PROSECUTION REPLENISH

(An Endeavour for learning and excellence)

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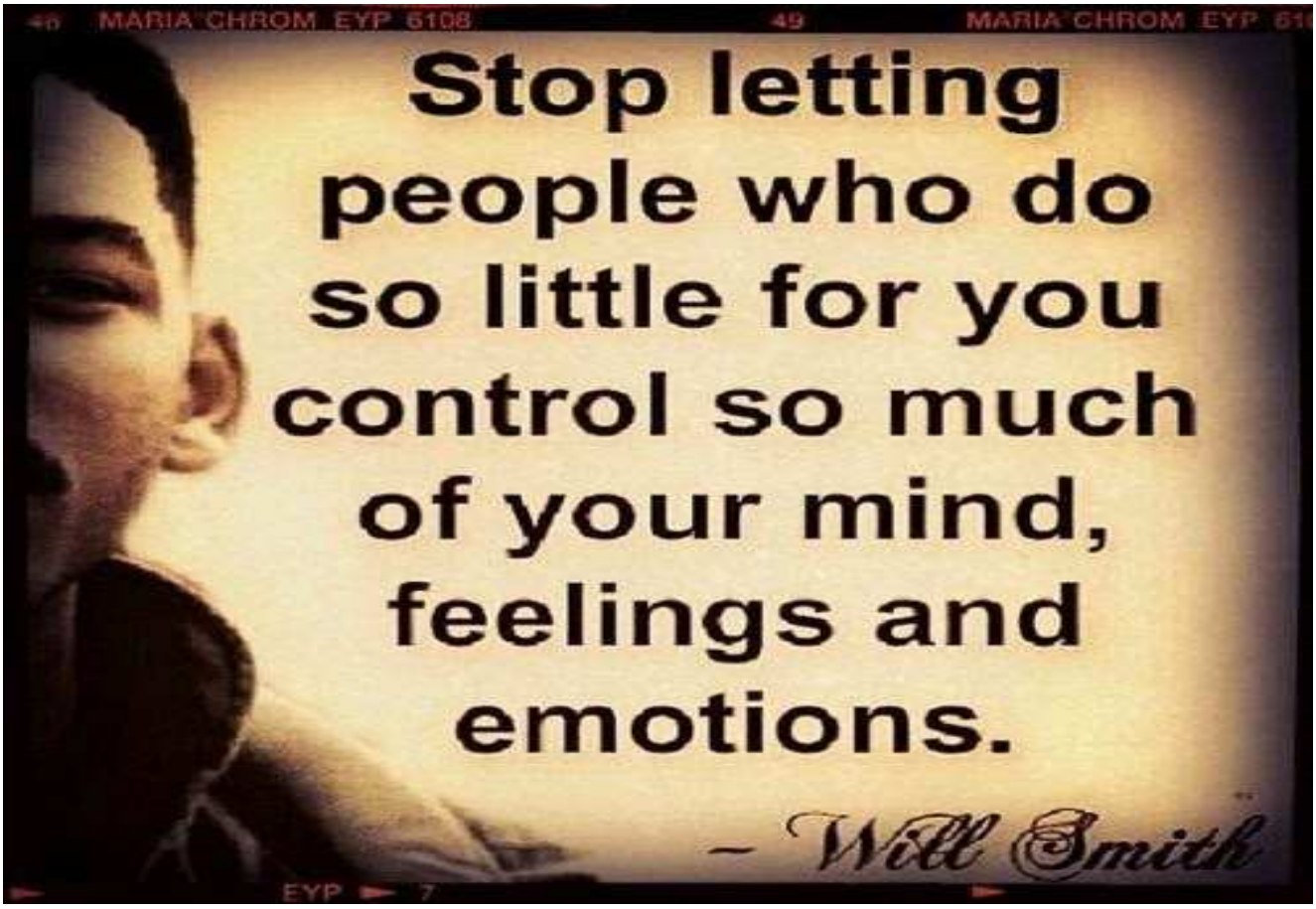

CITATIONS

Conviction of accused based on sole testimony of prosecutrix, confirmed as prosecutrix had narrated the incident of rape immediately after its commission, giving strong reason to believe prosecution version. **[*Mukesh v. State of Chhattisgarh*, (2014) 10 SCC 327]**

Ss. 65-A, 65-B and 62 — Electronic record: Admissibility of secondary evidence of electronic record depends upon satisfaction of conditions as prescribed under S. 65-B. On

the other hand, if primary evidence of the electronic record is adduced i.e. the original electronic record itself is produced in court under S. 62, then the same is admissible in evidence, without compliance with conditions in S. 65-B. **[*Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473]**

S. 321 — Withdrawal from prosecution: It is the obligation of the Public Prosecutor to state what material he has considered. It has to be set out in brief. Public Prosecutor cannot act like the post office on behalf of the State Government, he is required to act in good faith, peruse materials on record and form an independent opinion that withdrawal of the case would really subserve public interest. An order of the Government on the Public Prosecutor in this regard is not binding. A court while giving consent under S. 321 is required to exercise its judicial discretion, which is not to be exercised in a mechanical manner. Court must consider the material on record to see that the application had been filed in good faith and it is in interests of the public and justice. **[*Bairam Muralidhar v. State of A.P.*, (2014) 10 SCC 380]**

Transfer of investigation from State Police to CBI: Extraordinary power in handing over investigation to CBI must be exercised cautiously and in exceptional circumstances. Further held, order to conduct investigation by CBI is not to be passed in routine manner merely because party has levelled allegations against local police. **[*K. Saravanan Karuppasamy v. State of T.N.*, (2014) 10 SCC 406]**

Default bail: Accused has an indefeasible right to be released on bail under S. 167(2) once the statutory period has expired without charge-sheet having been filed, and court must dispose of bail application of accused under S. 167(2) on the same day itself. Application for extension of period of custody without charge-sheet, for filing of charge-sheet by prosecution (when such extension is permissible) cannot be entertained by court after expiry of the prior prescribed period, while keeping the bail application under S. 167(2) pending. **[*Union of India v. Nirala Yadav, (2014) 9 SCC 457*]**

Dowry death: When demand for dowry not proved, question of drawing any presumption by invoking S. 113-B of the Evidence Act would not arise. S. 304-B cannot be invoked only on the basis that deceased had died under unnatural circumstances soon after the marriage, without other ingredients. [***Ramaiah v. State of Karnataka***] **(2014) 9 SCC 365**

FIR – Non-mentioning of name of Accused **2014 STPL(Web) 861 SC (SC) - STATE OF PUNJAB Vs. JAGGA SINGH ETC.**
Penal Code, 1860, Section 302 – Criminal Procedure Code, 1973, Section 154 – Murder – FIR – Non-mentioning of name of Accused – Appreciation of evidence – Testimony of the investigating officer PW 23 S.I. that he arrested two accused in the presence of PW1 – PWs 1 and 2 have also identified both of them as assailants during the trial in the court –Held that the omission to mention their names in the complaint does not affect the prosecution case and there is no doubt about the identity of the said accused.

Dowry Death – Dying declaration **2014 STPL(Web) 864 SC BANARSI DASS AND OTHERS Vs. STATE OF HARYANA**

Evidence Act, 1872, Section 32(1) – Dying Declaration – The incident occurred on 18.06.1998 whereas the death is on 04.08.1998 – Exhibit-PM-dying declaration was recorded on 18.06.1998 itself – At the time of recording of the statement, the condition of the patient no doubt was very stable and she was in a very good state of mind as recorded by the doctor – The burn injury was only 40-45% of the body and, according to doctor 40-45% burns is not fatal and such a patient can be saved if given proper treatment – It has also come out in evidence that the death is not caused by the burns but because of septicemia, an infection on account of improper management of the wounds – It is fairly clear that the patient on 18.06.1998 was not apprehending death, not merely because she lived for more than seven weeks after the incident but because of the nature of the burn injuries – Held that Exhibit-PM-declaration does not meet the requirements of a dying declaration under Section 32(1) of the Evidence Act.

Sanction to Prosecute – Retired Public Servant **2014 STPL(Web) 852 SC** (SC) - No sanction required for corruption case but required for case under IPC **STATE OF PUNJAB Vs. LABH SINGH**

Prevention of Corruption Act, 1988, Section 19 – Retired Public Servant – Sanction to Prosecute – The public servants in question had retired on 13.12.1999 and 30.04.2000 – The sanction to prosecute them was rejected subsequent to their retirement i.e. first on 13.09.2000 and later on 24.09.2003 – The public servants having retired from service there was no occasion to consider grant of sanction under section 19 of the POC Act – Appeal filed by the State partly allowed -The stand taken by the appellant in the petition not approved – The prosecution cannot keep waiting till a public servant retires and then choose to file charge-sheet against him after his retirement, thereby setting at naught the protection available to him under Section 19 of the POC Act.

Dowry Death **2014 STPL(Web) 848 SC, VIJAY PAL SINGH AND OTHERS Vs. STATE OF UTTARAKHAND**

Penal Code, 1860, Section 304B and 113B – Evidence Act, 1872, Section 113B – Dowry Death – Presumption – Appeal against Conviction – PW-1-father of the deceased and PW-7- husband of the elder sister of the deceased have stated that 'R' and 'G' were also with 'V' and 'N'-husband of the deceased when they visited his house and demanded dowry and posed a threat – It has come in the evidence of PW-5 and PW-6 that in the family of in-laws' of the deceased 'S', they did not recognize any person other than the father-in- law-'V' and husband-'N' – Not only that it has come out in evidence of PW-1 himself that younger brother-'R' had been studying elsewhere and that the brother-in-law 'G' was from a different village – Since the independent witnesses PWs-5 and 6 have recognized only the father-in-law and husband of the deceased, it will not be safe to conclude the offence under Sections 304B of IPC, 498A of IPC or 201 of IPC as proved against 'R' and 'G' - Conviction and sentence as against third accused/appellant-'R' and fourth accused/appellant-'G' liable to be set aside.

Cruelty – Divorce by mutual consent **2014 STPL(Web) 830 (SC)** After settlement wife was estopped from continuing proceedings **SHLOK BHARDWAJ Vs. RUNIKA BHARDWAJ & ORS.**

Criminal Procedure Code, 1973, Section 401 – Penal Code, 1860, Sections 498-A, 406, 506 IPC – Dowry Prohibition Act, 1961, Sections 3 and 4 – Cruelty – Matrimonial Dispute – Settlement – Divorce by mutual consent – Acquittal – Revision against – Estoppel – In impugned order the development of settlement between the parties during pendency of the revision petition has not even been adverted to by the High Court – Once the matter was settled between the parties and the said settlement was given effect to in the form of divorce by mutual consent, no further dispute survived between the parties, though it was not so expressly recorded in the order of this Court – No liberty was reserved by the wife to continue further proceedings against the husband – The wife after settling the matter estopped from continuing the proceedings.

2014 STPL(Web) 786 SC SURESH & ANR. Vs. STATE OF HARYANA

Penal Code, 1860, Sections 302 read with Sections 34, 364-A, 201 and 120-B – Evidence Act, 1872, Sections 27, 106 – Kidnapping for ransom – Murder – Circumstantial evidence – Appreciation of evidence – Disclosure statement – Though the burden of proof is on the prosecution yet Section 106 of Evidence Act is not meant to relieve it of that duty – The said provision is attracted when it is impossible or it is proportionately difficult for the prosecution to establish facts which are strictly within the knowledge of the accused – Recovery of dead bodies from covered gutters and personal belongings of the deceased from other places disclosed by the accused stood fully established – It casts a duty on the accused as to how they alone had the information leading to recoveries which was admissible under Section 27 of the Evidence Act – Failure of the accused to give an explanation or giving of false explanation is an additional circumstance against the accused – No ground to interfere with the conviction and sentence of the appellants.

the word "relative of the husband" in Section 304 B of the IPC would mean such persons, who are related by blood, marriage or adoption. When we apply this principle the respondent herein 10Page 11 is not related to the husband of the deceased either by blood or marriage or adoption. Hence, in our opinion, the High Court did not err in passing the impugned order. We hasten to add that a person, not a relative of the husband, may not be prosecuted for offence under Section 304B IPC but this does not mean that such a person cannot be prosecuted for any other offence viz. Section 306 IPC, in case the allegations constitute offence other than Section 304B IPC. **State of Punjab Vs Gurmit Singh 2014 (2) ALD (Crl) 1006 (SC) = 2014 (3) ALT (Crl.) 511 (SC).**

Magistrate accepted a final report, the same by itself would not stand in his way to take cognizance of the offence on a protest/complaint petition. **Rakesh & anr V. State of Uttar Pradesh & anr. 2014 (3) ALT (Crl.) 531 (SC).**

Testimony of accomplice cannot be used against another accused.

Last Seen Theory – conviction exclusively based on such a theory – cannot be sustained. **Krishnan @ Ramaswamy & ors V. State of Tamil Nadu 2014 (3) ALT (Crl.) 534**

HIGH COURT

2014 STPL(Web) 1938 (AP) = 2014 (2) ALD (Crl) 900- Appeal transferred to Session Court PETTA SATYA GOVINDA RAMACHANDRA RAO Vs. YARLAGADDA VIJAYA KUMAR & ANR.

Code of Criminal Procedure, 1974 – Section 372 – Negotiable Instruments Act, 1881, Section 138 138, 144 – Appeal against acquittal – Transferred to Session Court – Complaint of dishonour of cheque resulted in acquittal – Appeal at High Court – Held: Complainant of a cheque case against acquittal is also within the meaning of the victim (as suffered loss of injury from such a dishonour -To maintain an appeal before the Court of Session (by a combined reading of Section 374 (3) read with the proviso to Section 372, Cr. P. C. with the wording the victim shall have a right to prefer an appeal – acquitting the accused, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such court. Appeal directed to transferred to Session Court

The victim's right is thus no way controlled by Section 378(4), Cr. P. C. and there is nothing to infer any requirement of leave u/S.378(4), Cr. P. C. to file appeal under Section 372, Cr. P. C. (against acquittal or conviction of accused for a lesser offence or for inadequate compensation), but for at best to say when against same acquittal two appeals filed one by other than victim under Section 378(4) and one by the victim under Section 372, Cr. P. C. the proper course is to withdraw and call for the matter before the Court of Session to the High Court to decide both at a time by it by common disposal or under Section 381, Cr. P. C. the High Court by special order transmit the appeal before it to the Court of session where other appeal is pending for common disposal, the power of the High Court under section 482, Cr. P. C. in this regard also enables to sub serve the ends of Justice and to avoid conflicting findings; like, in case and counter case, and for no such provision even specifically provided like in Section 210, Cr. P. C. of police case and private complaint case.

