been issued as on the date of this judgment.

(iii) SYNTHESIZING OUR APPROACH:-

73) The rationale behind the approach set out above is simple. In some cases where the threshold conditions are met, a pre-existing strained relationship may make it difficult for the concerned authorities to decide, on the material before them alone, whether coercive action ought to be taken. To address this informational deficit, we have prescribed that the services of an expert in child and adolescent psychiatry/clinical psychology be engaged. After due evaluation of the child, the expert shall submit a report detailing the results of the psychological/psychiatric evaluation. On receipt of the report, the authorities shall consider the expert's opinion, along with the other relevant material and circumstances, to decide whether coercive action ought to be taken against the accused. The procedure thus operates strictly within the four corners of the law. It is envisioned to avoid the irreparable harm in the form of an unwarranted arrest that may cause to the accused, while not diluting the objects of the POCSO Act, and the stringency of its provisions.

74) In order to actualize and give effect to the above approach, it is imperative that in all districts, the respective DCPU shall update the existing register maintained under Rule 5 of the POCSO Rules, 2020, to include names of experts in child and adolescent psychiatry/clinical psychology.

75) Our discussion in the foregoing paragraphs serve a further purpose. The courts dealing with remand and bail in cases that meet the threshold conditions should also examine whether, in taking coercive action, the investigating officer complied with the statutory provisions discussed above. This would necessarily involve assessing whether the decision to arrest was taken having duly considered the circumstances in which the complaint arose, more particularly, the strained relationship between the parents. This provides a further safeguard against the prolongation of harm caused by an unwarranted arrest.

(iv) ADVERSE EFFECT ON OTHER LITIGATIONS:-

76) We may now briefly consider a related situation. The child who is the alleged victim of an offence under the POCSO Act may be the subject of guardianship or custody proceedings between the child's parents, and the offence may be alleged against one of the parents or against any other family member of that parent living under the same roof as the child. In such a case, the registration of the POCSO case may adversely affect that parent's interests in the guardianship or custody proceedings. If the complaint is made with mala fide intent, its purpose may be to gain an upper hand in those proceedings. In such cases, the concerned court should adopt the approach suggested by the Kerala High Court in Suhara (supra), to which we have already referred. To reiterate, the Kerala High Court held that: (i) the mere registration of a case under the POCSO Act should not by itself give rise to an inference that the allegation is true, and should not be allowed to become a ruse for defeating that parent's legitimate claim to custody or guardianship; and (ii) the court concerned, after considering the relevant material, including the material collected by the investigating agency, shall, on a case-to-case basis, form a prima facie view as to whether the allegations are baseless.

77) Beyond the basic principles reiterated above, it is difficult for us to state precisely the course that the court concerned should follow. The multiplicity of facts and circumstances in which such situations may arise, makes any hard and fast rule impossible to conceive and impracticable to apply. How the matter should proceed is therefore for the concerned court to decide, in light of the basic principles laid down above and by due application of judicial mind.

2026 0 INSC 1050; 2026 0 Supreme(SC) 1180; Waris Vs. The State of Madhya Pradesh; Criminal Appeal Nos. 429-430 of 2020; Decided On : 24-09-2026

118. The principle is that a defect in the investigation does not, by itself, entitle the accused to an acquittal where the evidence adduced at the trial is otherwise found to be trustworthy and sufficient to establish guilt. The guilt or the innocence of the accused is to be determined upon the evidence led before the court, and a lapse on the part of the investigating agency cannot be permitted to enure to the benefit of the accused so as to defeat a case that is otherwise proved, for to hold otherwise would place it within the power of an errant investigator to frustrate the course of justice and would visit upon the victim the consequences of the failings of the investigating agency. This Court, in *Karnel Singh v. State of Madhya Pradesh*, [\(1995\) 5 SCC 518](#), and in *State of Karnataka v. K. Yarappa Reddy*, [\(1999\) 8 SCC 715](#), held that a lapse on the part of the Investigating Officer cannot affect the credibility of the evidence of the witnesses where that evidence is otherwise reliable, and in *C. Muniappan v. State of Tamil Nadu*, [\(2010\) 9 SCC 567](#), this Court reaffirmed that a defect in the investigation, by itself, cannot be a ground for acquittal. It is upon this foundation that we examine the defects alleged.

119. As to the registration of the First Information Report against an unknown person, the submission proceeds upon a misapprehension of the office of such a report, which is not an encyclopaedia of the prosecution case but an instrument to set the machinery of the criminal law in motion. The report here was registered upon the information of the unnatural death of the child, at the inception of the investigation and before the culpability of the appellant had been established, and it was natural that it should have been registered against an unknown person. The omission of the name of the appellant from the printed report does not efface the statement that the mother made in the course of the investigation, nor does it detract from the evidence led at the trial. If anything, the registration of the report against an unknown person, and the unhurried manner in which the investigation thereafter fastened guilt upon the appellant, tell against the theory that the police had set out to foist a false case upon him, for an agency bent upon a false implication would have named its target at the earliest.

120. The anonymous telephone call and the discrepancies concerning it, and the delay in the arrest of the appellant, do not touch the substance of the case. The source of the first suspicion, and the precise point at which the arrest was effected, bear upon the conduct of the investigation and not upon the commission of the offence, which stands established by the evidence we have accepted. We would observe, moreover, that the circumstance that the appellant was not arrested at once but was left at large while the investigation took its course is again difficult to reconcile with the theory of a police force determined to frame him, for the framing of an innocent man is not ordinarily accomplished by leaving him at liberty.

121. As to the addition of the offences of rape and of the offences under the POCSO Act without a section alteration report, we are unable to regard this as a circumstance that vitiates the prosecution. The report was registered upon an unnatural death before the post-mortem examination, and it was that examination of 24.04.2018 that revealed the fresh genital injury indicative of sexual assault, upon which the sexual offences came naturally to be added. It is, in any event, settled that cognizance is taken of an offence and not of a section, and that the mention or the omission of a particular provision is not decisive, for it is the duty of the court to apply the correct provisions to the facts proved before it. The charges were framed by the Trial Court on 02.07.2018 under all of the relevant provisions after an application of judicial mind, the appellant defended himself against them, and no prejudice has been shown to have been

occasioned to him. In the absence of prejudice, an irregularity of this administrative character cannot vitiate the trial.

122. As to the disclosure statement and the recoveries, and the circumstance that the panch witnesses turned hostile, we do not find it necessary to rest anything upon the disclosure or the recoveries at all. The clothes of the victim were produced by the mother herself, as she deposed, and the case upon the sexual assault and the death does not depend upon the disclosure attributed to the appellant or upon the recoveries said to have followed from it. We may therefore leave the disclosure and the recoveries entirely out of consideration, and the case is in no manner weakened by doing so. The submission founded upon the hostility of the panch witnesses is thus rendered academic, for it assails a limb of the prosecution case upon which we place no reliance.

123. For these reasons, the attack upon the investigation fails. Such defects as are alleged are, in part, founded upon a misapprehension of the office of the documents concerned, and are, for the rest, defects that do not touch the substance of the case, which stands established upon evidence that we have found to be trustworthy. Upon the settled principle that a defective investigation does not enure to the benefit of the accused where the evidence is otherwise reliable, the whole of this attack is rejected.

2026 0 INSC 1054; 2026 0 Supreme(SC) 1184; Paramjit Singh Bedi Vs. State of Punjab; Criminal Appeal No. 203 of 2015; Decided On : 25-09-2026

28. While it is true that on the basis of the sole testimony of the prosecutrix, an accused can be convicted of rape but for such a conviction, it would also require that such statement of the prosecutrix must inspire the confidence of the court. There cannot be partial rejection of the evidence of the prosecutrix for the purpose of Section 366 IPC and partial acceptance of the very same statement for the purpose of proving the charge under Section 376 IPC. If the evidence of the prosecutrix is of unimpeachable character, it has to be accepted in its entirety. There cannot be part acceptance and part rejection of the statement of the prosecutrix. It is for this reason that we had analysed the materials for record qua the charge under Section 366 IPC though the accused-appellant was acquitted of the said charge considering its inter-twinedness with the charge under Section 376 IPC.

29. When the learned Sessions Judge had disbelieved the prosecution version insofar the charge under Section 366 IPC is concerned, the very same prosecution version could not have been accepted to convict the accused-appellant under Section 376 IPC. While the conduct of the appellant may be immoral and unethical, that by itself would not justify a conviction under Section 376 IPC without any clinching evidence. Such a charge must be proved on the basis of hard evidence and not on the basis of the surmises and conjectures based on the value judgment of the presiding judge. Immorality of an act sans credible evidence cannot justify a conviction.