<u>Compounding – Compounding of offence & not against individual accused</u>

2014 STPL(Web) 1533 (AP)(DB) - KAMAL KISHORE BIYANI Vs. SHYAM SUNDER BUNG AND ORS.

Criminal Procedure Code, 1973 – Section 320 – Compounding – Compounding of offence & not against individual accused – Held: Section 320 Cr.P.C permits the compounding of the offence but not the compounding of the offence against individual accused. The offence is compounded as a whole or is not compounded.

Indian Penal Code, 1860—Sections 468,471, 476, 477A, 419 and 420—Criminal Procedure Code, 1973—Sections 227,239,245 and 258 – Quashing of complaint – Cheating and forgery- Quashed – No loss suffered to complainant – Complainant has no cause of action and no locus standi to file present complaint – Offence already compounded with other co accused by complainant – Complaint quashed.

In a discharge petition, material now relied on by petitioners cannot be taken into account since the sworn statements and documents if any filed by complainant alone will

be considered at the time of framing charge. **Dr.P.Malathi vs The States Of Telangana And Andhra 2014 (2) ALD (Crl) 924.**

if there are more declarations than one, and they are at variance with each other, the Court is required to be cautious in accepting them in entirety. It has certainly to look into the corroboration from other evidence. **Shaik Shafi Ahmed Vs State of A.P. 2014(2) ALD (Crl) 977 (DB)**

for Offence of criminal Conspiracy, normally no direct evidence is available. Role played by conspirators has to be gathered from facts and circumstances leading to the commission of offence. **Byreddy Rajasekhara Reddy vs State of A.P.2014 (2) ALD (Crl) 991**

THE PASSPORTS ACT, 1967

3. Passport or travel document for departure from India.—No person shall depart from, or attempt to depart from India, unless he holds in this behalf a valid passport or travel document.

Explanation.—For the purposes of this section,—

(a) "passport" includes a passport which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed under the Passport (Entry into India) Act, 1920 (34 of 1920), in respect of the class of passports to which it belongs;

(b) "travel document" includes a travel document which having been issued by or under the authority of the Government of a foreign country satisfies the conditions prescribed.

COMMENTS

(i) Departure from India is the point of time envisaged in section 3. Unless there is departure or at least an attempt to depart from India, there is no question of invoking section 3 of the Passport Act; *A. Ahmad* v. *State of Delhi*, AIR 1999 SC 1315.

(ii) The right to travel abroad is a fundamental right guaranteed under article 21 of the Constitution. A person holding a valid passport cannot be interdicted, nor can he be prevented from travelling abroad by a mere oral order of the police officials of the State Government. It is the Passport Authority alone who can prevent a person from going abroad; *Sri-la-Sri Arunagirinathar Sri Gnanananda Desika Paramachariya Swamigal, Madurai* v. *State of Tamil Nadu*, AIR 1989 Mad 3.

10. Variation, impounding and revocation of passports and travel documents.—(1) The passport authority may, having regard to the provisions of sub-section (1) of section 6 or any notification under section 19, vary or cancel the endorsements on a passport or travel document or may, with the previous approval of the Central Government, vary or cancel the conditions (other than the prescribed conditions) subject to which a passport or travel document has been issued and may, for that purpose, require the holder of a passport or a travel document, by notice in writing, to deliver up the passport or travel document to it within such time as may be specified in the notice and the holder shall comply with such notice.

(2) The passport authority may, on the application of the holder of a passport or a travel document, and with the previous approval of the Central Government also vary or cancel the conditions (other than the prescribed conditions) of the passport or travel document.

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

(a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession thereof;

(b) If the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the passport or travel document or any other person on his behalf:

[1][Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport.]

(c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public;

(d) if the holder of the passport or travel document has, at any time after the issue of the passport or travel document, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;

(f) if any of the conditions of the passport or travel document has been contravened;

(g) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;

(h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made.

(4) The passport authority may also revoke a passport or travel document on the application of the holder thereof.

(5) Where the passport authority makes an order varying or cancelling the endorsements on, or varying the conditions of, a passport or travel document under sub-section (1) or an order impounding or revoking a passport or travel document under sub-section (3), it shall record in writing a brief statement of the reasons for making such order and furnish to the holder of the passport or travel document on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such a copy.

(6) The authority to whom the passport authority is subordinate may, by order in writing, impound or cause to be impounded or revoke a passport or travel document on any ground on which it may be impounded or revoked by the passport authority and the foregoing provisions of this section shall, as far as may be, apply in relation to the impounding or revocation of a passport or travel document by such authority.

(7) A court convicting the holder of a passport or travel document of any offence under this Act or the rules made thereunder may also revoke the passport or travel document:

Provided that if the conviction is set aside on appeal or otherwise the revocation shall become void.

(8) An order of revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) On the revocation of a passport or travel document under this section the holder thereof shall, without delay, surrender the passport or travel document, if the same has not already been impounded, to the authority by whom it has been revoked or to such other authority as may be specified in this behalf in the order of revocation.

COMMENTS

i. The provision of section 10(3)(h) is not an enabling provision in favour of any person, giving a right in favour of any person to invoke the same for compelling the Passport Officer to act at the instance of such aggrieved person; *ICICI Ltd. Bangalore* v. *Passport Officer, Bangalore*, AIR 2002 Kant 118.

ii. It is always open to the authorities concerned to review the order of impounding the passport if they so desire; *Union of India* v. *Smt. Charanjit Kaur*, AIR 1987 SC 1057.

iii. in the matter of Suresh Nanda v. C.B.I. (2008 Cri. L.J. 1599= AIR 2008 SC 1414) in which the Apex Court has held that the Court or police cannot impound the passport. Impounding of a passport can only be done by the passport authority under Section 10 (3) of the Passports Act, 1967.

iv. M/s Viniyoga Clothex Ltd (in Liquidation) and etc vs. Vinay Bagla, 2005 CrlLJ 2339 (All) Court can direct the Regional Passport authority to impound the passport in the circumstances of the case.

v. Kodali Nageshwar Rao vs Koneru Venu and ors. 1998(5) ALD 563, On a private complaint being referred to police for investigation, Sec 10(3)(e) can be pressed into service.

vi. Rajiv Tayal Vs UOI & ors AIR 2006 Del 81, Accused abroad cannot take plea that the summons were not served on him, Sec 10(3) (e) can be pressed, thorough Court.

vii. Circular no. VI/401/12006 dated 04.06.2007 issued by Ministry of External Affairs requested to get an order to the RPO from the respective court for impounding the passport of an accused before the court.

viii. The order of the court directing the accused to deposit his passport as a condition for bail, is different from impounding, hence court has power to pass such order. Abdul Gaffur Khan Vs State of Telangana.

Note.—The Central Government has exempted all Government servants against whom criminal charges are pending in any court in India for acts done or omitted to be done by them in the discharge of their official duties from the operation of clause (e) of sub-section (3) of section 10. A certificate from their department conveying their "No Objection" to the issue of passport to such officials would be required as in all cases of Government servants. [*Vide*G.S.R. 34 (E), dated 12th January, 2000.]

12. Offences and penalties.—(1) Whoever—

(a) contravenes the provisions of section 3; or

(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or

(c) fails to produce for inspection his passport or travel document (whether issued under this Act or not) when called upon to do so by the prescribed authority; or

(d) knowingly uses a passport or travel document issued to another person; or

(e) knowingly allows another person to use a passport or travel document issued to him;

shall be punishable with imprisonment for a term which may extend to [1][two years or with fine which may extend to five thousand rupees] or with both.

[2][(1A) Whoever, not being a citizen of India,—

(a) makes an application for a passport or obtains a passport by suppressing information about his nationality, or

(b) holds a forged passport or any travel document,

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees.]

(2) Whoever abets any offence punishable under [3][sub-section (1) or sub-section (1A)] shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that sub-section for that offence.

(3) Whoever contravenes any condition of a passport or travel document or any provision of this Act or any rule made thereunder for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(4) Whoever, having been convicted of an offence under this Act, is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

15. Previous sanction of Central Government necessary.—No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf.

ON A LIGHTER VEIN

Freya was driving her Chevrolet Vega home in New Mexico when she saw an elderly Apache woman walking along the side of the road. She stopped the car and asked the woman if she would like a lift?

With a silent nod, the woman climbed into the car. Freya tried in vain to make conversation with the Apache woman.

The old Apache looked closely at everything she saw, studying every little detail, until she noticed a red gift bag on the seat next to Freya.

'What's in the bag?' asked the old woman.

'It's a bottle of gin that I got for my husband.'

The Apache woman was silent for another minute or two. Then speaking with the quiet wisdom of an elder, she said, 'Good trade.'

Experts Speak

Q: Is the Arnesh Kumar judgment restricting arrests applicable to SC & ST POA Act, 1989?

Ans: Yes, the said judgment though dealt with sec 498A IPC held that the said judgment was not only applicable to 498a IPC Cases, but also to Dowry Prohibition Act (Special Act). Further, the judges held that the said judgment is applicable to all cases for which the

punishment prescribed is upto 7 years. They have not restricted the said judgment for IPC cases only. Hence, the same is applicable to SC & ST POA act also.

NEWS

- **PLEASE FIND gazette publication of the "Judicial Appointment Act and consequential Amendment to Constitution" under Gazette section.**

- Supreme Court has sought a clarification from the Centre on Section 66A of the Information Technology Act which imposes restrictions of right to freedom of speech on public websites

- The Supreme Court has, on a review petition, stayed the execution of Yakub Memon, the sole accused in the 1993 Mumbai serial blasts case

- A special court has directed the CBI to record the statement of former Prime Minister Manmohan Singh in the coal block allocation case as Mr. Singh was holding the coal ministry portfolio.

- The Supreme Court has struck down the ban on sale of hookahs in hotels, restaurants and airports if such places have a valid license for such operations [Narinder S. Chadha & Ors. Vs. Municipal Corporation of Greater Mumbai & Ors LNIND 2014 SC 996]

- The Supreme Court has held that bail cannot be granted only on basis of parity. Criminal antecedents need to be considered before granting bail. [Neeru Yadav Vs State of U.P & Anr LNIND 2014 SC 1018]

- The Madras High Court has held that once the Review Committee under Prevention of Terrorism (Repeal) Act 2004 opines that there is no prima facie case for proceeding against the accused even though cognizance has been taken, the case is deemed to have been withdrawn. In such cases, Section 321 Cr PC has no application and there is no need for the Public Prosecutor to file any application for withdrawal from prosecution. [Vaiko and others vs. Deputy Superintendent of Police (2014) 4 MLJ 636]

SOME IMPORTANT JUDGMENTS OF 2014

- Protection to person exhibiting film certified by censor board is against prosecution for obsenity, not against his prosecution for death of cine-goers due to negligence - Sushil Ansal v. State through CBI - 2014 AIR SCW 2689

- Identification of accused by sniffer dog - Lalit Kumar Yadav alias Kuri v. State of Uttar Pradesh - 2014 AIR SCW 2655

- Correction of date of birth in service record to be done as per rules applicable - M/s. Bharat Coking Coal Ltd. And others v. Chhota Birsa Uranw. - 2014 AIR SCW 2634

- Extra judicial confession leading to surrender of accused and fully corroborated by circumstancial evidence can be made basis for conviction- Baskaran and Anr. v. State of Tamil Nadu - 2014 AIR SCW 2628

- Fixed term imprisonment to rape and murder convict - Ram Builders v. State of M.P. and others - 2014 AIR SCW 2550

- Power to grant pardon to person accused of bribery. Respective powers of Magistrate and Special Judge - P. C. Mishrav. State (C.B.I.) and another - 2014 AIR SCW 2452

- Parliamentary debates, use for interpreting Constitutional provisions - Association of Unified Tele services Providers and others v. Union of India - 2014 AIR SCW 2400

- Compensation to victims of mob violence. Discrimination between State subjects and outsiders - Sudesh Dogra v. Union of India and others - 2014 AIR SCW 2381

- Use of scientific methods for investigation recommended- Prakash v. State of Karnataka - 2014 AIR SCW 2354

- Bail granted to detenu with condition to visit police station on specified days does not prevent him from carrying on his nefarious activities. Detention order not vitiated for non-consideration of bail - Licil Antony v. State of Kerala and another - 2014 AIR SCW 2345

- Failure to raise plea of right of private defence in statement under S.313 Criminal P.C. cannot be ground to reject the plea- State of Rajasthan v. Manoj Kumar WITH State of Rajasthan v. Raju alias Raj Kumar & Anr. - 2014 AIR SCW 2339

- Uninterrupted child care leave to women Govt. Employees - Kakali Ghosh v.Chief Secretary, Andaman and Nicobar Administration and others - 2014 AIR SCW 2336

- Rule of law does not mean mere public order but means social justice based public order- National Legal Services Authority v. Union of India and others - 2014 AIR SCW 2285

- Scope and content of fundamental rights can be enlarged by reading into international convention- National Legal Services Authority v. Union of India and others - 2014 AIR SCW 2285

- Hijras, eunuchs etc. declared as belonging to third gender- National Legal Services Authority v. Union of India and others - 2014 AIR SCW 2285

- Last seen evidence by itself not sufficient to convict accused- Dharam deo Yadav v. State of U.P. - 2014 AIR SCW 2253

- Advocates elevated from bar to office of High Court Judges to receive pension equal to Judges elevated from subordinate judiciary- P. Ramakrishnam Raju v. Union of India and others - 2014 AIR SCW 2239

- Retraction does not wipe away evidentiary value of confession- Periyasami s/o Duraisami Novanagar v. State WITH Senthilkumar v. State of Tamil Nadu - 2014 AIR SCW 2223

- Power to arraign new accused exercisable only if evidence much stronger than mere probability of his complicity exist- Babubahi Bhimabhai Bokhiria and another v. State of Gujarat and others - 2014 AIR SCW 2152

- Contemnor guilty of contempt in face of Court can be punished forth-with. Need not given opportunity to make defence- Ram Niranjan Roy v. State of Bihar and others - 2014 AIR SCW 2144

- Person surrendering before Court is in custody of Court. Bail can be granted to him by Sessions Court or High Court- Sundeep Kumar Bafna v. State of Maharashtra and another - 2014 AIR SCW 2115

- Corruption case not to be interdicted mid-course for want of proper sanction unless failure of justice has occassioned thereby- State of Bihar and others v. Rajmangal Ram - 2014 AIR SCW 2101