<https://indiankanoon.org/doc/184963994/>; Vijay Gopal vs N.V. Ramana Goud on 21 September, 2026; C.C.No.2297 of 2025 (CNR.No.HBHC010352752025)

15. There can be no dispute regarding the settled legal position that advocates have no right to resort to strikes or to give a call for boycott of Court work. The Hon'ble Supreme Court in Ex-Capt. [Harish Uppal's](#) case ([cited supra](#)), [Common Cause's](#) case ([cited supra](#)) and [Krishnakant Tamrakar's](#) case ([cited supra](#)), has reiterated that lawyers have no right to call for a strike or boycott the Courts and that an advocate cannot be compelled to participate in such strike or boycott. However, a limited exception has been recognised in the rarest of rare cases involving the dignity, integrity

and independence of the Bar and/or the Bench, where abstention from work for a period not exceeding one day may be considered. The said exception is subject to the conditions indicated by the Hon'ble Supreme Court. In particular, the President of the Bar is required to consult the Chief Justice or the District Judge, as the case may be, before the advocates decide to abstain from Court work and the decision of the judicial authority concerned would be final and have to be abided by the Bar.

16. In the present case, the impugned resolution for abstaining the Court work was confined to one day i.e. 16.06.2025. The material on record indicates that the resolution was passed as an expression of solidarity and to condemn the brutal attacks on the advocates mentioned therein. Mere expression of solidarity by members of the legal fraternity in circumstances involving an alleged attack upon an advocate cannot, by itself, be treated as an act directed against the administration of justice. The safety and dignity of advocates are matters which have a direct bearing on the independence and effective functioning of the Bar.

17. However, no material has been placed before this Court to establish that the President of the Bar Association had consulted the District Judge concerned, i.e., in the present case, Metropolitan Sessions Judge concerned before passing the resolution dated 16.06.2025. Therefore, the respondents cannot seek to justify every act undertaken pursuant to the resolution merely on the ground that the protest was confined to one day or was claimed to be in solidarity with an advocate. Even assuming that the circumstances leading to the resolution could be brought within the limited exception recognised in Ex-Capt. [Harish Uppal's](#) case (cited supra), such exception would extend only to the limited abstention from Court work contemplated therein and would not extend to any act of coercion, intimidation, obstruction or physical assault upon an advocate who chooses to attend Court.

18. It is pertinent to note that the conduct/overt act attributed to respondent No.5, i.e., he physically obstructing and assaulting the LNA, J petitioner is outside the aforesaid exception and, if established, would constitute violation of the directions of the Hon'ble Supreme Court in Ex-Capt. [Harish Uppal's](#) case (cited supra). Such conduct cannot be justified even though the impugned resolution was confined to one day or was passed in purported solidarity with an advocate. Issue No.2:-

19. It is apt to note that the respondents have not been described in their individual capacity and not properly arrayed in the manner contemplated under Rule 7(1)(a) of the Rules of Practice, 1980. The petitioner has substantially sought to implead the office-bearers of the MCCBA, Nampally, collectively and, in effect, seeks to initiate contempt upon all the office-bearers on the basis of their respective positions in the Bar Association. Contempt proceedings cannot, ordinarily, be proceeded on the respondents collectively in the absence of specific allegations and material demonstrating the individual role and involvement of each respondent. In this regard it is pertinent to refer to the judgment of the Hon'ble Supreme Court in [Dr. U.N. Bora, Ex. Chief Executive Officer and Ors Vs. Assam Roller Flour Mills Association](#) and others¹⁸, wherein it is held as hereunder:-

2021 SCC 593 "Merely because a subordinate official acted in disregard of an order passed by the Court, a liability cannot be fastened on a higher official in the absence of knowledge. When two views are possible, the element of wilfulness vanishes as it involves a mental element. It is a deliberate, conscious and intentional act. What is required is a proof beyond reasonable doubt since the proceedings are quasi-criminal in nature."

24. Before parting with the matter, this Court deems it appropriate to observe that the office-bearers of Bar Associations must exercise due care, restraint and responsibility

while organising or participating in any boycott/protest. Even where a boycott/protest is undertaken in circumstances claimed to be exceptional, no advocate, litigant or other person shall be subjected to intimidation, coercion, obstruction or harm for choosing to attend Court or pursue his or her legal remedy. The office-bearers shall ensure that any future protest/call for a strike/boycott is conducted strictly in accordance with the guide lines law laid down by the Hon'ble Supreme Court and shall not obstruct/prevent access to Court or interfere with the administration of justice.

<https://indiankanoon.org/doc/24521030/>; **Ganga Ram vs State Of Telangana; CRLP No.14386 of 2026: 21.09.2026; (CNR No.HBHC010605422026)**

20.1.3. The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In *Vihaan Kumar v. State of Haryana*, 2025 INSC 162, it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh*, 2025 INSC 768, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post-Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

20.1.5. While Section 50 Cr.P.C is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.

14. Petitioner-A2 has not raised the contention that grounds of arrest were not furnished to him at the time of his remand nor in the two bail applications filed by him before the District Court. For the first time he is raising the said contention but he has failed to produce any material to show that it has demonstrably prejudiced or denied of a fair opportunity to defend the case.

<https://indiankanoon.org/doc/150063258/>; **Syed Wajid Ali vs The State Of Telangana; CRLP No.15384 of 2026 (CNR.No. HBHC010637852026):21.09.2026**

1. This Criminal Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeking to quash the proceedings against the

petitioners/accused Nos.2 to 4 in Crime No.548 of 2026, on the file of Malkajgiri Police Station, Malkajgiri District, registered for the offence punishable under Sections 318(4), 336(2), 336(3), 340(2) read with 3(5) of Bharatiya Nyaya Sanhitha, 2023.

4. Per contra, the learned Additional Public Prosecutor submits that there are specific allegations levelled in the complaint that the petitioners are claiming rights over the property basing on the **forged and fabricated (Occupancy Rights Certificate)**. The allegations levelled in the complaint attract the ingredients of the offences levelled against the petitioners. Whether the allegations levelled in the complaint are true or not will be revealed during the course of investigation. Further, the offences levelled against the petitioners are punishable with less than seven years of imprisonment and when the Investigating Officer tried to serve notice under Section 35(3) of BNSS, the petitioners evaded to receive the said notice and they are not cooperating with the investigation from the date of registration of crime i.e. on 09.07.2026. Hence, the petitioners are not entitled to the relief as sought for in the present criminal petition.

{Offence of creating a Occupation Rights Certificate attracts Section 338 BNS, as it is a valuable security, creating a right; hence punishable with 10 years of imprisonment, This fact was not brought to the notice of the Hon'ble Court, either by the investigating Agency or the prosecutor or the counsel for the appellant, hence this order}

<https://indiankanoon.org/doc/102444311/>; Nakka Vamshi vs State Of Telangana (DB) on 22.09.2026; CRLA No.683 of 2025 CNR.No.HBHC010376392025

In making the above and similar comments the trial court again ignored a fundamental rule of criminal jurisprudence that a statement of a witness recorded under [Section 164](#) CrPC cannot be used as substantive evidence and can be used only for the purpose of contradicting or corroborating him.

67. Applying the aforesaid principles to the present case, the first circumstance, namely, the relationship between the appellant and the deceased, is established only to the extent that they were acquainted and intended to marry. Such circumstance is not conclusive of guilt. The second circumstance, namely, the last-seen theory, has not been established through substantive evidence because LWs.14 and 15 did not enter the witness box and their [Section 164](#) Cr.P.C. statements cannot, in the circumstances of the case, be treated as substantive evidence.

68. The third circumstance, namely, the Test Identification Parade, does not independently establish the last-seen circumstance. The identification of the appellant by P.Ws.5 and 7 only confirms his identity as the person whom they already knew. The identification attributed to LWs.14 and 15 cannot be used as substantive proof of their assertions when they were not examined before the Court.

69. The fourth circumstance, namely, the recovery of M.O.6/towel, also does not complete the chain. Even accepting the recovery as proved, the prosecution has not established by independent evidence that the recovered towel was the instrument used in strangulating the deceased or that it contained any material connecting it with the deceased. As held in Pandurang Kalu Patil, the discovery contemplated by [Section 27](#) is the discovery of a fact within the knowledge of the accused and not merely the production of an object. The evidentiary value of the discovery therefore depends upon the further evidence connecting the discovered fact or article with the offence.

70. The medical evidence establishes homicidal death but does not connect the appellant with that death. The identity of the deceased is established, but the identity of the assailant is not established through any direct evidence. The prosecution has not placed before the Court any independent circumstance which conclusively

establishes the presence of the appellant at the scene of offence at or immediately before the time of death.

71. It is also important to bear in mind that the burden upon the prosecution in a case based on circumstantial evidence does not become lighter merely because the deceased and the accused were acquainted or because certain circumstances create suspicion against the accused. Suspicion, however strong, cannot take the place of proof. The circumstances must form a continuous and complete chain and each important link must be established by legally admissible evidence.