- Leaving of wife at her parental home due to exigencies of husband's service not an act of cruelty - Mangat Ram v. State of Haryana - 2014 AIR SCW 2085

- Quashing of proceedings relating to non-compoundable offences on basis of settlement. Guidelines laid down - Narinder singh & Others v. State of Punjab & another - 2014 AIR SCW 2065

- Rule of precedent when to have limited application - Dr. Subramanian Swamy and others v. Raju Thr. Member, Juvenile Justice Board and another - 2014 AIR SCW 2021

- Treating all persons below 18 as juveniles irrespective of their intellectual maturity not discriminatory - Dr. Subramanian Swamy and others v. Raju Thr. Member, Juvenile Justice Board and another - 2014 AIR SCW 2021

- Rule that aspirant for post must satisfy eligibility criteria on date of application cannot be strictly applied when confusion exists as regards eligibility fixed - Naushad Anwar and others v. State of Bihar and others - 2014 AIR SCW 1974

- Compensation and rehabilitation of rape victims is obligation of State - Mohd. Haroon and others v. Union of India and another - 2014 AIR SCW 1925

- Validation Act not an encroachment on judicial powers - Amarendra Kumar Mohapatra and others. v. State of Orissa and others - 2014 AIR SCW 1894

- Examination of accused - Adverse inference could be drawn against accused who choose to maintain silence or remain in complete denial at time of recording his statement - Rajkumar v. State of M.P. - 2014 AIR SCW 1795

- Death sentence - Existence of aggravating circumstances with consequential absence of mitigating cicumstances would justify award of death sentence - Rajkumar v. State of M.P. - 2014 AIR SCW 1795

- Dying Declaration - Severability - Declaration cannot be segregated when no distinction was made in role played by any of accused - Jumni and ors. v. State of Haryana AND Prem Nath and another v. State of Haryana - 2014 AIR SCW 1787

- Merely because appointment of public servant was at a time when Municipal Corporation was ruled by Administrator, that does not mean that sanction for his prosecution could be given only by Administrator - P. L. Tatwal v. State of M.P. - 2014 AIR SCW 1743

- No hearing need to be given to proposed accused as a matter of course before transferring investigation to CBI - Dinubhai Boghabhai Solanki v. State of Gujarat - 2014 AIR SCW 1722

- Directions/guidelines to regulate hate speeches not issused as penal laws provide sufficient remedy to curb menance of hate speeches - Pravasi Bhalai Sangathan v. Union of India and others - 2014 AIR SCW 1713

- Alteration of charges after conclusion of trial by itself will not lead to conclusion that it has resulted in prejudice to accused - C. B. I. v. Karimullah Osan Khan - 2014 AIR SCW 1702

- In situation of national security natural justice principles stand excluded - Ex. Armymen's Protection Services P. Ltd. v. Uinon of India and others - 2014 AIR SCW 1646

- Penology - Residual doubt and counsel's ineffectiveness can be mitigating circumstances - Ashok Debbarama alias Achak Debbarama v. State of Tripura - 2014 AIR SCW 1628

- Inherent power to quash proceedings is not circumscribed by power under S.320 to compound offence - CBI, ACB, Mumbai v. Narendra Lal Jain and other - 2014 AIR SCW 1603

- Storage of adulterated food articles for consumption and not for sale is not an offence - Rupak Kumar v. State of Bihar and another - 2014 AIR SCW 1599

- Right to ask for search in presence of gazetted officer or Magistrate has to be individually communicated to each accused. Joint communication is not sufficient communication - State of Rajasthan v. Parmanand & Anr. - 2014 AIR SCW 1578

- Death sentence to be awarded only when option of life imprisonment is unquestionably foreclosed - Mahesh Dhanaji Shinde v. State of Maharashtra - 2014 AIR SCW 1562

- Compoundability of offence to be decided as per law that hold field on date of offence - Bharti v. State of Haryana and another - 2014 AIR SCW 1561

- Right to die with dignity. Question referred to Constitution Bench - Common Cause (A Regd. Society) v. Union of India - 2014 AIR SCW 1556

- Interim orders passed by Supreme Court cannot be defeated by taking refuge under Statutory notification - State of M. P. & Anr. v. Suresh Narayan Vijayvargiya & Ors. - 2014 AIR SCW 1540

- For commutation of death sentence due to delayed execution, convict need not demonstrate sufferening occasioned by delay - V. Sriharan alias Murugan v. Union of India and others WITH T. Suthendraraja alias santhan v. Union of India and others WITH A. G. Perarivalan alias Arivu v. Union of India and others - 2014 AIR SCW 1350

- Penology - Accused whether can be reformed. Court can call for report from Govt. - Anil alias Anthony Arikswamy Joseph v. State of Maharashtra - 2014 AIR SCW 1334

- Option to adopt given by Juvenile Justice Act is step towards Common Civil Code - Shabnam Hashmi v. Union of India and others - 2014 AIR SCW 1329

- Fixed term R.I. with no remission is an alternative to death sentences in cases where convict is menace to society - Birju v. State of M.P. - 2014 AIR SCW 1210

- Nude picture with message to eradicate social evil is not obscene - Aveek Sarkar and another v. State of West Bengal and others - 2014 AIR SCW 1201

- Obligation to look after children of tender age can be a consideration for grant of bail - Lingaram Kodopi v. State of Chhattisgarh - 2014 AIR SCW 1166

- Special Judge under Prevention of Corruption Act. Jurisdiction to try offences under P.C. Act and Penal Code committed by non-public servant - State through CBI, New Delhi v. Jitender Kumar Singh - 2014 AIR SCW 1153

- Delinquent visited with multiple charge-sheets, suffering order of dismissal in one would not justify termination of inquiry in other charge-sheets - State of Maharashtra v. Vijay Kumar Aggarwal and Anr. - 2014 AIR SCW 1077

- Police officer filing FIR not statutorily bound to State truth. But being public servant has to act in good faith - Perumal v. Janaki - 2014 AIR SCW 993

- Satisfaction that accused might have or might have not committed offence sufficient to frame charge of discharge accused - State of Tamil Nadu by Ins. Of Police, Vigilance and Anti Corruption v. N. Suresh Rajan and others WITH State V. K. Ponumudi and others - 2014 AIR SCW 942

- Word forest cannot cover waste land or land on which buildings have come up - Godrej and Boyce Mfg. Co. Ltd.and another v. State of Maharashtra and others - 2014 AIR SCW 913

- Stay of disciplinary proceedings in cases of simultaneous initiation of criminal and disciplinary proceedings - erach Boman Khavar v. Tukaram Shridhar Bhat and another - 2014 AIR SCW 895

- Confiscation of illegally acquired property of detenu does not constitute double jeopardy - Biswanath Bhattacharya v. Union of india and others - 2014 AIR SCW 873

- Mercy petition -Order accepting or rejecting mercy petition open to limited judicial review - Shatrughan Chauhan and Anr. V. Union of India & Ors. - 2014 AIR SCW 793

- Mercy petition - Court in commuting death sentence due to delay in disposal of mercy petition does not interfere with Presidents power. Only protects fundamental rights of death convicts - Shatrughan Chauhan and Anr. V. Union of India & Ors. - 2014 AIR SCW 793

- Mercy petition - Procedure tobe followed by executive on receipt of mercy petition - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- Rights of death convict - Custodial segregation of death convict only after sentence becomes finally executable - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- Rights of death convict - Legal aid to death convict - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- Rights of death convict - Execution of death sentence only 14 days after communication of rejection of mercy petition - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- Rights of death convict - Final meeting with family and friends before execution - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- Rights of death convict - Execution to be stayed if convict found mentally or physically unfit - Shatrughan Chauhan and Anr. v. Union of India & Ors. - 2014 AIR SCW 793

- All independent witnesses turning hostile. A pointer to guilt of accused - Joshinder Yadav v. State of Bihar - 2014 AIR SCW 700

- Viscera report must in poisoning cases - Joshinder Yadav v. State of Bihar - 2014 AIR SCW 700

- Power to arraign new accused. When can be exercised. Person discharged if can be arraigned - - 2014 AIR SCW 667

- Absence of provision for anticipatory bail. Writ Court provide relief - Km. Hema Mishra v. State of U.P. and others - 2014 AIR SCW 624

- Revision Court can set aside acquittal - Ganesha v. Sharanappa and another - 2014 AIR SCW 615

- Proof of completed act of rape not necessary in gang rape case - State of Rajasthan v. Roshan Khan and others - 2014 AIR SCW 608

- Res judicata applies irrespective of correctness or otherwise of earlier decision - R. Unnikrishan and another v. V. K. Mahanudevan & ors. WITH State of Kerala v. V. K. Mahanudevan & ors. WITH State of Kerala v. V.K. Ananthan Unnikrishan & ors. AND State of Kerala & ors. v. Prem Kumar & ors. - 2014 AIR SCW 596

- Measures to prevent lapses in investigation/prosecution stipulated. Erring I.O./ prosecutors to face departmental action - State of Gujarat v. Kishanbhai - 2014 AIR SCW 557

- Unstained pubic hairs prima facie exculpates accused of rape charge - State of Gujarat v. Kishanbhai - 2014 AIR SCW 557

- Death must be result of injuries inflicted by accused for conviction to be recorded for murder - M.B. Suresh v. State of Karnataka WITH Bhadregowda v. State of Karnataka - 2014 AIR SCW 512

- DNA test prevails over presumption as to paternity - Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik and another - 2014 AIR SCW 506

- Validity of sanction to prosecute cannot not be challenged at pre-trial stage - C.B.I. v. Ashok Kumar Aggarwal - 2014 AIR SCW 472

- Leave encashment and overtime wages do not constitute basic wage - Kichha Sugar Company Limited Th. Gen Mang. v. Tarai Chini Mill Majdoor Union, Uttarkhand - 2014 AIR SCW 433

- Retrial not to be ordered in every case wherein lack in evidence has led to acquittal - Mary apappa Jebamani v. Ganesan and others - 2014 AIR SCW 417

- "Same offence" means acts and omissions which constitute offence are one and same - State of Rajasthan v.Bhagwan Das Agrawal and others. WITH Girdhar and ors. V. State of Rajasthan and another - 2014 AIR SCW 365

- Court denying anticipatory bail not to direct trial Court to release accused on his surrenders - Sudam Charan Dash v. State of Orissa and another - 2014 AIR SCW 359

- CBI investigation monitored by Court. Requirement of Govt. approval does not apply - Manohar Lal Sharma v. Principal Secretary and others - 2014 AIR SCW 329

- Sentences imposed for offences committed in single transaction to run concurrently - Manoj alias Panu v. State of Haryana - 2014 AIR SCW 312

- Spouse misled to marry person with existing wife has to be treated as legally wedded wife for purpose of maintenance - Badshah v. Sou. Urmila Badshah Godse and another - 2014 AIR SCW 256

- Victim of offence. Locus to seek cancellation of bail - Gulabrao Baburao Deokar v. State of Maharashtra and ors. - 2014 AIR SCW 193

- Section 377 of penal code defining unnatural does not criminalise particular people or identity or orientation. It is constitutional - Suresh kumar Koushal and another v. NAZ Foundation and others - 2014 AIR SCW 78

- Leave of company Court not condition precedent to proceed against company in liquidation - Erach Boman Khavar v. Tukaram Shridhar Bhat and another - 2014 AIR SCW 61

- Sanction of state to prosecute public servant when not necessary - Fakhruzamma v. State of Jharkhand and Another - 2014 AIR SCW 26

- Private person though cannot complain of any anomaly in recording of evidence, once brought to its notice Court duty bound to remove it - Sister Mina Lalita Baruwa v. State of Orissa and others - 2014 AIR SCW 14

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PROSECUTION REPLENISH

(An Endeavour for learning and excellence)

Be Kind *Work hard*
Stay humble *Smile often*
Stay loyal *Keep honest*
Never stop learning *Be thankful always*

Anonymous

Article: Is sec 354 IPC triable by Magistrate court or Sessions Court, in the states of Telangana and Andhra Pradesh?

The Criminal Law amendment act, 2013 amended the Sec 354 IPC by making it more stringent, but earlier to the said amendment by Central Government, the then state of A.P. had already made the offence more rigorous, by not in respect of punishment but also in respect of the forum of trial, vide A.P. act 3 of 1992 w.e.f. 15.02.1992.

Confusion prevailed as to which court was competent to try the cases. Even judiciary was in a fix as to what was the right forum of trial for offences U/Sec. 354 IPC.

Placing the issue to rest was a judgment dated 03/12/2013, delivered by the Hon'ble High court reported as 2015(1) ALD (Crl) 82 between Thameeru Yogeshwar Rao Vs State of A.P., wherein it was held

> *"As the offence under Section 354 of IPC is triable by a Court of Sessions, the learned VII Additional Chief Metropolitan Magistrate, Hyderabad is not supposed to grant bail to the petitioner/accused. As the offence under Section 354 of IPC is triable by a Court of Sessions, the learned VII Additional Chief Metropolitan Magistrate, Hyderabad is not supposed to grant bail to the petitioner/accused."*

Hence the offence U/Sec. 354 IPC was triable by Sessions court. That is to say that the A.P. amendment held good even after the amendment of the cemtral act.

But subsequently, the Hon'ble High Court delivered another judgment dated 09/10/2014 reported as 2014 Supreme (A.P) 40682 between Nallajerla Murali Krishna @ Murali and the State of Telangana, wherein it was held that

> *"From combined reading of clauses 1 and 2 along with the proviso of Article 254 together with Articles 246(2) and 251 of the Constitution of India, it is crystal clear that in the Concurrent list even the law made by the State Legislature which received the assent of the President as a subsequent Legislature to the Central Legislation should prevail as per the proviso of the Article 254; any subsequent legislation made by Parliament later again shall prevail even to the earlier State Legislation received the assent of the President. It is to say in case of any repugnancy with irreconcilable earlier State Legislation with the assent of the President and subsequent Central Legislation under the concurrent list as per the above Article for the Central Legislation shall prevail."*

Hence the offence U/Sec 354 IPC was triable by Magistrate court that is to say that Central amendment prevailed over the State Amendment.

So, in view of the divergent views expressed by the Hon'ble Court, we are back to square one as to what is the forum for trial of the offence U/Sec. 354 IPC.

A perusal of the above said two judgments reveal that the earlier judgment was dealing with the issue of cancellation of bail on modification(alteration) of offences made out subsequently in a particular case, whereas the later judgment went on to decide the very question of forum of Sec 354 IPC.

Hence, the offence u/Sec. 354 IPC is now triable by Courts of Magistrate. However, the said judgment held that the offence of Sec. 354 IPC is compoundable.

CITATIONS

SUPREME COURT

2015 STPL(Web) 14 SC Vinod Kumar Vs. State of Haryana

Held that minor discrepancies on trivial matters not touching the core of the case or not going to the root of the matter could not result in rejection of the evidence as a whole -No true witness can possibly escape from making some discrepant details, but the Court 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 it would be justified in jettisoning his evidence

Mere suggestions without any cross examination on vital aspects of the case, does not enure to the benefit of the defence.

2014(1) ALD (Crl) 75 (SC) Sri Chand and another vs State of Punjab

The missing of the accused immediately after the incident, non-intimation by the accused of the death of the deceased, non-leading evidence for their plea of Alibi and separate mess for other accused, absence during the inquest and post mortem examination, all drive to the guilt of the accused in 498-A and 304-B case.

2015 (1) ALD (Crl) 64 (SC) : Dilwar Singh Vs State of Haryana

Sec. 154 Cr.P.C. – Delay in lodging – not fatal – if satisfactorily explained by prosecution.

A.K. Devaiah V. State of Karnataka 2015 (1) ALT (Crl.) 15 (SC)

S.304B of IPC ingredients The demand of dowry directly or indirectly from the parents or other relatives or guardians of bride or bridegroom is punishable u/s. 4 of D.P.Act

2015 (1) ALT (Crl) 24 (SC) : Liyakath Vs State of Rajasthan

Defective examination under section 313 Cr.P.C. does not by itself vitiate the trial. The accused must establish prejudice thereby caused to him.

State of NCT of Delhi V. Sanjay 2015 (1) ALT (Crl.) 34 (SC).

Initiation of criminal proceedings at the behest of authorised officer for the offence under Mines And Minerals (Development and Regulation) Act is no bar for police for taking action against persons committing theft of minerals, including sand by exercising power under Cr.P.C.

No exclusion of provisions of Cr.P.C. or IPC by provisions of MAM Act, 1957, they co-exist.

The ingredients of dishonestly removing sand and gravel from the river beds without consent, which is the property of the State is a distinct offence under the IPC.

State of Rajasthan V. Chandgi Ram & ors. 2015 (1) ALT (Crl.) 64 (SC)

Testimony of child witness can form basis of conviction, if the same is credible, trustworthy, truthful and is corroborated by other evidence.

If version of witness is credible, reliable, trustworthy, admissible and veracity of statement does not give scope to any doubt, no reason to reject the testimony of the said witness simply because witness is related to deceased or any of the parties.

Union of India & anr v. Sanjeev v. Deshpande2015 (1) ALT (Crl.) 75 (SC)

S.37 of NDPS Act imposes limitation on granting of bail in addition to those provided under Cr.P.C. The two limitations are i) giving opportunity to public prosecutor to oppose grant of bail and ii) satisfaction of Court that there are reasonable grounds for believing accused not guilty and not likely to commit any offence while on bail.

S.37 of NDPS Act departs from long establishing principle of presumption of innocence in favour of accused person, unless proved otherwise.

HIGH COURT

2015 (1) ALD (Crl) 79 ; Poola Ramesh Babu Vs State of AP

The accused under intoxication lit fire to his wife, subsequently on seeing the flames realised and tried to douse the fire. Offence comes under sec. 304 part I and not under Sec 302 IPC.

2015 (1) ALD (Crl) 82 ; T.Yogeshwar Rao Vs State of AP

Sec.438 Cr.P.C. – Sec. 354-A, 506 IPC & Sec. 9 (f) of POCSO Act – Therefore petitioner in case of this nature (Sec. 354-A, 506 IPC & Sec. 9 (f) of POCSO Act) not entitle for Anticipatory bail.

The bail granted by the magistrate court is liable to be cancelled as the offence under sec 354 IPC is triable by Sessions court in the state of Andhra Pradesh.

2015 (1) ALD (Crl) 86 : Abdul Aziz and another Vs State of AP

U/s.37 (1)(b)(ii) of NDPS Act, the petitioners cannot be enlarged on bail unless a finding is issued that in all probability the accused are likely to be acquitted.

2015 (1) ALD (Crl) 100 : Goluguri Eswara Reddy Vs State of AP

Sec. 438 Cr.P.C. Anticipatory bail – not maintainable – in view of bar under Sec. 18 of SC & ST (POA) Act.

2015 (1) ALD (Crl) 104 : G.Audisheshaiah Vs State of AP

Prevention of Corruption Act – Sec. 19 – sanction for prosecution – withdrawal – not permissible.

there can be no two opinions that taking up departmental proceedings cannot be held as a ground for giving consent to prosecution to withdraw the case under Section 321 Cr.P.C

The role of public prosecutor in moving an application under Section 321 Cr.P.C. is independent and significant. His job is not that of a postman to just convey Governments intention to withdraw the case. On the other hand, on a careful appraisal of material before him, he should come to an independent conclusion that there exists a strong material to withdraw the case and in doing so his act should serve the public interest and advance the cause of administration of criminal justice. The Government or any other authority in this regard cannot command him but only commend and so also cannot demand him but can only denote the need for withdrawal. However, the decision must gush out from the fountain head of his independent thinking and backed by a valid and justifiable ground like the subsequent material which was unearthed showing the absolute innocence of the accused or the closure of prosecution will bring harmony and peace among the members of the society or the like.

2015 (1) ALD (Crl) 115 : Miryala Divya Vs State of AP

Sec. 494 and 498-A IPC – Locus Standi – 494 IPC being cognizable in the state of A.P. – cognizance can be accepted on police report,

2015 (1) ALD (Crl) 135 : Rajulapati Komala Devi Vs Kagitha Rambabu and another.

Sec. 325 IPC – Court cannot impose only fine – Should give imprisonment.

2015 (1) ALD (Crl) 137 : P.Venkat Rajam and others Vs State & another.

498-A IPC can be registered in India for the offence committed abroad.

The complainant wife violating the orders passed by foreign court regarding custody of the child, does not preclude her from initiating proceedings In India.

2015 (1) ALD (Crl) 143 : Parsa Somaiah and others Vs State of AP

To attract the offence punishable under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989, the Mens rea is the essential ingredient. The utterances made

in the name of caste should be with an intention to humiliate or intimidate the persons belonging to Schedule Caste or Schedule Tribe in a place within public view. **If in the course of a quarrel took place in the fields the petitioners abused the de facto complainant and his people by using the caste name,** the said act by itself in my view does not automatically attract the offence punishable under Section 3(1)(x) of the SC/ST (POA) Act, 1989. The manner in which the utterances were made must be with an intention to humiliate or intimidate the persons belonging to Schedule Caste or Schedule Tribe.

2015 (1) ALD (Crl) 168 : Escube Enterprises Vs State of Telangana

The court after exhausting the summons and warrant against the accused and the accused not turning up, can hear the appeal in his absence, by appointing a amicus curiae(Legal Aid Counsel).

2015 (1) ALD (Crl) 173 : A.Sathisha Vs State of AP

Magistrate has no power to decide interim custody of the vehicles involved in Forest act cases. DFO is competent person.

2015 (1) ALT (Crl) 4 (AP) : Setti China Venkata Rao Vs State of AP

There is no complaint from Presiding Officer of Court as required under Sec. 195 Cr.P.C. – therefore entire trial vitiated.

2015 (1) ALT (Crl) 43 (AP) : K.Venkata Rama Rao Vs A.Srinivasa Rao & another

Offence is Non-compoundable – but there is no bar U/Sec. 320 Cr.P.C. for High court to record compromise in view of circumstances prevail.

2015 (1) ALT (Crl) 49 (AP) : S.Purna Chandra Rao & another Vs State of AP

Sec. 156 (3) Cr.P.C. - Magistrate shall give reasons while empowering the police officer to investigate into Non-cognizable offence or referring the case to police for investigation.

2015 STPL(Web) 1599 AP [2014 (4) Crimes 34 (A.P.)] William Scott Pinckney Vs. State of A.P.

No doubt, thereby the impugned order of the learned Sessions Judge in directing to surrender the passport is no way statutorily illegal much less as per the settled propositions of the Apex Court

ON A LIGHTER VEIN

An American farmer was on holiday in Wales. He could not resist exploring the hill farms north of Aberystwyth. At lunch time he dropped into a pub and fell into easy conversation with a Welsh farmer.

'How big is your spread?' , asked the American. 'Well look you, it's about 20 acres he said' . Only 20 acres the American responded, back in Texas I can get up at sunrise, saddle my horse and ride all day, when I return at supper time, I'll be lucky to cover half my farm'. 'Dew dew', said the Welshman, 'I once had horse like that, but sent him to the knackers yard.'

Experts Speak

Q: Are Chit funds covered under the provisions of A.P. protection of depositors of Financial Establishments Act?

Ans: Yes, as per the judgment between Revathi vs State of A.P. reported as 2012 (2) ALD (Crl) 238/ 2013 (3) ALT (Crl) 116, wherein it was held that

"Organizer of the chit becomes 'financial establishment' as defined in Section 2 (c) of the 1999 Act since the organizer/foreman accepts the deposit by way of periodical subscriptions from the members under a scheme or arrangement specifically called as chit-fund transaction. Therefore, the definitions of 'deposit' under Section 2 (b) and 'financial establishment' under Section 2 (c) of the 1999 Act are satisfied in case of organizer of a chit fund transaction receiving subscriptions from members of the chit."

NEWS

- Congrats to all our colleagues in both the states of Telangana and Andhra Pradesh for the new PRC with record 43 % fitment.

- 2014 Supreme (A.P) 40682 between Nallajerla Murali Krishna @ Murali and the State of Telangana, available under latest judgment section.

- The Law Commission of India, headed by Justice AP Shah has reportedly submitted its 253rd report to the Union Law Minister Sadananda Gowda. In its report, the Commission has suggested setting up of Courts to deal exclusively with commercial disputes. It has also suggested changes in the procedural law, i.e. the Civil Procedure Code.

- Focusing on rising number of pending cases before the Courts in India, the Union Law Ministry has prepared a list of good practices that are being followed by various High Courts to reduce pendency. The list has been sent to Chief Justices of all the High Courts and it has special emphasis on cases that are more than 5 years old.

    - The list reportedly also includes measures that have been taken in other countries. The letter by the Union Law Ministry talks about setting up of fast tracks courts and also designating a special day in a week, meant to deal exclusively with disposal of older cases. Introduction of a case flow management system is also one of the points that have been suggested to the Chief Justices to reduce pendency.

- Adopting from other jurisdictions, pre-trial proceedings have also been mentioned in the letter. In a pre-trial proceeding, there is a meeting between the prosecution, counsel of the accused and the judge and the whole trial is narrowed down to specific issues, thereby saving time of the Court.

- The Law Ministry has also suggested regular assessment and monitoring of cases and judges. Reportedly, the Ministry has suggested adoption of worldwide standards like public trust and confidence, court planning and policies etc. for the same. Section 80 of the Civil Procedure Code also finds a mention in the letter. The Ministry has reportedly suggested that appropriate guideline regarding the same may help in reducing unnecessary litigation.

- The letter also praised Allahabad High Court that has been regularly holding LokAdalats on weekends. In the 706 LokAdalats that have been organized across the state, more than 3.22 lakh have been settled. Allahabad High Court, with the help of state government has also set up 171 mediation and conciliation centres across the state thereby promoting alternate dispute resolution. The mediation centres have been able to get to a settlement in 26 per cent of the cases. Reportedly, the High Court has also proposed to set up 81 fast track courts to deal with trial of rape cases.

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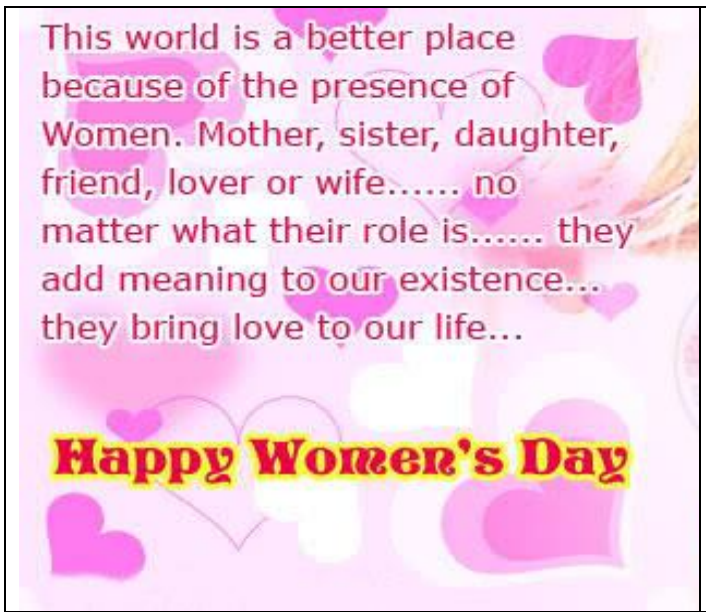

COGNIZANCE

By Rita Lalchand
APP

COGNIZANCE, in plain and dictionary means ***FORMAL KNOWLEDGE OR AWARENESS***. It is rooted from the french word ñ***CONOISANCE".*** The criminal procedure code 1973 and criminal procedure code 1898 is silent on the definition or explanation of term Cognizance. In the absence of the exact definition one can find the refernce in the other provisions of the Code as well in judicial precedents.

In the legal field the term cognizance may be referred to mean ***THE ACTION OF TAKING JUDICIAL NOTICE, THE ACCEPTANCE OF A CAUSE FOR HEARING AND DECISION***. Taking cognizance is a judicial act. The action of taking judicial notice indicates the act by which a court in conducting a trial or framing its decision, recognises the existence and truth of certain facts of its own motion, without the production of the evidence.

Taking above into consideration, it can be stated that cognizance to mean a judicial notice by the magistrate on the crime committed on the complainant to take further action. Taking cognizance of an

offence on the basis of allegation which do not consitute an offence would be illegal, abuse of the process of court and would be liable to be quashed under section 482 of code of Criminal Procedure.