<https://indiankanoon.org/doc/81312440/>; APHC010527252022; Arikapudi Raj Kishan vs The State Of Andhra Pradesh; 22.09.2026; CRLP NO: 7852/2022

20. Coming to the alleged offences, [Section 376\(D\)](#) of the Code contemplates commission of rape by one or more persons constituting a group or acting in furtherance of a common intention. The material does not disclose the foundational facts necessary to sustain the allegation of the offence against the petitioner merely on the basis of the presence or conduct SUN, J attributed to accused No.2. Likewise, the allegation under [Section 120-B](#) of the Code requires material disclosing an agreement between two or more persons to do an illegal act or to do a legal act by illegal means. Mere relationship between the petitioner and accused No.2, or the allegation that accused No.2 was present and supported the petitioner, cannot by itself establish the existence of a criminal conspiracy. The prosecution material does not disclose the specific agreement or meeting of minds necessary to constitute the offence of criminal conspiracy.

21. As regards [Section 420](#) of the Code, the essential ingredients include dishonest or fraudulent inducement and delivery of property or valuable security in consequence of such inducement. The prosecution material refers generally to the allegation that the petitioner wanted to take advantage of the money and earnings of respondent No.2. However, there is no specific allegation in the FIR or the statements referred to in the charge sheet identifying the property allegedly delivered by respondent No.2 pursuant to a dishonest inducement by the petitioner or setting out the transaction which would constitute the offence of cheating. A general allegation of an intention to take advantage of another person's earnings, without the foundational facts constituting inducement and delivery of property, is insufficient to sustain [Section 420](#) of the Code.

22. Insofar as [Section 342](#) of the Code is concerned, the prosecution alleges that respondent No.2 was confined in the house till evening, that too, on 26-2-2016. The allegation of confinement is not independently supported by any material referred to in the charge sheet, and the surrounding circumstances relied upon by the prosecution itself, including the subsequent departure of both parties to the United States and continuation of their relationship, materially affect the prima facie inference sought to be drawn against the petitioner. Similarly, the allegation under [Section 506](#) of the Code is that the petitioner threatened respondent No.2 not to disclose the incident. The prosecution material does not set out the precise threat or the SUN, J circumstances in which it was allegedly made in a manner sufficient, on its face, to establish the statutory ingredients of criminal intimidation. A vague allegation of threat, without the necessary particulars and without material indicating the requisite intention to cause alarm, that too, alleged to have been occurred in the year 2016 cannot by itself sustain a separate prosecution under [Section 506](#) of the Code.

23. The Court is not oblivious to the seriousness of the allegations of sexual assault. Ordinarily, allegations of this nature require a careful investigation and, where a prima

facie case is made out, trial in accordance with law. At the same time, seriousness of an allegation cannot substitute for the statutory ingredients of an offence. The inherent jurisdiction of this Court exists precisely to prevent continuation of criminal proceedings where the material collected by the prosecution, even if accepted in its entirety, does not disclose the commission of the offences alleged.

24. In the present case, the prosecution version itself shows that the petitioner and respondent No.2 were in a relationship, that the petitioner expressed an intention to marry her, that he and his father approached her parents seeking their consent for the marriage, that the parties thereafter returned together to the United States, and that the dispute regarding marriage continued thereafter. The material does not disclose facts from which the necessary dishonest intention at the inception of the promise can prima facie be inferred. The subsequent decision of the petitioner to marry another woman may have resulted in a serious personal dispute between the parties, but such subsequent conduct, in the absence of material establishing the requisite intention from the inception, cannot by itself constitute the offence of rape. Admittedly, the documents relied upon by the petitioner, generally cannot be taken in to consideration either in the quash petition or before framing charge and the only material which is to be considered is that of the material produced by the prosecution. At the same time, the grounds urged by the learned senior counsel that the respondent No.2 gave report to the foreign authorities against one A. Mahesh on the same allegations, the said complaint is closed and further, she also gave report to the police of USA against the petitioner and the same is also closed, cannot be lost sight of.

25. Having regard to the totality of the circumstances and applying the principles governing exercise of jurisdiction under [Section 482](#) Cr.P.C, this Court is of the considered view that continuation of the proceedings against the petitioner would not serve the ends of justice. The allegations and the material placed by the prosecution, taken at their face value, do not make out the essential ingredients of [Sections 376\(2\)\(n\)](#), [376\(D\)](#), [120-B](#), [420](#), [342](#) and [506](#) of the Code against the petitioner so as to warrant his being subjected to a criminal trial.

<https://indiankanoon.org/doc/91321229/>; **APHC010464562026**; **Heerapuram Fayaz Basha Alias Fayaz vs The State Of Andhra Pradesh on 22.09.2026**; **CrIp_7767_2026**

7. On a careful consideration of the allegations contained in the charge sheet and the material collected during investigation, there is no allegation of personation. The allegation, insofar as the election-related offence is concerned, is only one of undue influence. The offences alleged under Sections 171-C/171-F of the Code are non-cognizable. Therefore, the police could not have investigated the said non-cognizable offences without an order of the competent Magistrate as contemplated under [Section 155\(2\)](#) of the Code of Criminal Procedure.

9. Insofar as [Section 188](#) of the Code is concerned, the prosecution alleges violation of an order passed by the Sub-Divisional Police Officer, Tadipatri, whereas, the report was lodged by the Sub-Inspector of Police. More importantly, the material placed before this Court does not disclose compliance with the statutory requirements governing prosecution for an offence under [Section 188](#) of the Code. In the absence of the requisite complaint by the public servant concerned, the statutory bar contained in [Section 195\(1\)\(a\)\(i\)](#) of the Code of Criminal Procedure is attracted. Thus, the proceedings under [Section 188](#) of the Code also cannot be permitted to continue in the present form.

12. The investigation into the non-cognizable offences was undertaken without the requisite order of the Magistrate under [Section 155\(2\)](#) of the Code of Criminal Procedure. The proceedings under [Section 188](#) of the Code are also confronted with the statutory requirement under [Section 195](#) of the Code of Criminal Procedure. These defects go to the root of the prosecution and cannot be treated as mere irregularities and as such, the contention of the learned counsel cannot be taken into consideration.

<https://indiankanoon.org/doc/47885921/>; **Neelam Prashanth vs The State Of Telangana on 22 September, 2026; CRIMINAL PETITION No. 15247 of 2026; (CNR No. HBHC010640302026)**

7. Insofar as the submission made by the learned counsel for the petitioner that the alleged contraband seized from the other accused is only a small quantity and the petitioner was implicated as accused No.7 solely basing upon the confession statement given by the other accused and the same is not permissible under law is concerned, it is already stated supra, whether there is any incriminating material to connect the petitioner with the present crime and whether the petitioner was implicated as accused No.7 solely basing upon the confession statement given by the other accused, the same will be revealed during the course of investigation. Even according to the learned Assistant Public Prosecutor, the investigation is under progress. Hence, this Court is of the considered view that the petitioner is not entitled to seek quashing the proceedings on the ground that the contraband seized in the present crime is a small quantity.

<https://indiankanoon.org/doc/84891657/>; **APHC010481242026; Pothula Alias Potula Anand Kumar vs The State Of Andhra Pradesh; CRLP NO: 8110 of 2026: 23.09.2026;**

16. The Hon'ble Apex Court in [Prithivirajan](#) supra observed that the Supreme Court has repeatedly held that merely because physical relations were established on a promise to marry, it would not, by itself, amount to rape. In the present case also, the relationship between the petitioner and respondent No.2 appears to have been consensual.

17. Furthermore, the Hon'ble Apex Court in [Amol Bhagawan Nehul](#) supra observed that a consensual relationship that later turns sour, or partners subsequently becoming distant, cannot by itself justify invoking the criminal machinery of the State. The alleged misconception of fact of the petitioner has spread over a period of three years.

18. Considering the ratio lay down by the Hon'ble Apex Court in [Kunal Chatterjee](#), [Prithivirajan](#), [Pramod Suryabhan Pawar](#), [Naim Ahmed](#), and [Maheshwar Tigga](#) supra, the gravity and nature of the allegations levelled against the Petitioner/Accused No.1 is entitled for grant of bail, subject to certain stringent conditions.

<https://indiankanoon.org/doc/10724993/>; **PHC010602442022; Palla Yuvaraj Yadav vs The State Of Ap on 24 September, 2026; WP NO: 36204/2022**

19. Having regard to the principles [laid down in](#) the decisions [referred to above](#) and the requirements of Standing Order No.601, this Court is of the considered view that the material placed by the respondents is insufficient to establish that the petitioner falls within the categories for which a rowdy sheet may be opened. Mere involvement in the present criminal case, particularly in the absence of material establishing habituality or any other specific circumstance contemplated by the Standing Order, cannot justify the impugned action. The respondents were therefore required to exercise greater care and to record satisfaction on the basis of material showing that

the petitioner answered the requirements of the Standing Order before opening the rowdy sheet.