In R.R. Chari Vs. The State of UP AIR 1951 SC 207 *Hon'ble Supreme court observed that the term taking Cognizance meant to be a situation wherein the Magistrate applies his mind on the contents of the petition and agrees to proceed as per the provisions of Chapter XV of the Code, then the magistrate is said to take cognizance.*

Taking cognizance means taking cognizance of an offence and not of the offender. Taking cognizance does not involve any formal action or indeed action of any kind but occurs as soon as magistrate applies his mind to the suspected commision of an offence. Cognizance therefore takes place at a point when a Magistrate first takes judicial notice of an offence. At the time of taking cognizance the Court is required to consider the material adduced on behalf of the complainant that whetehr the same is sufficient to take cognizance or not, the court is not required to consider the case of defence. (Basant Bagade vs surender arora 2010 (4) Crimes 460)

The unfettered power of the magistrate to take Cognizance of offence is enshrined in Section 190 of the Code which states that any magistrate of First class and any magistrate of second class specially empowered in this behalf may take cognizance of any offence:

a) Upon receiving a complaint of facts which constitute an offence
b) Upon a police report of such facts
c) Upon information received from any person other than a police report or upon his own knowledge that such offence has been committed.

Cognizance of offence by Court of Sessions has been barred by Section 193 of the Code which states as under:

Except as otherwise expressly provided by this code or by any other law for the time being in force, no court of sessions shall take cognizance of any offence as a court of original jurisdiction unless the case has been committed to it by a Magistrate under this code.

On a reference to the provisions of the code the following question can be put by one person to himself:-

1. Who has a right to take cognizance of offence and when it is said to be taken?
2. Whether it is Metroploitan Magistrate/Judicial magistrate or Court of Sessions who has a right to take cognizance in cases triable exclusively by the Court of Session?

   After satisfying the above query, the following query is raised as to:-

3. Whether the magistrate has a right to take cognizance only agianst the accused or any other person, if so when can this action be initiated and by whom?

   Referring to as to who has a right to take cognizance Reference to Section 190 and 193 of Code reveals that only Magistrate of First Class and second Class specially empowered by Chief Judicial Magistrate under Sec 190(2) are authorised to take cognizance of an offence. Section 193 specifically bars taking of direct cognizance by the court of sessions. The provisions of the original Jurisdiction High Court has also been dispensed with. Further even Executive magistrate are not authorised to take cognizance of an offence.

   On commision of a cognizable offence, any person can approach Police officials and register FIR against which investigation shall be commenced. On commission of non-cognizable offence a person shall approach court and lodge a complaint agianst which the court shall either commence the proceedings under chapter XV or order investigation to police under Section 156(3). On receipt of the complaint the court shall examine the complainant and witnesses and record the statements under section 200 or order inquiry or investigation under section 202 of code. On basis of the statement or inquiry or investigation the magistrate comes to the conclusion there are no grounds to proceed with the case he shall dismiss the complaint under section 203 of the code.

   Taking cognizance means judicial action taken with a view eventually to prosecution and preliminary to commencement of inquire or trial.

If case is under 190(1)(a) in a case instituted on a complaint magistrate is deemed to take cognizance once the court decides to proceed as per section 200 of code. In most of the cases when a complaint is received by the Magistrate, the court refrs the same for investigation under section 156(3) and same cannot be treated as cognizance. The word MAY as used in section 190 states that the court is not bound to take cognizance but on inference drawn from the compliant the court may take cognizance and proceed as per provisions of Chapter XIV or XV or by not taking cognizance refer the matter for investigation under section 156(3)

190(1)(b) in a case instituted on a police report a magistrate can be deemed to take cognizance of crime after he accepts the police report and proceed to act under section 238 to 243, 244 to 248 of code.

Upon the said complaint or police report cognizance is takenon all offences and not only few of such offences. At the stage of taking cognizance of offence, court has only to see whether a primafacie there are reasons for issuing the process and whether the ingredients of the offence are there on record. (Dr. Mrs Nupur Talwar Vs CBI Delhi and Anr 2012(1) Crimes 101 (SC)

Cognizance of offence can be taken only once (Dharam Pal and others vs Stae of haryana and Another 2013 (3) Crimes 356 (SC)). The Court of Sessions can proceed with trail only after being committed by the Magistrate (except in exceptional case) and if the court of Sessions takes cognizance of any case without committed by the Magistrate the trail is said to be void.

When a magistrate takes cognizance of an offence traible by him, he takes cognizance of case as a whole and is empowered to summon all persons against whom there appears to be any reason for their prosecution even though their names are not mentioned for this purpose in complaint of police report. Fatta vs State AIR 1964 Punjab 351.

The Court of Sessions can summon a person not mentioned as accused after an evidence is recorded by the court as per section 319 of Code. Once the case has been committed to court of Sessions, the Court has absolute right to summon any person primafacie involved in the case as Section 193 of Code speaks committing of CASE and not committing of an ACCUSED. (Code of 1898 referred only committing of accused) (Dharam Pal and others vs Stae of haryana and Another 2013 (3) Crimes 356 (SC)).

What does not amount to taking cognizance:

1. Ordering investigation under section 156(3) of the criminal procedure code
2. Issuing a search warrant for purpose of investigation (gopal Das Sindhi Vs State of Assam AIR 1961 SC 986
3. Order of summoning the accused not bearing the signature of the Magistrate is clear example of non application of judicial mind (santosh Kumar vs state of Bihar 1979 Cr.LJ 384 Patna)
4. Granting remand order under section 167(2) of Code

Further there are many Bars for taking up cognizance. Bar as to limitation of time, bar of Jurisdiction, Bar of Sanction under Code and special laws etc.

From the above it can be inferred that taking Cognizance indicates a point when the magistrate takes judicial notice of an offence either on a complaint or on police report or upon information received from a person other than police report.

CITATIONS

SUPREME COURT

Nar Singh Vs State of Haryana; 2015 (1) ALT (Crl) 150 (SC)
Cr.P.C. Sec. 313 – Accused is not entitled for acquittal on the ground of non-compliance of mandatory provisions of Sec. 313 Cr.P.C.

Hari Om Vs State of Haryana ; 2015 (1) ALT (Crl) 171 (SC)
Cr.P.C. – Sec. 167 & 173 (2) – Statutory Bail – Charge Sheet filed before learned special court – merely because of certain facts on the matter for further investigation it does not deem such report anything other than final report – petitioners are not entitled to statutory bail.

Prem Kumar Gulati Vs State of Maharashtra; 2015 (1) ALT (Crl) 200 SC
It being a statement not on oath, truth & reliability be tested – merely because of DD is not in question & answer form – Sanctity attached to it can't be brushed.

Dilwar Singh Vs State of Haryana; 2015 (1) ALT (Crl) 218 (SC)
Behaviour of witness to a crime – defer from individual to individual – expectation of uniformity in reaction would be unrealistic.

2015 STPL(Web) 114 (SC) STATE OF M.P. Vs. MEHTAAB legalcrystal.com/40288
Penal Code, 1860, Sections 304A and 337 ï Criminal Procedure Code, 1973, Section 357 and 357A ï Conviction ï Sentence ï Reduction in sentence ï Compensation ï In criminal revision High Court reducing the sentence awarded to the respondent under Section 304A IPC from RI for one year and under Section 337 IPC from RI for three months to RI for 10 days which was the period already undergone by him without assigning any reason ï No compensation awarded ï Held that the respondent having been found guilty of causing death by his negligence the High Court was not justified in reducing the sentence of imprisonment to 10 days without awarding any compensation to the heirs of the deceased ï In the facts and circumstances of the case, the order of the High Court can be upheld only with the modification that the accused will pay compensation of Rs.2 lakhs to the heirs of the deceased within six months ï In default, he will undergo RI for six months ï **The compensation of Rs.2 lakhs fixed having regard to the limited financial resources of the accused but the said compensation may not be adequate for the heirs of the deceased -In addition to the compensation to be paid by the accused, the State can be required to pay compensation of Rs. 3 lakhs under Section 357-A payable out of the funds available/to be made available by the State of Madhya Pradesh with the District Legal Services, Authority – In case, the accused does not pay the compensation awarded as above, the State of Madhya Pradesh will pay the entire amount of compensation of Rs.5 lakhs within three months after expiry of the time granted to the accused.**

2015 STPL(Web) 107(SC) BINOY & ANR. Vs. STATE OF KERALA
Probation of Offenders Act, 1958, Section 4 ï Penal Code, 1860, Section 323, 324 and 452 ï Conviction ï Sentence ï Probation ï Serious allegation of use of sharp weapon such as sword by the accused persons who chased the injured and then caused incised injuries on their persons ï Even then the High Court showed leniency by altering conviction under Section 308 IPC to one under Section 324 IPC and reduced sentence of three years to six months for Section 324 IPC and further reduced sentence of six months each under Section 323 IPC and three years each under Section 452 IPC to R.I. for a period of three months each under Sections 452 and 323 IPC -**Only plea for**

showing leniency was a claim that the appellants have got aged mother – Held that in the facts and circumstances, the view taken by the trial court for not extending the Probation of Offenders Act cannot be faulted.

2015 STPL(Web) 103 (SC)(FB) SONU GUPTA Vs. DEEPAK GUPTA & ORS.= (2015) 42 SCD 371.

Criminal Procedure Code, 1973, Section 190 and 204 ï Penal Code, 1860, Sections 464, 468 and 471 ï Cognizance of offence ï Summoning order ï The specific case of the appellant that FIR was registered on an undated photocopy of a petition attributed to the appellant but not bearing her original signature ï It could not have been rejected by the learned Magistrate at the present stage especially in view of the report of investigation by the CID which was also called for and there being no dispute that the FIR No.73/2002 was registered only on the basis of a photocopy on which the signature is not in original ï High Court grossly erred in exercise of its jurisdiction by directing the appellant/complainant to lead further evidence and produce the original documents to show forgery ï If the FIR is admittedly on the basis of only a photocopy of a document allegedly brought into existence by the accused persons, the High Court erred in directing the appellant to produce the original and get the signatures compared ï **High Court fell into error of evaluating the merits of the defence case and other submissions advanced on behalf of the accused which were not appropriate for consideration at the stage of taking cognizance and issuing summons.**

2015 STPL(Web) 102 (SC) DASIN BAI@ SHANTI BAI Vs. STATE OF CHHATTISGARH

Penal Code, 1860, Section 302 ï Evidence Act, 1872, Section 106 ï Murder ï Dying declaration - Circumstantial evidence ï Dead body of deceased found in the premises of the appellant -The appellant/accused in her statement, recorded under Section 313 of Criminal Procedure Code, has not given any explanation as to how the deceased was burnt and she even admits to be unaware of the name of the deceased ï This is highly improbable and cast doubt on the innocence of the accused ï **She is unable to discharge the burden cast upon her by Section 106 of the Evidence Act, as it was within her special knowledge as to how the deceased came into the premises of her house** ï The ground of defense taken by the appellant, that she did not have any motive to kill the deceased, held to be ill-founded and does not break the chain of circumstances ï PW-1 and PW-3, who recorded the dying declaration, were neighbours of the accused and hence the Trial Court correctly held that they are not interested witnesses ï The findings of the Trial Court also bring to light the fact that they had no animosity with the appellant, and were visiting her house only on the fateful night ï The Trial Court and the High Court have rightly analysed the evidence of these witnesses and the statements made in the dying declaration and held the accused guilty.

2015 STPL(Web) 101 (SC) BHIM SINGH & ANR. Vs. STATE OF UTTARAKHAND

Penal Code, 1860, Section 304B ï Dowry Prohibition Act, 1961, Sections 3 and 4 ï Evidence Act, 1872, Sections 113A, 113B ï Dowry death ï Dowry demand ï It is the case of the defense that the deceased would have tried to commit suicide by consuming poison and when she was apprehensive whether she would die or not, she set fire to herself ï **Assuming, without conceding, that bride had committed suicide, then under Section 113A of the Indian evidence Act, onus is shifted on the accused to dislodge the presumption of having committed abetment of suicide by a married woman** ï Even then the presumption against the accused persons as in Section 113A of the Evidence Act is rightly presumed as if that she committed suicide, as the circumstantial evidence shows that she might be compelled to take the extreme steps as the alleged suicide was committed within 7 years of marriage ï **The fact that the death occurred in the house of the accused persons, leads to their guilt – They have not discharged the onus of disproving the presumptions under Sections 113A and 113B** ï Thus, the question of suicide is ruled out. The Court in this case is obliged to take the presumption raised under Section 113B of the Evidence Act.

2015 STPL(Web) 98 (SC) RAJINDER KUMAR Vs. STATE OF HARYANA

Penal Code, 1860, Section 304B ï Dowry death ï Relation witness ï Testimony of ï Appreciation of evidence ï In normal circumstances, in the Indian Society demand for dowry or harassment for the same takes place within four corners of the house ï Even the parents or relatives of the girl will not be aware of these, unless they are informed either by the girl herself or demand is made directly to

them ï The Police Officials or others cannot depose anything about the harassment in connection with demand of dowry in the absence of any complaint or statement made by witness u/s 161 Cr.P.C. ï Seldom, the villagers-neighbours may come to know of the same ï In this background, statement of family members of the deceased-lady **cannot be discarded on the ground that they are relatives and are interested witnesses**, till a contradiction is shown in their deposition or cross-examination.

2015 STPL(Web) 89 (SC)(FB) - KANAKLATA Vs. STATE OF (NCT) OF DELHI & ORS.
Criminal Procedure Code, 1973, Sections 407, 408 ï Penal Code, 1860, Sections 323/354 ï Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989, Sections 3(i) (X) (XI) (XV) ï Transfer of Case ï Discharge by Special Court of the accused for offences under Act, 1989 ï In revision order set aside by the High Court and matter remitted to the Trial Court ï Despite the safeguards provided by the High Courtôs observations that the trial Court shall not be influenced by earlier findings, the apprehension of the complainant continues to subsist -Such apprehension is neither wholly misconceived nor can it be dubbed as forum shopping in disguise ï The earlier order passed by the trial Court is so strongly worded that it could in all likelihood give rise to a reasonable apprehension in the mind of the complainant which cannot be lightly brushed aside ï **Justice must not only be done but must seem to have been done – A lurking suspicion in the mind of the complainant will leave him with a brooding sense of having suffered injustice not because he had no case, but because the Presiding Officer had a preconceived notion about it** ï On that test the present to be a case where the High Court ought to have directed a transfer ï The case directed to be transferred to another Court.