<https://indiankanoon.org/doc/12365265/>; **Arbin Taj A vs The State Of Telangana on 24 September, 2026; CRIMINAL PETITION No.15048 of 2026**

9. The specific case of the prosecution is that the petitioners, being the Directors of Attica Gold Company at Masab Tank and Banjara Hills Branches, and in the said Branches, without proper verification, they purchased the ornaments/gold from accused No.1 and other offenders, despite having knowledge that the ornaments/gold purchased by them was stolen property. Even as per the documents enclosed along with the present criminal petition, Attica Gold Company had issued a reply, dated 28.11.2024, to the notice dated 25.11.2024 issued by the Investigating Officer, wherein it was revealed that the said Company had purchased gold ornaments from accused No.1 on 10.03.2022, 25.05.2022, 08.11.2023 and 14.03.2024 and the petitioners are Directors of the said Company as on the said dates. Whether there was any conspiracy between the petitioners and the Managers of the Attica Gold Company branches situated at Hyderabad, and they are having knowledge about purchase of the stolen gold from accused No.1 and other offenders, or any other material is there to connect the petitioners with the present case, the same will be revealed during the course of investigation, especially the investigation is under progress.

11. It is relevant to mention that the offence under Section 317(4) of the BNS is a cognizable offence. In respect of a cognizable offence, the Investigating Officer is empowered to conduct an investigation without obtaining prior permission from the concerned Court. The Investigating Officer has to obtain prior permission to conduct investigation in respect of non-cognizable offences only. Hence, the contention raised by the learned Senior Counsel for the petitioner that in the absence of any prior permission from the learned Magistrate, the Investigating Officer straightaway added Section 317(4) of the BNS to the existing Sections 306 and 317(2) of the BNS and also arrayed the petitioners as an accused and the same is contrary to the provisions of Sections 173 and 176 of the BNSS, is not tenable under law. The impugned Memo reveals that the Investigating Officer brought to the notice of the learned trial Court about the factum of arraying the petitioners as an accused and also adding Section 317(4) of the BNS in addition to the Sections 306 and 317(2) of the BNS.

12. In [Sunil Bhati Mittal](#) (supra), the Hon'ble Apex Court held that the directing mind and will doctrine provide that a company, being an artificial legal person, acts through its directors and managers who constitute its directing mind and will. Where such directors or managers exercise the controlling authority of the company, their state of mind, knowledge, intention and guilty mind (mens rea) are treated in law as those of the company itself. Consequently, where a criminal offence requires a guilty mind, the mens rea of the directors or managers acting as the company's directing mind may be attributed to the company, thereby making the company criminally liable for the offence.

13. The judgment relied upon by the learned Senior Counsel for the petitioners is not applicable to the facts and circumstances of the present case on the ground that there are specific allegations levelled against the petitioners that they are Directors of Attica Gold Company and the said Company is having branches at Hyderabad and accused No.1 sold the stolen gold ornaments to Attica Gold Company at Masab Tank and Jubilee Hills Branches and the petitioners are having specific role in the day-to-day business activities of Attica Gold Company and the said Company purchased the

stolen gold from accused No.1 and other offenders, without proper verification of the persons and that four crimes have been registered against the said Company.

14. It is already submitted supra that after registration of F.I.R., if during the course of investigation, the Investigating Officer comes to the conclusion that any other person is involved in the commission of the offences, the Investigation Officer is having power to array such person or persons as an accused and is also having power to add the appropriate Section of Law. In respect of non-cognizable offences, the Investigating Officer can conduct an investigation only after obtaining necessary permission from competent Court. In respect of cognizable offences, the Investigating Officer is empowered to conduct investigation. In the present case, the offence under Section 317(4) of the BNS is a cognizable offence and based upon the material which was collected during the course of investigation, the Investigating Officer found the involvement of the petitioners as Executive Directors and whole time Directors of Attica Gold Company in the commission of the offence and consequently, they were arrayed as accused Nos.7 and 8 and also added Section 317(4) of the BNS. The Investigating Officer thereafter filed a Memo dated 18.08.2026, before the learned trial Court for the purpose of placing the above said facts on record. Hence, this Court is of the considered view that there is no illegality, irregularity or legal infirmity in the said Memo and to quash the same while exercising the powers conferred under Section 528 of the BNSS.

15. In respect of the other submission made by the learned Senior Counsel for the petitioners are ready and willing to cooperate with the investigation and they will produce the documents, which are in their possession and requested this Court to grant necessary protection and direct the Investigating Officer not to take coercive steps against them is concerned, the Hon'ble Supreme Court in [Neeharika Infrastructure Private Limited v. State of Maharashtra](#) and others² and [Sanjay Kumar Gupta v. State of U.P.](#)³, held that the Court cannot grant a blanket order of "no coercive steps" or "not to arrest", as such protection is in the nature of anticipatory bail, which must be sought before the competent Court under [Section 438](#) Cr.P.C., and granting such relief while refusing to quash the F.I.R. is wholly impermissible. In view of the said principles [laid down by](#) the Hon'ble Apex Court, this Court is not inclined to grant the relief of protection as sought by the learned Senior Counsel for the petitioners.

2026 0 INSC 1063; 2026 0 Supreme(SC) 1193; In Re: Recent Rape Incidents in Delhi NCR; Suo Moto Writ Petition (Criminal) No. 6 of 2026; 28-09-2026

7. Furthermore, we must emphasize that public spaces suffering from inadequate illumination, deficient surveillance, or a lack of visible police patrolling and prompt interventional response mechanisms inevitably expose every citizen to heightened security risks. Where basic measures of public safety remain compromised, no individual, irrespective of age, gender, or sexual identity, can navigate public spaces with a sense of security. The primary obligation of the State and its instrumentalities is to maintain public spaces that are safe, accessible, and secure for all, while remaining particularly attentive to the heightened risks faced by children, women and other sexual minorities.

8. We remain mindful that specific allegations of crime must be investigated strictly in accordance with law and that the guilt or innocence of individual accused persons can only be determined through due process and fair trial. Consequently, the scope of the present suo moto proceedings is not directed at assessing individual criminal culpability, but rather at examining the broader institutional failures that transcend any single case. The primary objective of the present proceedings is to evaluate whether

effective systemic, preventive, and monitoring frameworks are currently in place to ensure safety in public spaces across Delhi-NCR.

17. Before concluding, we find it imperative to observe that media reporting on sexual offences carries a profound constitutional and ethical duty. Media outlets, journalists, and publishing platforms must remain deeply mindful of their solemn obligation to practice responsible, empathetic, and restrained journalism in such matters. Sensationalist headlines, graphic or lurid descriptions of sexual violence, and insensitive phraseology fail to serve any public interest and risk causing severe secondary trauma to victims and their families. Furthermore, all print, electronic, and digital media organizations are reminded of the strict statutory mandate under Section 72 of the Bharatiya Nyaya Sanhita, 2023 as well as Section 23 of the POCSO Act, prohibiting the disclosure, whether direct or indirect, of the identity of any victim of sexual assault or minor child. Headlines and reportage must prioritize dignity, factual accuracy, and institutional accountability over sensationalism, ensuring that the discourse remains centered on justice and safety.

18. The District Administration should call for an immediate meeting with the Media Houses so as to provide a dedicated column in the newspapers and a dedicated time in the electronic media to provide information of the protective devices and the telephone numbers, which could be accessed for immediate assistance in the event of a perceived threat. We are sure that the print and electronic media would rise up to the occasion and provide a dedicated column/time, pro bono, including the phone numbers that could provide immediate assistance on such threats occurring.

2026 0 INSC 1067; 2026 0 Supreme(SC) 1197; Mulla Afroz Vs. Union Of India And Ors.; Criminal Appeal No. 4310 of 2026 [Arising out of SLP (CRL.) No. 12534 of 2026] Decided On : 29-09-2026

46. The said paragraph records that certain CCTV footage and video recordings were viewed and analysed by the investigating agency, from which the names of 95 (ninety-five) accused persons allegedly surfaced. It is further stated that upon the basis of such material, further investigation was undertaken, leading to the identification of the appellant as the principal architect of the incident who had incited the crowd to indulge in violence and rioting. However, what is striking is that the CCTV footage and video recordings, which appear to constitute the sheet anchor of the allegation against the appellant, do not find place amongst the 22 (twenty-two) documents relied upon by the detaining authority. Neither have such recordings been furnished to the appellant nor have they been produced before the High Court or even before us. In the absence thereof, it is difficult to discern the basis resting whereon the detaining authority could have drawn the conclusions reflected in the grounds of detention. Reliance upon material which has neither been supplied nor disclosed cannot be sustained. Consequently, this circumstance cannot be regarded as furnishing a valid basis for the detention order.