Akbar Vs State of Telangana indiankanoon.org/doc/86643783 Magistrate cannot order interim custody of the vehicles involved in Excise cases- DC has to be approached and relief exhausted- then approach the Court- even if it is found that vehicles were not carrying
RAMESH Vs. STATE 2015(1) ALD (Crl) 220 (SC) non mentioning of the name in the initial FIR is not fatal to the case of the prosecution. It has been held by this Court in the case of Jitender Kumar v. State of Haryana[(2012) 6 SCC 204]

Bairam Muralidhar Vs State of A.P. 2015 (2) ALD (Crl) 229 (SC)
it is the obligation of the public prosecutor to state what material he has considered. It has to beset out in brief. The Court as has been held in Abdul Karimôs case, is required to give an informed consent. It is obligatory on the part of the Court to satisfy itself that from the material it can reasonably be held that the withdrawal of the prosecution would serve the public interest. It is not within the domain of the Court to weigh the material. However, it is necessary on the part of the Court to see whether the grant of consent would thwart or stifle the course of law or cause manifest injustice. **A Court while giving consent under Section 321 of the Code is required to exercise its judicial discretion, and judicial discretion, as settled in law, is not to be exercised in a mechanical manner.** The Court cannot give such consent on a mere asking. It is expected of the Court to consider the material on record to see that the application had been filed in good faith and it is in the interest of public interest and justice. Another aspect the Court is obliged to see whether such withdrawal would advance the cause of justice. It requires exercise of careful and concerned discretion because certain crimes are against the State and the society as a collective demands justice to be done. That maintains the law and order situation in the society. **The public prosecutor cannot act like the post office on behalf of the State Government. He is required to act in good faith, peruse the materials on record and form an independent opinion that the withdrawal of the case would really subserve the public interest at large. An order of the Government on the public prosecutor in this regard is not binding. He cannot remain oblivious to his lawful obligations under the Code. He is required to constantly remember his duty to the Court as well as his duty to the collective.**

Atul Tripathi vs State of U.P. & anr 2015(1) ALD (Crl) 243 (SC)
It may be seen that there is a marked difference between the procedure for consideration of bail under Section 439, which is pre conviction stage and Section 389 Cr.PC, which is post conviction

stage. In case of Section 439, the Code provides that only notice to the public prosecutor unless impractical be given before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Sessions or where the punishment for the offence is imprisonment for life; whereas in the case of post conviction bail under Section 389 Cr.PC, where the conviction in respect of a serious offence having punishment with death or life imprisonment or imprisonment for a term not less than ten years, it is mandatory that the appellate court gives an opportunity to the public prosecutor for showing cause in writing against such release.

Service of a copy of the appeal and application for bail on the public prosecutor by the appellant will not satisfy the requirement of first proviso to Section 389 Cr.PC. The appellate court may even without hearing the public prosecutor, decline to grant bail. However, in case the appellate court is inclined to consider the release of the convict on bail, the public prosecutor shall be granted an opportunity to show cause in writing as to why the appellant be not released on bail. Such a stringent provision is introduced only to ensure that the court is apprised of all the relevant factors so that the court may consider whether it is an appropriate case for release having regard to the manner in which the crime is committed, gravity of the offence, age, criminal antecedents of the convict, impact on public confidence in the justice delivery system, etc.

Despite such an opportunity being granted to the public prosecutor, in case no cause is shown in writing, the appellate court shall record that the State has not filed any objection in writing. This procedure is intended to ensure transparency, to ensure that there is no allegation of collusion and to ensure that the court is properly assisted by the State with true and correct facts with regard to the relevant considerations for grant of bail in respect of serious offences, at the post conviction stage.

To sum up the legal position,

a. The appellate court, if inclined to consider the release of a convict sentenced to punishment for death or imprisonment for life or for a period of ten years or more, shall first give an opportunity to the public prosecutor to show cause in writing against such release.

b. On such opportunity being given, the State is required to file its objections, if any, in writing.

c. In case the public prosecutor does not file the objections in writing, the appellate court shall, in its order, specify that no objection had been filed despite the opportunity granted by the court.

d. The court shall judiciously consider all the relevant factors whether specified in the objections or not, like gravity of offence, nature of the crime, age, criminal antecedents of the convict, impact on public confidence in court, etc. before passing an order for release.

Md. Jahangir Vs State. 2015 (1) ALD (Crl) 249. the relevant date for taking cognizance of offence, for the purpose of computing the period of limitation under Section 468 Cr.P.C, means the date of filing of complaint or the date of institution of the prosecution, but not the date on which the Court takes cognizance of offence. The judgment reported as 2007(1) ALD (Crl) 903(A.P.) is bad in law.

K.Sasi Kumar Vs State 2015 (1) ALD (Crl) 272. Interim custody of the vehicles in offence U/Sec. 7A R/w 8e of A.P.Prohibition act- petition cannot be filed before Magistrate and the same has to be filed before the Dy. Commissioner Excise,

Sharwari Alagharu Vs State 2015 (1) ALD (Crl) 285. Complaint allegations cannot be lightly swept off with a broom of ôbaselessô brand.

P.Trivikrama Prasad Vs. Enforcement Directorate, Hyd. 2015(1) ALD (Crl) 287. Prevention of Money Laundering Act- Violation of principles of natural justice at the provisional attachment stage does not arise as statute has not made provision of opportunity of hearing prior to provisional attachment. Decision to attach is based on the assessment by Enforcement Directorate as per material in its possession. It is a tentative decision. Such decision is to be placed before the Adjudicating Authority.

Nalla Thirupathi Reddy & others Vs State of Telangana. 2015(1) ALD (Crl) 316. Complaint U/Sec. 498-A IPC by Second wife maintainable.

Gullampudi Veera Nagamani Vs State 2015(1) ALD (Crl) 320. Sec 203 Cr.P.C.- Second complaint not maintainable which is filed without challenging the order dismissing the previous complaint before appropriate forum.

2015 STPL(Web) 1599 (AP) WILLIAM SCOTT PINCKNEY Vs. STATE OF A.P.
Indian Penal Code, 1860 ï Sections 420, 385 read with 120-B ï Prize Chits and Money Circulation Schemes (Banning) Act, 1978 ï Sections 3 to 6 read with Section 2(c) ï Criminal Procedure Code, 1973 ï Section 439 ï Bail ï Surrender of Passport ï Keeping the passport with investigation officer ï Held: Where person is accused of crime in India passport can be refused or a travel permit even can be refused. Better to direct to deposit passport with concerned Court or CID superior official so that whenever any permission to leave country applied in that court and can ask for permission to take passport and surrender back ï Application partly allowed ï Direction to deposit passport with senior officer. Condition of appearing before investigation also relaxed.

2015 STPL(Web) 168 (SC) BADRU RAM & ORS. Vs. STATE OF RAJASTHAN
Plea on behalf of the appellants that since the High Court has acquitted six persons, on the Doctrine of parity the appellants should also be acquitted repelled -The reasons for acquittal of the six other accused is only because they were not named by PW6 in the Parcha Bayan ï The State is not in appeal on this finding of the High Court ï The Doctrine of parity cannot replace the substantive evidence of the two injured eye-witnesses who have been believed concurrently by the courts below.

Ravi Prakash Singh @ Arvind Singh Vs. State of Bihar legalcrystal.com/40898 while computing period of ninety days, the day on which the accused was remanded to the judicial custody should be excluded, and the day on which challan is filed in the court, should be included. That being so, in our opinion, in the present case, date 5.7.2013 is to be excluded and, as such, the charge sheet was filed on ninetieth day, i.e., 3.10.2013. Therefore, there is no infringement of Section 167(2) of the Code.

Sanjeev Vs. State of Haryana legalcrystal.com/40938 It is settled principle of law that, to establish commission of murder by an accused, motive is not required to be proved. Motive is something which prompts a man to form an intention. The intention can be formed even at the place of incident at the time of commission of crime. It is only either intention or knowledge on the part of the accused which is required to be seen in respect of the offence of culpable homicide. In order to read either intention or knowledge, the courts have to examine the circumstances, as there cannot be any direct evidence as to the state of mind of the accused.

Ghusabhai Raisangbhai Chorasiya and Ors. Vs. State of Gujarat legalcrystal.com/40551
True it is, there is some evidence about the illicit relationship and even if the same is proven, we are of the considered opinion that cruelty, as envisaged under the first limb of Section 498A IPC would not get attracted. It would be difficult to hold that the mental cruelty was of such a degree that it would drive the wife to commit suicide. Mere extra-marital relationship, even if proved, would be illegal and immoral, as has been said in Pinakin Mahipatray Rawal (supra), but it would take a different character if the prosecution brings some evidence on record to show that the accused had conducted in such a manner to drive the wife to commit suicide.

Rashmi Behl Vs. State of U.P and Ors legalcrystal.com/40469
One cannot ignore the fact that still, a class of women is trapped as victims of circumstances, unfounded social sanctions, handicaps and coercive forms in the flesh trade, optimised as `prostitutes'. The victims of the trap are the poor, illiterate and ignorant sections of the society and are the target group in the flesh trade; rich communities exploit them and harvest at their misery and ignominy in an organised gangsterism, in particular, with police nexus. It is of grave social concern,

increasingly realised by enlightened public spirited sections of the society to prevent gender exploitation of girl children.
Having regard to the facts, sequence of events and inordinate delay in the investigation of the case, it would show that the investigation by the State police authorities is not being conducted in a proper direction. **More than two years have passed but the police failed to conclude the investigation, which itself goes to show that police have not acted in a forthright manner in investigating the case. Prima facie the police has acted in a partisan manner to shield the real culprits and the investigation of the case is not being conducted in a proper and objective manner. Since local police is allegedly involved as per the statement of the petitioner recorded under Section 164, there may not be fair investigation.** In R.S. Sodhi vs. State of U.P., 1994 Supp (1) SCC143 this Court in such a case observed that however faithfully the local police may carry out the investigation, the same may lack credibility since the allegations are against them.

Ramakant Mishra @ Lalu Etc vs State Of U.P (2015) 42 SCD 443
The defence has failed to comply with Section 113B of the Evidence Act. The Accused being charged of the commission of a dowry death ought to have entered the witness box themselves. The Accused were present on the scene at the time of the occurrence, which turned out to be fatal, and that added to their responsibility to give a credible version of their innocence in the dowry death.

State of Punjab Vs Bawa Singh, (2015) 42 SCD 301 = indiankanoon.org/doc/188179650/
one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which commensurate with gravity, nature of crime and the manner in which the offence is committed. One should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, solemn duty of the court to strike a proper balance while awarding the sentence as awarding lesser sentence encourages any criminal and, as a result of the same, the society suffers.

Khursheed Ahmad Khan v. State of U.P., 2015 SCC OnLine SC 105, decided on 09-02-2015 The Court stated that ñthough the personal laws of the Muslims permits having as many as four wives but it could not be said that having more than one wife is a part of religion. Any law in favour of monogamy does not interfere with the right to profess, practice and propagate religionò The Court relied on *Javed v. State of Haryana (2003)8 SCC 369,* and stated that ñwhat is protected under Article 25 is the religious faith and not a practice which may run counter to public order health and moralityò The Court further stated that ñ**polygamy is not an integral part of religion, and monogamy is a social reform** and the State is empowered to legislate with regard to social reform under Article 25(2)(b) of the Constitution notwithstanding the fact that it may interfere with the right of a citizen freely to profess, practice and propagate the religionò, and accordingly held that the Conduct Rules does not violate Article 25 of the Constitution.

Jivendra Kumar vs Jaidrath Singh & Ors . indiankanoon.org/doc/37697277/
Sec 304 B IPC- "Soon before" is not synonymous with "immediately before".

ON A LIGHTER VEIN

Mike and Pauline were relating their holiday experiences to a friend.
'It sounds as if you had a great time in Nevada,' the friend observed. 'But didn't you tell me you were planning to visit Philadelphia?
'Well,' Mike interrupted, 'we changed our plans because, uh.....oh.....umm.'
Pauline spoke up, 'Come on, Mike, tell him the truth.'
Mike fell silent and Pauline continued, 'You know, it's just stupid. Mike simply won't ever ask for directions.

NEWS

- REPLENISH CONGRATULATES ALL THE APP'S AND ADDL PP GR-II'S SELECTED IN BOTH THE STATES OF TELANGANA AND ANDHRA PRADESH AND EXTENDS A WARM WELCOME FROM THE DEPTHS OF THE HEART TO OUR FAMILY OF PROSECUTORS.

- Public Services – Prosecuting officers - Assistant Public Prosecutors in Zones V and VI in the State - Appointments – Notified – Orders – Issued. As per GOMs No. 10 LAW (LA &J-HOME (COURTS-A) DEPARTMENT dated 07/03/2015. **GO available in Gazette Section**

- Public Services – Andhra Pradesh State Prosecution Service – Prosecuting Officers – Additional Public Prosecutors Grade-II in the State – Appointments – Notified - Orders - Issued. As per GOMs No. 12 LAW (LA &J-HOME (COURTS-A) DEPARTMENT dated 07/03/2015. **GO available in Gazette Section**

- As per the new act passed by Government of Telangana under 357A Cr.P.C., the victim compensation schedule is as under

SCHEDULE
[Para 7 (8)]
COMPENSATION TO VICTIMS FOR LOSS OR INJURY

S.No.	Description of Loss or Injury	Maximum limit of compensation		
1	Loss of life (including Dowry death)	a.	Age 40 years or below 40 years	Rs. 3 Lakhs
		b.	Age above 40 years and up to 60 years	Rs. 2 Lakhs
		c.	Age above 60 years	Rs. 1 lakh
2	Permanent disability (80% or more)	a.	Age 40 years or below 40 Years	Rs. 2 Lakhs
		b.	Age above 40 years and up to 60 years	Rs. 1 lakh
		c.	Age above 60 years	Rs. 50,000/-
3	Partial disability (upto 80 %)	a.	Age 40 years or below 40 Years	Rs. 1 Lakhs

		b.	Age above 40 years and up to 60 years	Rs. 50,000/-
		c.	Age above 60 years	Rs. 25,000/-
4	Loss of any limb or part of the body due to acid attacks irrespective of age. Out of Rs.3 lakhs, a sum of Rs.1 lakh shall be paid within 15 days of registration of crime and balance amount shall be paid within two months thereafter, as per the directions of the Hon'ble Apex Court in Laxmi (Minor) Vs. Union of India, dated: July 18, 2013 (W.P.(Crl.) No.129 of 2006)			Rs. 3 Lakhs
5	Rape			Rs. 2 Lakhs
6	Loss or injury causing severe mental agony to women and child victims in cases like Human Trafficking, Kidnapping and Molestation etc.			Rs. 50,000/-

- The Telangana Victim Compensation Scheme, 2015, **is available under gazette Section.**

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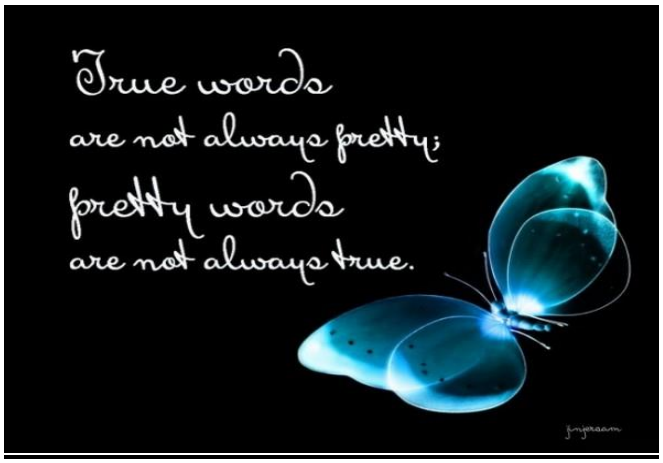

EFFECT OF ARBITRATION CLAUSE - TO INITIATE CRIMINAL PROCEEDINGS

By
Raghavender.G
Asst. Public Prosecutor

Arbitration is one of the method of alternative disputes resolution. The Arbitration act of 1940 could not succeed to go into the society till 1996 when the amended new act was enacted viz. The Arbitration and Conciliation Act 1996 and came into force.