47. Invariably, the CCTV footage and the video recordings of the alleged incident must have been contemporaneously recorded, preserved and authenticated. If indeed the detenu had either a major or minor role to play and the investigating agency had the custody of such CCTV footage and the video recordings, it defies reason as to why it took the investigating agency to arrest the detenu 54 (fifty-four) days after registration of the first FIR. This was a question which we posed but no satisfactory answer was forthcoming.

50. The detaining authority appears to have proceeded on the footing that the filing of the chargesheet confirms the involvement of the appellant in the commission of the

incident, including the alleged murders, and consequently establishes disturbance of public order. We are unable to subscribe to such line of reasoning. The mere filing of a chargesheet is nothing more than the culmination of an investigation and the opinion of the investigating agency that sufficient material exists to proceed against the accused. It neither amounts to a finding of guilt nor can it be treated as conclusive proof of involvement in the alleged offences. How the filing of a chargesheet, by itself, can be said to “confirm” either the participation of the detenu in the crime or the disturbance of public order has not been explained by the detaining authority. At best, it is a “suspicion” that merely looms large. In the absence of any such reasoning, the said circumstance does not appear to furnish a cogent ground more so when the appellant has been enlarged on bail by the competent court.

52. In the said paragraphs, reliance has been placed upon information allegedly received from police officials regarding secret discussions taking place within the jail amongst persons connected with the Sambhal riots. According to the said information, the appellant had moved an application for bail and, upon securing release, was allegedly planning to indulge in large-scale violence. Proceeding on this premise, the detaining authority assumed that there existed a strong likelihood of the appellant disturbing public order having secured a release from custody; and alive to the possibility of the detenu continuing his prejudicial activities, recorded its satisfaction accordingly. What is evident therefrom is that the impugned detention is an attempt to frustrate the judicial order granting bail, and to keep the detenu in custody by another route. Such a detention is not preventive but punitive and appears intended to subvert the order granting bail.

<https://indiankanoon.org/doc/23121642/>; APHC010060652023; Sri Vankala Jagadeesh vs The State Of Ap on 28 September, 2026; WP NO: 4108/2023

10. It was further observed that two instances would not make a person a habitual offender and that more than two instances should be present before a person can be described as a habitual offender. Merely because persons figure as accused in two crimes registered by the police, no inference can be drawn that they are habitual offenders.

12. It is apposite to mention that the Standing Order No.600 (1) of the A.P. Police Manual and the same is reproduced as follows:

- i. Persons, convicted under any section of the [Indian Penal Code](#), who are considered likely to commit crime again, and
- ii. Persons, not convicted but believed to be addicted to crime.
- iii. Members of criminal gangs or organized criminal syndicates who have been charge sheeted.
- iv. Communal and Caste activists who are known to instigate, organize violence or spark off communal or caste riots.
- v. Smugglers, hoarders, black marketers and for professional land grabbers, boot leggers, sand smugglers, persons charged under money laundering Act.
- vi. Assault on Public Servant.
- vii. Attempt to murder (307 [IPC](#)), Murder (302 [IPC](#))
- viii. Chain snatching
- ix. Extended under City Police Act/other Acts like [Anti-Social Hazardous Activities \(Prevention\) Act](#).
- x. Externed under [Anti Social Activities, Hazardous Activities \(Prevention\) Act, 1980](#) and other Acts.
- xi. Rape cases [u/s 376](#) IPC, 376 A, C, D, E

- xii. Trafficking cases u/s 370, 370 A, 366A, 366 B, 372, 373 [IPC](#) including [Immoral Traffic Prevention Act](#) sections. xiii. [Cases of POCSO \(Protection of Children from Sexual Offences\) Act, 2012](#).
- xiii. Cases U/s. 354, 354A to 354D, 326A, 326B of [IPC](#). xv. Listed accused in Multi-Level Marketing cases/ White collar crime.
- xiv. Persons charged under unlawful Activities (Prevention) Act.

13. It is not in dispute that, apart from the aforesaid case, the petitioner is neither an accused in any other case nor has he been convicted in any other SUN, J WP_4108_2023 case. The Standing Order No.600(1) of the A.P. Police Manual, which sets out the categories of persons against whom such sheets may be opened, including persons convicted and considered likely to commit offences again; persons believed to be addicted to crime; members of criminal gangs or organised criminal syndicates who have been charge-sheeted; persons involved in communal or caste violence; and persons involved in specified serious offences and activities.

14. A reading of the aforesaid Standing Order shows that it identifies specified categories of persons against whom a suspect or rowdy sheet may be opened, subject to the requirements of the Standing Order. The categories include persons addicted to crime, members of criminal gangs or organised crime syndicates, persons involved in communal or caste violence, and persons involved in specified serious offences. In the present case, the record and the counter-affidavit disclose only Crime No.45 of 2019, registered under [Section 392](#) IPC, against the petitioner. This Court, therefore, does not express any opinion on the merits of the criminal case and confines its consideration to the legality of opening and continuing the impugned suspect sheet.

15. In the facts and circumstances of the case, and in the light of the aforesaid decisions and the applicable Standing Order, this Court is of the considered view that the respondents have not placed any material to show that the petitioner falls within any category contemplated by Standing Order No.600(1) or that he is habitually involved in criminal activity. The only reason stated by the respondents for opening the suspect sheet is the need to curb the petitioner's alleged unlawful activities in the vicinity of the Steel Plant. Such a general assertion, unsupported by material demonstrating the requisite habitual conduct or other applicable grounds under the Standing Order, is insufficient to justify the opening or continuation of the suspect sheet. The fact that a charge sheet has been filed in one criminal case, by itself, does not SUN, J WP_4108_2023 establish that the petitioner is a habitual offender or that the requirements of the Standing Order are satisfied. In these circumstances, the opening and continuation of Suspect Sheet No.2/2019 cannot be sustained and amount to an arbitrary exercise of police power. The impugned action is, therefore, liable to be set aside.

<https://indiankanoon.org/doc/107505623/>; APHC010510692023; CrIp7753_2023; **Smt Mateti Santha vs The State Of Andhra Pradesh on 28 September, 2026**

15. In [Central Bureau of Investigation, Hyderabad](#) (supra), the Hon'ble Supreme Court held that mere negligence, improper advice, or a wrong legal opinion given by an advocate, by itself, does not constitute criminal conspiracy or abetment. To fasten criminal liability upon an advocate, there must be material showing his participation in an agreement to commit an illegal act or that he knowingly aided or abetted the commission of the offence. Further, in [Surendra Nath Pandey and another](#) (supra), the Hon'ble Supreme Court held that mere bald and omnibus allegations against an advocate, without any specific allegation or tangible material demonstrating his participation in the alleged conspiracy, are insufficient to sustain criminal prosecution.

In the absence of a specific link connecting the advocate with the principal offenders or material showing that he knowingly aided or participated in the commission of the offence, continuation of the criminal proceedings would amount to an abuse of the process of the Court.

<https://indiankanoon.org/doc/101178113/>; **Komma Siva Haritha vs The State Of Andhra Pradesh on 25 September, 2026; WRIT PETITION NO: 13273 OF 2026;**

9. In a case where the detenu is released on bail and is enjoying his freedom under the order of the court at the time of passing the order of detention, then such order of bail, in our opinion, must be placed before the detaining authority to enable him to reach at the proper satisfaction.

36. It is trite that breach of law in all cases does not lead to public disorder. In a catena of judgments, this Court has in clear terms noted the difference between "law and order" and "public order".

37. We may refer to the decision of the Constitution Bench of this Court in [Ram Manohar Lohia v. State of Bihar](#) [[Ram Manohar Lohia](#) v. State of Bihar, 1965 SCC OnLine SC 9 : (1966) 1 SCR 709] , where the difference between "law and order" and "public order" was lucidly expressed by Hon'ble M. Hidayatullah, J. (as the Chief Justice then was) in the following words : (SCR pp. 745-46, paras 54-55) "54. ... Public order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. When two drunkards quarrel and fight there is disorder but not public disorder. They can be dealt with under the powers to maintain law and order but cannot be detained on the ground that they were disturbing public order. Suppose that the two fighters were of rival communities and one of them tried to raise communal passions. The problem is still one of law and order but it raises the apprehension of public disorder. Other examples can be imagined. The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the [Defence of India Act](#) but disturbances which subvert the public order are. ...

55. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."

(emphasis supplied)

38. For an act to qualify as a disturbance to public order, the specific activity must have an impact on the broader community or the general public, evoking feelings of fear, panic, or insecurity. Not every case of a general disturbance to public tranquillity affects the public order and the question to be asked, as articulated by Hon'ble M. Hidayatullah, C.J. in [Arun Ghosh v. State of W.B.](#) [[Arun Ghosh](#) v. State of W.B., (1970) 1 SCC 98 : 1970 SCC (Cri) 67] , is this : (SCC p. 100, para 3) "3. ... Does it [the offending act] lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquillity of the society undisturbed?"