The literal meaning of Arbitration is a way to resolve disputes without going to court.

In recent decade the application and enforcement of the Act is very high. Almost in every commercial transaction the arbitration clause has become indispensable by the parties to the agreement. Now a days, we cannot notice an agreement between two companies (or) firms (or) corporate bodies without a clause of Arbitration.

It is very well noted that the application and enforcement of the Act in commercial transactions is very high in recent tendency. If one of the party to the agreement breaches any condition of such agreement, aggrieved party can approach arbitrator and initiate proceedings. It is settled proposition of law that every party to the agreement should bind to the terms and conditions of the agreement. If the agreement contains arbitration clause, the parties have to resolve the dispute without going to court.

The aggrieved parties are approaching court of law to take action against the another party who breached the agreement and caused damage being in criminal in nature. The question is if the breach of the contract, causes damage to one of the party to an agreement and establishes an offence against another party, then can the aggrieved party approach arbitrator or the court of law against another party to take necessary action against the offender. If Criminal proceedings are initiated, the

accused parties are taking plea that the agreement contains arbitration clause, the criminal proceedings cannot be initiated against them basing on such an agreement.

Now the question boils down to "***Whether an arbitration clause in an agreement creates any bar to initiate criminal proceedings?"***

In Irisuns Chemical Industry v. Rajesh Agarwal & Ors., [1999] 8 SCC 686 the Hon'ble Supreme court held that *dealing with the effect of existence of arbitration clause in the agreement on criminal prosecution on the ground that civil proceedings are also maintainable, this Court has held that quashing of F.I.R. or a complaint exercising power under Section 482 Cr.P.C. should be limited to a very extreme exception; merely because an act has a civil profile is not enough to stop action on the criminal side. It is further held that a provision made in the agreement for referring the disputes to arbitration is not an effective substitute for a criminal prosecution when the disputed act constitutes a criminal offence.*

The Hon'ble Supreme court also held in the same case mentioned supra, that ***Arbitration is a remedy for affording reliefs to the party effected by breach of the terms of the agreement but the arbitrator cannot conduct a trial of any act which amounted to an offence albeit the same act may be connected with the discharge of any function under the agreement.***

In SW Palanitkar & others Vs state of Bihar and Another 2001 (4) RCR (Criminal) 572: (2002) 1 SCC 241 the Hon'ble Supreme Court held that, merely because there is an arbitration clause in the agreement, that cannot prevent criminal prosecution against the accused if an act constituting a criminal offence is made out even prime facie.

The Hon'ble Supreme court also held in **Palanitkar case** many a times, complaints are filed under Section 200 Cr.P.C. by the parties with an oblique motive or for collateral purposes to harass, to wreck vengeance, pressurize the accused to bring them to their own terms or to enforce the obligations arising out of breach of contract touching commercial transactions instead of approaching civil courts with a view to realize money at the earliest. It is also to be kept in mind that when parties commit a wrongful act constituting a criminal offence satisfying necessary ingredients of an offence, they cannot be allowed to walk away with an impression that no action could be taken against them on criminal side. A wrongful or illegal act such as criminal breach of trust, misappropriation, cheating or defamation may give rise to action both on civil as well as on criminal side when it is clear from the complaint and sworn statements that necessary ingredients of constituting an offence are made out.

In State of Orissa vs Ujjal Kumar burdhan 2012 (2) RCR (Criminal) 467 the Hon'ble Supreme Court held that further, the impugned order also notes that in view of the arbitration agreement between the agent and the Government, all the alleged violations fell within the purview of Arbitration and Conciliation Act, 1996 and therefore, the respondent could not be held liable for any criminal offence. **This observation is against the well settled principle of law that the existence of an**

arbitration agreement cannot take the criminal acts out of the jurisdiction of the courts of law

The above observation was considered by many courts ***viz., Gian Chand Saini vs State Of Haryana And Another vide Criminal Misc. No.M-14665 of 2011 (O&M) dated 14th August 2013***

In view of the foregoing findings and precedents held by Hon'ble Supreme court of India, we can come to conclusion that though an agreement contains an arbitration clause, it does not create any bar to initiate criminal proceedings against an accused person.

CITATIONS

VED MITTER GILL Vs. UNION TERRITORY ADMINISTRATION, CHANDIGARH AND OTHERS 2015 STPL(Web) 254 SC

Held that whilst in a criminal prosecution proof is strict, and must be based on cogent and acceptable evidence ï In a criminal case, there is no alternative but to establish guilt of an accused, based on acceptable evidence ï Evidence is to be produced before the Court, trying the criminal case ï There is no way the same can be exempted, as in the case of a departmental proceeding ï Insofar as the present controversy is concerned, there is a constitutional provision creating an exception. Clause (b) of the second proviso to Article 311(2) of the Constitution of India, is the exception in question, which authorizes the course adopted by the respondents ï Reasons for dispensing with the departmental enquiry, cannot be dependent upon the holding or not holding of criminal proceedings, against the appellant/petitioners ï Once the parameters stipulated in clause (b) of the second proviso to Article 311(2) of the Constitution of India are satisfied, the submissions advanced at the hands of the learned counsel for the appellant/petitioners, would not arise.

2015 STPL(Web) 252 SC S. Satyanarayana Vs. Energo Masch Power Engineering & Consulting Pvt. Ltd. & Ors.

Allegations are that the accused conspired with each other to cheat the complainant and a series of transactions gave rise to offence under Section 120B read with Section 420 IPC as also Section 628 of the Companies Act ï Held that even if a number of persons are accused of offences under a special enactment such as 'the Companies Act and as also the IPC' in respect of the same transaction or facts and even if some could not be tried under the special enactment, it is the special court alone which would have jurisdiction to try all the offences based on the same transaction to avoid multiplicity of proceedings.

2015 STPL(Web) 243 SC Priyanka Srivastava and Another Vs. State of U.P. and Others

We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.

2015 STPL(Web) 239 SC SHREYA SINGHAL Vs. UNION OF INDIA

Section 66A of the Information Technology Act, 2000 is struck down in its entirety being violative of Article 19(1) (a) and not saved under Article 19(2).

2015 STPL(Web) 225 SC TUKARAM DNYANESHWAR PATIL Vs. STATE OF MAHARASHTRA & ORS.

Section 304 Part-II IPC undoubtedly show a despicable aggravated offence warranting punishment proportionate to the crime ï Sentence of eleven months awarded by the High Court to the respondents for the said conviction held to be too meagre and not adequate and it would be travesty of justice -Though each of the appellant was directed to pay compensation of Rs.35000/- yet no amount of compensation could relieve the family of victim from the constant agony

Suresh Vs State of Haryana 2015(1) ALT (Crl) 263 (SC)

The burden of proof is on the prosecution and that section 106 Indian evidence Act is not meant to relieve it from that duty.

Victim Compensation: - Even after the expiry of five years of enactment of Section 357 A of Cr.P.C. award of compensation has not become a rule and not being granted by the courts. It is the duty of the courts to ascertain whether there is a tangible material to show commission of crime, whether victim is identifiable and whether the victim of the crime needs immediate financial relief. The states of Andhra Pradesh, Telangana and Madhya Pradesh are directed to notify their schemes within one month from the receipt of the order.

Jagdish Vs State of Uttaranchal; 2015(1) ALT (Crl) 331 (SC)

A mere demand of the dowry at one or two instances may not attract the provisions of Sec 304B IPC though such demand might be an offence under Sec 498A IPC.

Considering the age lenient view has been taken in imposing sentence for the offence under Section 498A IPC.

Sunil Bharati Mittal Vs Central Bureau of Investigation 2015(1) ALT (Crl) 337 (SC) – (*2G Spectrum Case*)

When the company is an offender vicarious liability of the Director cannot be imputed automatically in the absence of the statutory provisions to this effect.

A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made ought, the magistrate ought to issue process and it cannot be refused merely because he thinks it is unlikely to result in conviction.

Persons who have not joined as accused in charge sheet can be summoned at the stage of taking cognizance under section 190 of the code.

State of Punjab Vs Bawa Singh 2015(1) ALT (Crl) 257 (SC)

Undue sympathy by means of imposing inadequate sentence would do more harm to the justice system.

If the courts do not protect the injured, injured would then resort to personal attendance.

Edmand SLyngdoh Vs State of Megalaya; 2015 (1) ALT (Crl) 290 (SC)

As per Art. 166 (2) of Constitution of India all orders made in the name of Governor shall be authenticated in the manner specified rules made by the governor. Here not suggested to Pw18 one of the secretaries that the chief secretary has no power to authenticate the sanction order. No merit in challenge.

Delay in lodging FIR not necessary fatal to prosecution. In matters of continuing offence no duration of time fixed for lodging of complaint.

Inder Singh Vs State of Rajasthan; 2015 (1) ALT (Crl) 367 (SC)

If one of the member of unlawful assembly commits an offence, every member of unlawful assembly of guilty of that offence.

Rakesh Babon Borhadev Vs State of Maharashtra; 2015 (1) ALT (Crl) 376 (SC)

Guiding factors for grant of anticipatory bail has been mentioned in sub section (1) of Sec.438 itself. Anticipatory bail is not to be granted as a matter of rule.

SultanSingh vs State of Haryana 2015 (1) ALD (Crl.) 475 (SC)

Medical Jurisprudence – Homicidal, suicidal or accidental death – determination.

While in case of homicidal death, if the victim is caught unaware, a person may not be able to make any effort to save himself/herself and in case of suicidal burn injuries a person may take all precautions not to save himself/herself, in case of accidental burn injuries, victim makes all possible efforts to save himself/herself which may leave evidence to show that the death was accidental. Such a person may raise alarm and try to escape. The Investigating Officer visiting the scene of occurrence can notice the available evidence by recreating the scene.

Janapala Krishna Vs State of Andhra Pradesh 2015(1) ALD (Crl.) 409

No revision lies against the order of cancellation of the bail for the remedy is only filing application under Sec 482 Cr.P.C.

K. Jayalalitha and another vs State of Andhra Pradesh and another 2015(1) ALD (Crl.) 373

When a notice has been sent to the correct address of the party and the same has been returned as "not claimed" same amounts to service of notice.

Eedara Sambasiva Prasad and others vs State of Andhra Pradesh and another 2015 (1) ALD (Crl.) 434

Section 482 Cr.P.C gives an ample scope for the interpretation by the accused in one way and the prosecution in another way. The underlying object of sec 482 Cr.P.C is to protect the personal liberty of the accused, however not at the cost of the version of the prosecution. The same should be exercised with great care, caution and circumspection. The court while exercising inherent jurisdiction under sec 482Cr.P.C. should always keep in mind to act as an umpire to safeguard the interest of the accused person from malicious prosecution as well as the interest of victims.

Intelligence Officer, Narcotics Control Bureau Vs Poojari Muralikrishna 2015(1) ALD (Crl.) 400

Confession of the offence other than to a police officer, i.e., officer governed by the provisions of Narcotics Act is not hit by Section 25 of Indian Evidence Act. It is to say if it is voluntary, it is as good as a confession under section 24 of the Evidence Act.

Kunwarpal Vs State of Utharakhand : 2015 Crl.L.J. 921 (SC)

IPC – Sec.300 – Murder – mere non-mentioning of name of all witnesses in FIR do not effect prosecution case.

Sher Singh Vs State of Haryana ; 2015 Crl.L.J. 1118 (SC)

IPC – 304-B – Acquittal of father and brother of the accused – would not entitle accused to be acquittal.

Sunil Bharathi Mittal Vs CBI: 2015 Crl.L.J. 1130 (SC)

Cr.P.C. – Sec. 204 – Issuance of process – Magistrate can issue process against some other persons who was not charge-sheeted.

S.Dinesh Kumar Vs State, The inspector & another: 2015 (1) CCR 155 SC

If two views are possible and court below has acquitted the accused, appellate court would not be justified in setting aside acquittal merely because other view is also possible.

Chamanlal Saraf (dead) by L.R.s & others Vs State of Haryana & others: 2015 (1) CCR 15 SC.

Filing a clarificatory petition by petitioner seeking clarification of order vide which miscellaneous petition was dismissed leads to reopen of case and abuse process of court.

Sonu Gupta Vs Deepak Gupta & others : 2015 (1) CCR 426 SC

FIR was registered only on basis of a photocopy on which signature is not an original. If FIR is admitted on the basis of only a photocopy of a document allegedly brought into existence by accused person – High court erred in directing appellant to produce original and get signature compared.

ON A LIGHTER VEIN

Eddie was driving down the road and a met a car coming the other way. Although there was room to pass easily, Eddie forced the oncoming car to slow down and wound down his window and shouted 'Pig'. The other driver looked in his rear view mirror and swore at Eddie. Then his car hit the pig.