<https://indiankanoon.org/doc/99652780/>; WRIT PETITION No.35016 of 2025; **Devalla Divya vs The State Of Andhra Pradesh And 3 Others on 25.09.2026**;

15. The aforesaid is the settled position in law. The bail order and the conditions of bail are relevant material to be considered to arrive at the satisfaction if the order of detention is yet to be passed.

- i) Criminal cases falling outside the territorial jurisdiction of the detaining authority can be taken into consideration along with the criminal cases in the territorial jurisdiction of the detaining authority, for passing an order of preventive detention, on recording of subjective satisfaction of the detaining authority that those are prejudicial to the maintenance of the public order within the area falling in the territorial jurisdiction of the detaining authority.

<https://indiankanoon.org/doc/178361826/>; CRL.R.C. No.507 OF 2009; **T.Anand vs The State Of A P on 25 September, 2026**

12. In Vadivelu Thevar v. State of Madras reported in (1957) 1 SCC 700, wherein the Apex Court dealt with nature and types of witnesses in criminal cases and has guided that -

"18. Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.
- (2) Wholly unreliable.
- (3) Neither wholly reliable nor wholly unreliable.

In the first category of proof, the court should have no difficulty in coming to its conclusion either way-it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.

19. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty CRL.R.C. No.507 OF 2009 to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution."

13. In Indira Devi and others vs. State of Himachal Pradesh reported in (2016) 12 SCC 770, the Hon'ble Supreme Court has also extracted to scrutinize testimony of injured witness and how far the same testimony is reliable.

"7. The proposition of law that an injured witness is generally reliable is no doubt correct but even an injured witness must be subjected to careful scrutiny if

circumstances and materials available on record suggest that he may have falsely implicated some innocent persons also as an afterthought on account of enmity and vendetta. The trial court erred in not keeping this in mind."

"10. We have given anxious consideration to the allegations against the appellants in the FIR as well as in the evidence that has come during trial. In view of discussions made earlier, we are of the view that the courts below should not have believed the exaggerated and contradictory CRL.R.C. No.507 OF 2009 deposition of the victim qua the appellants in view of the fact that the parties were having land dispute from before and even then in the FIR no specific role was assigned to the appellants while specific role was assigned to two co-accused. The medical evidence also does not corroborate the subsequent allegations made by the victim against the appellants. The broad features of the case also reveal that the two male accused were allegedly having a gun and an axe in their hand and they used these weapons only to cause injuries which did not pose any danger to the life of the victim. In such circumstances the women accused could have hardly any reason to unnecessarily get involved into the assault so as to cause simple injuries by fists and kicks. For all the aforesaid reasons we find merit in the submission advanced on behalf of the appellants and do not agree with the learned counsel for the State who has sought to support the impugned judgment and order."

2026 0 INSC 1067; 2026 0 Supreme(SC) 1197; Mulla Afroz Vs. Union Of India And Ors; Criminal Appeal No. 4310 of 2026 [Arising out of SLP (CRL.) No. 12534 of 2026] Decided On : 29-09-2026

60. Before parting with the discussion, we consider it necessary to observe that the powers conferred upon the State in matters of preventive detention are of wide amplitude. At the same time, such powers authorise the curtailment of personal liberty not for what has been done, but for what is apprehended may be done in future. As pithily observed by this Court in *Rekha* (supra), it matters little for a detenu whether the detention is preventive or punitive, for at the end of the day, the personal liberty of a person is ultimately curtailed for a period, no matter how short. The relevant observation is quoted below:

21. It is all very well to say that preventive detention is preventive not punitive. The truth of the matter, though, is that in substance a detention order of one year (or any other period) is a punishment of one year's imprisonment. What difference is it to the detenu whether his imprisonment is called preventive or punitive?

61. It is for this reason that preventive detention has always been regarded as an exceptional measure. Although constitutionally recognised, it operates as a departure from the ordinary guarantees of personal liberty embodied in Article 21 of the Constitution and, therefore, must be invoked with the utmost circumspection and only in those rarest of rare cases where the circumstances genuinely warrant such exercise.

62. Reference in this regard may again profitably be made to the decision in *Ameena Begum* (supra) where this Court observed:

66. It requires no serious debate that preventive detention, conceived as an extraordinary measure by the Framers of our Constitution, has been rendered ordinary with its reckless invocation over the years as if it were available for use even in the ordinary course of proceedings. To unchain the shackles of preventive detention, it is important that the safeguards enshrined in our Constitution,

particularly under the “golden triangle” formed by Articles 14, 19 and 21, are diligently enforced.

63. Respondents, who are the State and its functionaries, have also strenuously contended before us that the detention order was not passed with a view to punishing the detenu for the incident of 24th November, 2024, and that the said incident had already become the subject matter of criminal proceedings in which the detenu had been charge-sheeted. However, the position emerging from the record does not appear to accord with such submission. While asserting that the detention order is preventive and not punitive, the State has substantially founded the order upon the very material collected during the criminal investigation arising out of the same incident. The earlier criminal proceedings and the material gathered therein have, in effect, supplied the substratum for the subsequent order of preventive detention. Both proceedings trace their origin to the same occurrence and are sought to be justified on the basis of substantially overlapping allegations.

64. In the facts of the present case, we find that the distinction sought to be maintained by the State between the punitive and preventive jurisdictions has, in substance, become blurred. The reliance placed upon the very same occurrence and substantially the same material for sustaining both the criminal and preventive detention proceedings lends considerable force to the contention that the detention order has assumed a character more punitive than preventive. We are, therefore, constrained to observe that the State must remain faithful to the rationale underlying preventive detention jurisprudence.

65. If an order of detention is sought to be justified as a preventive measure, the material relied upon must demonstrably establish the necessity of preventing future prejudicial conduct and not merely reinforce allegations which already form the subject matter of an ongoing criminal prosecution. In the present case, that distinction has not been maintained.

<https://indiankanoon.org/doc/133783188/>; **Mohd Yakub Pasha vs The State Of Telangana on 29 September, 2026; CRIMINAL PETITION No.15741 of 2026**

8. In [Rahul](#) (supra), the Hon'ble Apex Court, while following the precedent in [Ritesh Sinha](#) (supra), held that a Judicial Magistrate is having power to issue a direction to the accused or witness to furnish a voice sample for the purpose of comparison even in the absence of an express provision in the [Cr.P.C.](#), as such furnishing such voice sample does not amount to testimonial compulsion or violate the protection against self-incrimination. A voice sample, like a fingerprint, signature or handwriting, is merely physical evidence which by itself does not incriminate the person; it becomes incriminating only upon comparison with material collected during investigation. Therefore, obtaining such a sample does not attract the prohibition under [Article 20\(3\)](#) of the Constitution. This principle has subsequently received statutory recognition under Section 349 of the BNSS.

9. In *Thodeti Satyanarayana* (supra), this Court held that as per Section 349 of the BNSS, a Magistrate of the First Class is empowered to order any person, including an accused or witness, to provide voice samples, fingerprints or handwriting for the purposes of investigation or proceedings. Therefore, where such express statutory provision exists, collection of a voice sample constitutes material evidence and does not amount to testimonial compulsion. Consequently, an order passed by the Magistrate directing collection of a voice sample under Section 348 BNSS cannot be said to be illegal or without jurisdiction.

<https://indiankanoon.org/doc/80801149/>; APHC010468292026; Boddukuru Prasad Reddy vs The State Of Andhra Pradesh; CRIMINAL PETITION NO: 7841 of 2026 Date: 29.09.2026

7. The Hon'ble Apex Court in [G.R. Ananda Babu](#) supra wherein at para No.6 as under: "6...As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (Respondent 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge."

8. There are specific overt acts attributed to the Petitioner/Accused No.1. Hence, there are no merits in this Criminal Petition. Accordingly, this Criminal Petition is dismissed. As a sequel, miscellaneous petitions, if any pending shall stand closed.

NOSTALGIA

DISTINCTION BETWEEN A REVIEW PETITION AND A RECALL PETITION

in "Asit Kumar Kar v. State of West Bengal & Ors.", [\(2009\) 2 SCC 703](#) and held that the Court does not go into the merits of the matter in a recall petition and simply recalls an order which was passed without giving an opportunity of hearing to the affected party.

In "State of Punjab v. Davinder Pal Singh Bhullar & Ors.", [\(2011\) 14 SCC 770](#) this Court held that if an order or judgment is pronounced in violation of the principles of natural justice or without giving an opportunity of hearing to the affected party the inherent power of the High Court can be exercised to recall such an order which in effect was a nullity.

In "Ganesh Patel v. Umakant Rajoria", 2022 SCC OnLine SC 2050 this Court held that the High Court was right in recalling the order which was passed in absence of the opposite party and the order was based on false statement made by the other party. This Court further held that such application for recall of the order is maintainable as it is an application seeking a procedural review and not a substantive review to which section 362 of the Code of Criminal Procedure shall apply. The power of procedural review which is inherent in the High Court is not affected by section 362 of the Code of Criminal Procedure, and the High Court can set aside a palpably erroneous order which was passed under some misconception of law. The Court can review or recall its judgment or order if the proceedings before it suffered from an inherent lack of jurisdiction or a fraud was played upon the Court to obtain the order or a mistake was committed by the Court which caused prejudice to the party.

In "Madhu Limaye v. The State of Maharashtra", [\(1977\) 4 SCC 551](#) this Court held that the inherent power of the High Court can be exercised to correct an order and that the exercise of this inherent power by the High Court is not affected by section 397 (2) of the Code of Criminal Procedure if interference by the High Court is necessary for securing the ends of justice.

FALSE PROMISE TO MARRY

in [Amol Bhagwan Nehul v. State of Maharashtra](#)¹, wherein at para No.9 it is held as under:

"9...In our considered view, this is also not a case where there was a false promise to marry to begin with. A consensual relationship turning sour or partners becoming distant cannot be a ground for invoking criminal machinery of the State. Such conduct not only burdens the Courts, but blots the identity of an individual accused of such a

heinous offence. This Court has time and again warned against the misuse of the provisions, and has termed it a folly³ to treat each breach of promise to marry as a false promise and prosecute a person for an offence under [section 376 IPC](#)".

18. In [Kunal Chatterjee v. State](#) of W.B.,² the Hon'ble Supreme at para No.7 Court held as under:

"We have heard learned counsel for the parties at length. Learned counsel appearing for the State has relied upon the definition of 'Rape' and would argue that the consent given by the minor is no consent and it would still be a rape. In our considered opinion, as regarding the rape being committed by the appellant when the prosecutrix was a minor, there MANU/SC/0787/2025 2025 SCC OnLine SC 3057 is absolutely no evidence, and definitely no forensic evidence with the prosecution. It is only an allegation in the FIR after more than 03 years, in order to make out a case under the [POCSO Act](#), that such an act of rape was committed three years back when she was a minor. She also categorically states that she consented to the act as there was a promise of marriage by the appellant".

19. The Hon'ble Apex Court in [Naim Ahmed v. State of \(NCT\) of Delhi](#)³ at para No.21 and 22 it is held as under:

"21... The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused. In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court.

In the instant case, the prosecutrix who herself was a married woman having three children, could not be said to have acted under the alleged false promise given by the appellant or under the misconception of fact while giving the consent to have sexual relationship with the appellant. Undisputedly, she continued to have such relationship with him at least for about five years till she gave complaint in the year 2015. Even if the allegations made by her in her deposition before the court, are taken on their face value, then also to construe such allegations as "rape" by the appellant, would be stretching the case too far. The prosecutrix being a married woman and the mother of three children was matured and intelligent enough to understand the significance and the consequences of the moral or immoral quality of act she was consenting to. Even otherwise, if her entire conduct during the course of such relationship with the accused, is closely seen, it appears that she had betrayed her husband and three children by having relationship with the accused, for whom she had developed liking for him. She had gone to stay with him during the subsistence of her marriage with her husband, to live a better life with the accused. Till the time she was impregnated by the accused in (2023) SCC Online SC 89 the year 2011, and she gave birth to a male child through the loins of the accused, she did not have any complaint against the

accused of he having given false promise to marry her or having cheated her. She also visited the native place of the accused in the year 2012 and came to know that he was a married man having children also, still she continued to live with the accused at another premises without any grievance. She even obtained divorce from her husband by mutual consent in 2014, leaving her three children with her husband. It was only in the year 2015 when some disputes must have taken place between them, that she filed the present complaint. The accused in his further statement recorded under Section 313CrPC had stated that she had filed the complaint as he refused to fulfil her demand to pay her huge amount. Thus, having regard to the facts and circumstances of the case, it could not be said by any stretch of imagination that the prosecutrix had given her consent for the sexual relationship with the appellant under the misconception of fact, so as to hold the appellant guilty of having committed rape within the meaning of Section 375IPC".

20. In [Bhawar Singh v. State of Madhya Pradesh](#) 4 the Hon'ble Apex Court set aside the order of the High Court of Madhya Pradesh rejecting the request for grant of pre-arrest bail to the petitioner therein, and granted pre-arrest bail to the petitioner for the offence punishable under [Section 69](#) of 'the BNS'.

21. In [Prithivirajan v. State](#)⁵ at para Nos.6 and 7 it is held as under:

"6. This Court has time and again reiterated that only because physical relations were established based on a promise to marry, it will not amount to rape. For the offence of rape to be attracted, the following conditions need to be satisfied : first, the accused promised to marry the prosecutrix solely to secure consent for sexual relations without having any intention of fulfilling said promise from the very beginning; second, that the prosecutrix gave her consent for sexual relations by being directly influenced by such false promise of marriage.

SUCCESSIVE FIR'S AND ARRESTS

As per the judgment of Hon'ble Apex Court in [Binay Kumar Singh and Anr. V. State of Jharkhand and Ors](#) { WRIT PETITION (CRIMINAL) NO.55/2026}, successive registration of FIRs and arrests deployed to keep an accused in custody despite an order of bail amounts to trumping the bail order and the accused would be entitled to relief in the subsequent cases as well.

"In the instant case, this Court is fully satisfied the successive registration of FIRs was to ensure to keep petitioner No.1 within the custody and we are also fortified by the fact that on grant of bail by this Court on 17.12.2025, petitioner No.1 has been remanded to custodial interrogation by order dated 19.12.2025 passed by the jurisdictional Magistrate in FIR No.458/2025 and again further remand was granted for seven days as against the prayer of fourteen days by the order dated 20.12.2025 in FIR No.20/2025 by the jurisdictional Magistrate. These continued acts and conduct of the prosecution would clearly establish that the respondents have consciously ensure that petitioner No.1 is kept in custody."

CUSTODIAL INTERROGATION VS ANTICIPATORY BAIL

Hon'ble Apex Court in [Sumitha Pradeep v. Arun Kumar C.K12](#), wherein it is observed thus:

"In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the

relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail."

GROUND OF ARREST –

Mihir Rajesh Shah v. State of Maharashtra⁵.

While deciding the issue regarding constitutional mandates in respect of arrest, Hon^{ble} Apex Court held that an earlier arrest being held illegal for non-compliance with communication of grounds does not create permanent immunity and if required, again an application for remand or custody, can be moved along with reasons and on such application, the Magistrate shall decide the same.

Bolla Kiran Vs The State of Andhra Pradesh & 5 others; WRIT PETITION NO: 9972/2026; 23.04.2026- Contributed by Sri Ramesh Reddy, Inspector, EAGLE Force Telangana

In the present case there is no dispute that the remand report containing the grounds of arrest was served on the arrestees. Though the remand report does not contain 'Heading of Ground of Arrest' but on perusal of the same (annexure P8) that the necessary details have been set out with respect to both the detainees. It is also the submission of the learned counsel for the petitioner that the remand report does not contain the grounds of arrest. Para No 28 . We are therefore of the view that the service of the remand report to the arrestees, containing the grounds of arrest is communication of the grounds of arrest to the arrestees even if the notices under Sections 47 & 48 of BNSS did not contain the grounds of arrest.

2026:MHC:1100; Cri.O.P.Nos.3329, 4031, 4305, 4349, 2716 and 3430 of 2026; Sundar Rao VS Union, Rep. by The Intelligence Officer, NCB, Chennai Zonal Unit- Contributed by Sri T.Rajeshwar, Addl PP Gr-I, Telangana.

In the above case also, as in the other connected cases referred to above, the plea regarding non-furnishing of the grounds of arrest was not raised in the first instance but was taken only in the subsequent bail applications. This clearly indicates that, at the time of filing the initial bail applications, the petitioners did not suffer any impediment or difficulty in effectively defending their case.

UNNATURAL DEATH- contributed by Sri V.Narsaiah, Addl PP Gr-II, PASJ, Siddipet, Telangana

R. Jaya Laxmi v. State of Telangana & Ors.; W.P. No. 5775 of 2015; 2026 LiveLaw (Tel) 130; 29.07.2026

Telangana High Court directs Police to file Final Reports In Unnatural Death Cases Before Judicial Magistrate, Not Executive Magistrate

APPRECIATION OF ORAL EVIDENCE

Balu Sudam Khalde vs The State Of Maharashtra on 29 March, 2023; <https://indiankanoon.org/doc/87935863/>

25. The appreciation of ocular evidence is a hard task. There is no fixed or straight-jacket formula for appreciation of the ocular evidence. The judicially evolved principles for appreciation of ocular evidence in a criminal case can be enumerated as under:

"I. While appreciating the evidence of a witness, the approach must be whether the evidence of the witness read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witness and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief.

II. If the Court before whom the witness gives evidence had the opportunity to form the opinion about the general tenor of evidence given by the witness, the appellate court which had not this benefit will have to attach due weight to the appreciation of evidence by the trial court and unless there are reasons weighty and formidable it would not be proper to reject the evidence on the ground of minor variations or infirmities in the matter of trivial details.

III. When eye-witness is examined at length it is quite possible for him to make some discrepancies. But courts should bear in mind that it is only when discrepancies in the evidence of a witness are so incompatible with the credibility of his version that the court is justified in jettisoning his evidence.

IV. Minor discrepancies on trivial matters not touching the core of the case, hyper technical approach by taking sentences torn out of context here or there from the evidence, attaching importance to some technical error committed by the investigating officer not going to the root of the matter would not ordinarily permit rejection of the evidence as a whole.

V. Too serious a view to be adopted on mere variations falling in the narration of an incident (either as between the evidence of two witnesses or as between two statements of the same witness) is an unrealistic approach for judicial scrutiny.

VI. By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

VII. Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

VIII. The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

IX. By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

X. In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

XI. Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

XII. A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates

on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him.

XIII. A former statement though seemingly inconsistent with the evidence need not necessarily be sufficient to amount to contradiction. Unless the former statement has the potency to discredit the later statement, even if the later statement is at variance with the former to some extent it would not be helpful to contradict that witness.” [See [Bharwada Bhoginbhai Hirjibhai v. State of Gujarat](#) 1983 Cri LJ 1096 : (AIR 1983 SC 753) [Leela Ram v. State of Haryana](#) AIR 1995 SC 3717 and [Tahsildar Singh v. State of UP](#) (AIR 1959 SC 1012)]

NEWS

- Appointment of FRRO at Amravati, Andhra Pradesh
- The Inter-State Council (Amendment) Order, 2026.
- Commencement of the Registration of Births and Deaths (Amendment) Act 2026
- Amendments to the andhra pradesh police (secretarial establishment) service rules. [g.o.ms.no.178, home (legal.ii), 18th september, 2026.]
- The andhra pradesh police (armed reserve) service rules - certain amendments. [g.o.ms.no.179, home (legal.ii), 18th september, 2026.]
- Amendment to the andhra pradesh special protection force subordinate service rules, 1995. [g.o.ms.no.180, home (legal.ii), 18th september, 2026]
- Special rules - andhra pradesh police (civil police) subordinate service rules - certain amendments. [g.o.ms.no.181, home (legal.ii), 18th september, 2026.]
- Special rules - andhra pradesh police subordinate service rules relating to armed reserve - certain amendments. [g.o.ms.no.182, home (legal.ii), 18th september, 2026.]
- Amendments to the andhra pradesh jails subordinate service rules, 1993. [g.o.ms.no.183, home (prisons & fire), 21st september, 2026.]
- Andhra pradesh jail service rules, 1996 - certain amendments. [g.o.ms.no.184, home (prisons & fire), 21st september, 2026.]
- Andhra pradesh fire subordinate service rules, 1992– certain amendments. [g.o.ms.no.185, home (prisons & fire), 21st september, 2026]
- Andhra pradesh state fire service rules, 1991 – certain amendments. [g.o.ms.no.186, home (prisons & fire), 18th september, 2026]
- Amendment to the andhra pradesh police (stipendiary cadet trainee) rules, 1999. [g.o.ms.no.190, home (legal-ii), 25th september, 2026]
- Andhra ap. Police (civil) service rules, 1998 - certain amendments. [g.o.ms.no.187, home (legal.ii), 21st september, 2026]
- Notification for establishment of a new court exclusively to handle cases under a.p. protection of depositors of financial establishment act, 1999 at vijayawada. [g.o.ms.no.188, law (I and Ia & j - home - courts-a), 22nd september, 2026.]
- Amendments to the andhra pradesh judicial ministerial and subordinate service rules, 2019. [g.o.ms.no.167, law (Ia & j - home - courts.a), 7th september, 2026.]
- Andhra pradesh juvenile welfare and correctional services special rules - certain amendments. [g.o.ms.no.21, department for women, children, deferently abled and senior citizens (jj&genl), 23rd september, 2026.]
- Juvenile welfare and correctional services and welfare of street children department - andhra pradesh correctional services rules, 1989 -certain

amendments. [g.o.ms.no.22, department for women, children, differently abled and senior citizens (jj&genl), 23rd september, 2026.]

- Roc.no.875/2025 dt.: 24.08.2026. Devising “the andhra pradesh state judicial academy rules, 2026”.
- Amendment to the incorporation of rule 212-a after rule 212 in criminal rules of practice and circular orders, 1990. Roc.no.430/so/2026, dt.: 04.08.2026.
- Home Department – A.P.P.S. – Direct Recruitment – Group-I– Creation of (25) supernumerary posts of Deputy Superintendent of Police, Category-II – Orders – Issued.
- Home Department – Presidential Order, 2025 – Allocation of Deputy Superintendent of Police (Civil) and Deputy Superintendent of Police (Armed Reserve) into Multi Zone-I & Multi Zone II - Orders – Issued.
- Acts - STATE - The Andhra Pradesh Transplantation of Human Organs (Amendment) Act, 2026 - Publication Ordered as Andhra Pradesh Act No.25 of 2026.
- TG-MINES & MINERALS – Levy of penalty of Rs. 2000/- per MT on overloaded sand transportation vehicles under TGMDC operations - Collection of penalty through online - Orders - Issued.
- TG-Law (Library) Department – livelaw.in – Renewal of annual subscription for M/s. Livelaw Media Pvt Limited, Banerjee Road, Ernakulam, North Cochin, Kerala for the period from 02.05.2026 to 02.05.2027, for providing online Media Platform (through Internet) that provides real-time reporting on court proceedings, judgments, and legal developments for the use of Law Department–Sanction of Expenditure–Orders–Issued.
- TG-Law (Library) Department – Manupatra.com – Renewal of annual subscription for M/s.Manupatra Information Solutions Private Limited, New Rajender Nagar, New Delhi for the period from 07.06.2026 to 06.06.2027, for providing online database (through Internet) for access of Supreme Court Judgments, all High Court Judgments and Bare Acts for the use of Law Department–Sanction of Expenditure –Orders–Issued.
- TG- Law (Library) Department – Purchase of Books from M/s. Surya Law House, Hyderabad for the use of Law Department in the year 2026-27 – Sanction of amount – Orders – Issued.
- High Court for the State of Telangana - Stipulation of Dress code to the Judicial Officers in the State - Reiterating the Instructions issued - Typographical errors occurred in Circular No.06/S0/2026 dated 24.09.2026 - Withdrawing the same - Issuing modified circular instructions - Reg.
- High Court of Andhra Pradesh- Circular - Order dt.20.08.2026 in M.A.No. 2689-2690 of 2025 in CrI. Appeal No. 132-133 of 2017 of Hon'ble Supreme Court of India - Certain directions issued for expeditious disposal of cases filed under Section 304-B and 498-A of IPC (Sections 80 and 85 of BNS, 2023) - Issued - - Reg.
- Ecourts Project – High Court of Andhra Pradesh – District Judiciary – Implementation of esummons in all Courts in the State – Generation and issuance of esummons through DC-CIS 4.0, integrated with CCTNS through ICJS – Implementation through Police in Criminal Cases – Instructions to the Unit Heads and Judicial Officers – Issued – Regarding. – CIRCULAR
- General Administration Department – Strengthening Traffic Management – Establishment of the Telangana Traffic Management, Road and Rail Safety Bureau (TG-TMARS) as a specialised bureau of the Telangana State Police for

traffic management and enforcement, highway patrolling, road crash investigation, enforcement analytics and prosecution, and for the policing of the safety of rail travel within the State – Orders – Issued.

- GOVERNMENT OF ANDHRA PRADESH ABSTRACT Law (Home - Courts.A) Department – Creation of one post of Administrative Officer in the High Court with the pay scale of Rs. 94500-170580 (as per RPS 2022) with the mode of appointment as deputation from Public Prosecutor/Additional Public Prosecutor from O/o Director of Prosecutions - Orders - Issued.

ON A LIGHTER VEIN

A man died and went to Heaven. St Peter says to him “Before you meet with God, I should tell you, we’ve looked over your life, and to be honest you really didn’t do anything particularly good or bad. We’re not really sure what to do with you. Can you tell us anything you did that can help us make a decision?” The newly arrived soul thought for a moment and replied, “Yeah, once I was driving along and came upon a little old lady who was being harassed by a group of thugs. So I pulled over and went up to the leader of the thugs. He was a big, muscular guy with a ring pierced through his lip. Well, I tore the ring out of his lip, and told him he and his gang had better stop bothering this lady or they would have to deal with me!” “Wow that’s impressive, “When did this happen?” “About three minutes ago,” came the reply.

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