NEWS

- **Sri Punna Satyanarayana Sr.APP, Bodhan, has clarified that the judgment of our High court between Nalla Thirupathi Reddy & others Vs State of Telangana. 2015(1) ALD (Crl) 316 reported in last month edition that the Second wife can maintain 498-A Case, is bad in law in view of the judgment of Hon'ble Supreme Court delivered by three Judge bench and reported as 2004(3) SCC 199 between Reema Agarwal Vs Anupam and others. The Subash Babu Vs State of A.P, judgment of Supreme court is given by two judge bench, which is followed in our high court judgment. Prosecution Replenish is thankful to the said contribution of Sri Punna Satyanarayana.**

- The Following are available in Gazette Section of our website.
  - The Insurance Laws amendment act, 2015
  - The Constitutional (Schedule Caste) Order Amendment act, 2015
  - The Motor Vehicles Amendment Act, 2015
  - The Citizenship amendment act, 2015
  - The Public Premises (eviction of unauthorized occupants) Amendment act, 2015

- The Director of Prosecutions, Government of A.P. has issued posting orders to the newly selected APPs of Zone I to IV. Prosecution Replenish congratulates all of them and welcomes them into our fraternity and family.

Sl. NO	Name	Place of Posting	Zone
1	K.Chandra Kumar	JFCM Court, Pathapatnam, Srikakulam District	I
2	S.Naresh	JFCM Court, Araku, Vishaka Dist.	I
3	M.Avatharam	JFCM Court, Ichapuram, Srikakulam Dist.	I
4	R.Vani	JFCM Court, S.Kota, Vijayanagaram District.	I
5	G.Priya Darshini	JFCM Court, Parvathipuram, Vijayanagaram District	I
6	G.Hemarupa	JMFC Court, Chinthapalli, Visaka District.	I
7	JSV Subramanya Giri	SPL. JMFC (PCR) Court, Srikakulam	I
8	D.Jyothi Sudha	JMFC Court, Kurupam, Vijayanagaram District.	I
9	B.Gangadhar	JMFC Court Nidadhavolu, WG District.	II
10	GE Radhika	JMFC Court, Thiruvuru, Krishna district	II
11	D.Khasim	JMFC Court, Addtigala, EG District.	II

12	K.Sujatha	JMFC Court, Chinthalapoodi, WG Dist	II
13	Geetha Rajana	JMFC Court, Thuni, EG Dist.	II
14	T.Madhavi	Spl. JMFC (PCR) court, Eluru, WG Dist.	II
15	G.Vijaya	JMFC Court, Mamidivaram, EG Dist	II
16	N.Pragathi	JMFC Court, Jangareddygudem, WG Dist.	II
17	T.Shashikala	JMFC Court, Bantumalli, Krishna District.	II
18	R.Sridevi	II JMFC Court, Tenali Guntur Dist.	III
19	K.J.Prakruthi Kumar	JMFC Court, Udayagiri, Nellore Dist.	III
20	AR Pavan Kumar	JMFC Court, Darshi, Prakasham Dist.	III
21	B.Abraham	JMFC Court, Vinukonda, Guntur district.	III
22	Ch.Malyadri	JMFC Court, Atmakur, Nellore District	III
23	Ch.Triveni	JMFC Court, Kanigiri, Prakasham District.	III
24	Zaher Ahmed Shaik	JMFC Court, Piduguralla, Guntur District	III
25	G.Venkateshwarlu,	JMFC Court, Macharla Guntur District.	III
26	G.Laxmi Rani	II Addl. JMFC Court, Narasaraopet, Guntur district	III
27	S.Nayeemunnis Begum	JMFC Court, Sathyavedu, Chittur Dist.	IV
28	A.Shankar	JMFC Court, Kuppam, Chittur Chittur District.	IV
29	D.Anil Kumar	JMFC Court, Rayachoti, Kadapa District	IV
30	G.Sujatha	JMFC Court , Pakala, Chttur district	IV
31	K.Hari Prasad	Spl. Mobile (PCR) Court, Kadapa.	IV
32	S.Hemalatha,	Spl. Mobile (PCR) Court, Ananthapur	IV
33	S.Elmasbhanu	JMFC Court, Madakashira, Ananthapur District	IV
34	P.Vittal Rao,	JMFC Court, Aluru Kurnool District	IV
35	G.Madhusudhan Achari	JMFC Court, Akkireddypalli Kadapa District	IV
36	A.Uma Devi	JMFC Court Rajampet, Kadapa District.	IV
37	G.Saradha	JMFC Court Thambalapalli, Chittur district	IV

Prosecution Replenish appreciates the efforts of Sri. Subramanyam sir, Sri Mallikarjun sir and the staff of DOP, AP and the staff of AP Secretariat and the association of Public Prosecutors, A.P. for getting the postings of Assistant Public Prosecutors, to end the enduring TWO long years wait of the newly selected APPôs. We hope that their counter parts that is the Selected APPôs of Telangana would also adore the posts in the near future.

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Suggestions; articles and responses welcome to make this as the most informative leaflet

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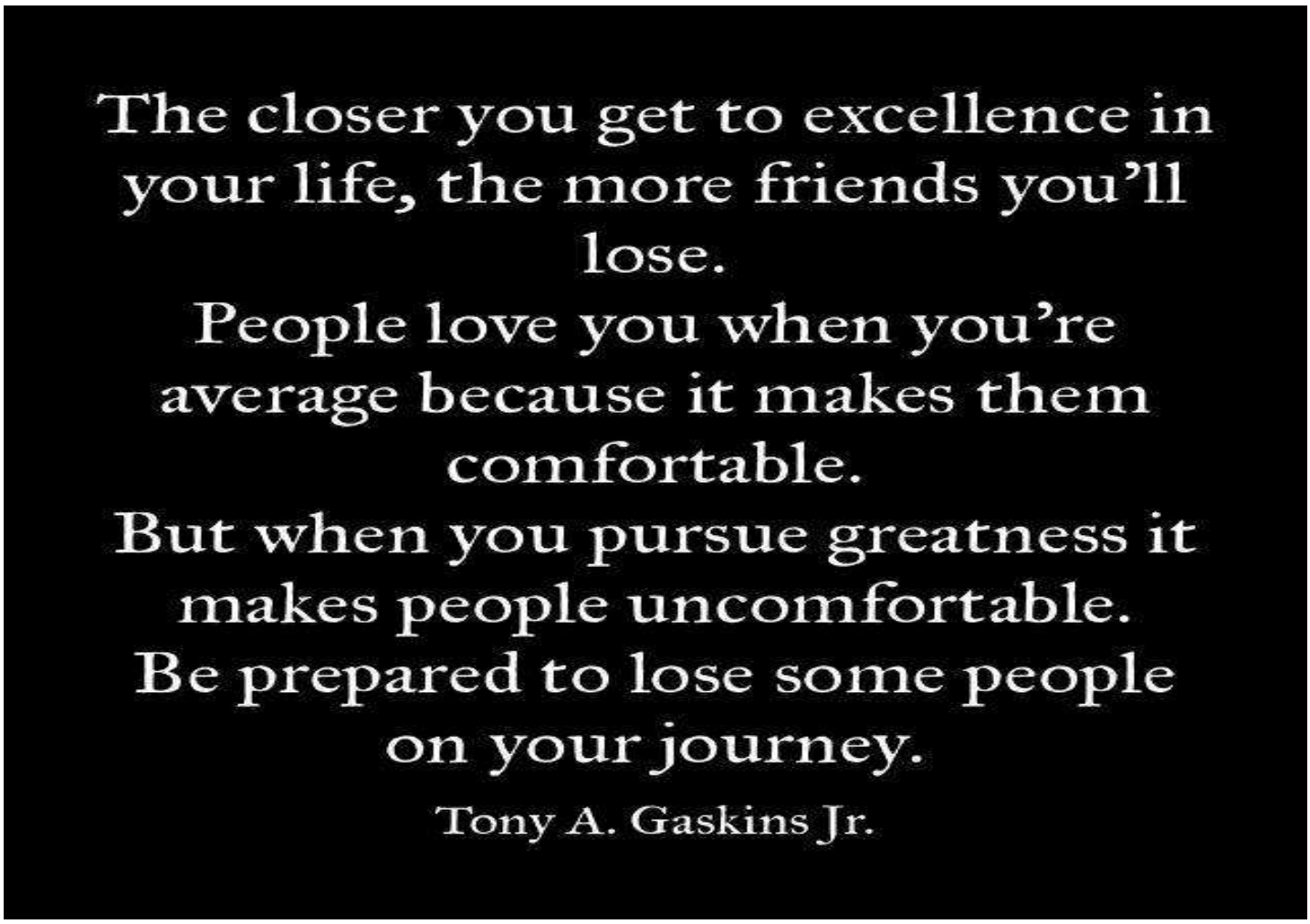
PROSECUTION REPLENISH

(An Endeavour for learning and excellence)

Vol- IV Part 5 Monthly Leaflet May, 2015



CITATIONS

SUPREME COURT

When some witnesses examined- non-examination of any other witnesses who might have been available on the scene of occurrence, would not make the case of the prosecution unacceptable.
there is no rule of evidence that the testimony of the interested witnesses is to be rejected solely because other independent witnesses who have been cited by the prosecution have turned hostile.
2015 STPL (Web) 279 SC Jodhan Vs. State of M.P.

Complainant (PW-6) has himself investigated the crime, as such, the credibility of the investigation is also doubtful in the present case, particularly, for the reason that except the police constables, who are subordinate to him, there is no other witness to the incident.
2015 STPL (Web) 278 SC Jasbir Singh @ Javri @ Jabbar Singh Vs. State of Haryana

Earlier complaint U/Sec. 156(3) declined by Court, subsequent FIR and investigation done by I.O., not bad on the ground that the earlier complaint was declined by court.
2015 STPL (Web) 266 SC Mahendri & Ors. Vs. State of U.P. & Anr.

Enough material to infer the common and shared intention of the present accused-respondents with that of 'S' convicted accused –Held that there was no justifiable reason for the 4 accused persons to go 100-150 yards inside the field of the complainant - Fact that they carried a weapon being 315 bore country-made pistol with them clearly shows that they had all the wrong intentions - Nowhere in the case of defence has this come out that the present three accusedrespondents were not aware of the fact that 'S' carried the weapon - Also, the exhortation made by the accused persons against the complainant and the deceased mentioned about killing them - Having made such an exhortation, they threw the deceased on the ground - It goes on to show that they all shared a common intention and worked in tandem - High Court erred in acquitting the present accused-respondents as the view taken by the High Court is not even a possible view - Impugned judgment of the High Court liable to be set aside and the judgment and order passed by the Sessions Court restored.
2015 STPL (Web) 259 SC Ranbeer Singh (Dead) By L.R. Vs. State of U.P. and Ors.

Re-appreciate evidence – Scope of the revisional jurisdiction of High Court does not extend to re-appreciate evidence - in exercise of the revisional jurisdiction, the high court can interfere with the acquittal only if there is perversity in the order of acquittal.
Shlok Bhardwaj vs Runika Bhardwaj and Others 2015(1) ALT 395 S.C

Section 125 Cr.P.C impliedly requires the court to consider making the order for maintenance effective from either of the two dates, having regard to the relevant facts. For good reasons, it is evident from its order, the court may choose its either date. It is neither appropriate nor desirable that a court simply states maintenance should be paid from either the date of order or the date of application in matters of maintenance. Thus as per Section 354(6) of the Cr.P.C, the court should record reasons in support of the order passed by it, in both eventualities. The purpose of the provision is to prevent vagrancy and destitution in society and the court must apply its mind to the options having regard to the facts of the particular case.
Jaminiben Hirenbai Vyas and another Vs Hirenbhai Rameshchandra Vyas and another 2015(1) ALT 398 SC

Age Determination – General rule about age determination is that age as determined can vary plus or minus two years.
Estimation of age – Estimation of age to be determined by medical board comprising professors of anatomy, radiodiagnosis and forensic medicine.
Darga Ram @ gangu Vs State of Rajasthan 2015 (1) ALT 402 SC

Homicide – Homicidal death is chargeable and punishable under Section 302 and 304-B if circumstances prevail triggering these provisions.
Burden of Proof – the burden of proof weighs on the husband to prove his innocence by dislodging his deemed culpability
Dowry Death – Where wife is driven to the extreme step of suicide it would be reasonable to assume an active role of her husband than leaving it to the discretion of the court.
Penal Code containing solitary Section 498 – A - in order to deal effectively not only in cases of dowry deaths, but also cases of cruelty to married women by their in-laws.
Sher Singh @ Pratapa V State of Haryana 2015(1) ALT 412 SC

Minor Discrepancies – Minor Discrepancies on trival matters not touching the core of the case or not going to the root of the matter could not result in rejection of evidence as a whole.

Discrepancies – Courts to ignore the discrepancies which do not shed the basic version of the prosecution.
Vinod Kumar Vs State of Haryana 2015(1) ALT 431 SC

Submission of the learned amicus Curiae that not holding of test identification parade is fatal for prosecution was not accepted.
Motilala Yadav vs State of Bihar 2015(1) ALT 442 SC

Wellbeing of the bride – the legal accountability for the wellbeing of a bride squarely lies upon her husband and other members of his parental family.
Srichand Vs State of Punjab 2015(1) ALT 455 SC

Contempt of Courts Act 1971 – No empirical evidence was referred or presented thereafter to support his utterance that the judgment/order was being opposed by public at large – these parts of the speech are intending to scandalize and lower the dignity of the court and an intentional and calculated obstruction in the administration of justice.
M.V. Jayarajan vs High Court of Kerala and another 2015(1) ALT 49 SC

Prevention of Corruption Act 1988 – Phenolphthalein test cannot be said to be a conclusive proof against the appellant as the colour of the solution with regard to other samples were pink and remained so throughout – lime solution in which appellants hands were dipped in did not show the same pink colour – sample of the shirt worn by the appellant did not show any colour change on the shirt pocket section where bribe money was allegedly kept – appeal allowed directing release of the accused forthwith.
State of Punjab vs Labh Singh 2015(1) ALT 501 SC

Prevention of Corruption Act 1988: The public servants having retired from service there was no occasion to consider the grant of sanction under section 19 of the POC Act. The law on this point is clear that sanction to prosecute the public servant for the offence under POC Act is not required if the public servant has already retired on the date of cognizance by the court.
Unlike Section 19 of POC Act the protection under section 197 of Cr.P.C is available to the concerned public servant even after its retirement.
C. Sukumaran vs State of Kerala 2015(1) ALT 505 SC

undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. The court must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment. Meagre sentence imposed solely on account of lapse of time without considering the degree of the offence will be counter-productive in the long run and against the interest of the society.
State of Madhya Pradesh Vs Surendra Singh. 2015(1) ALD (Crl) 652 (SC)

the allegation in the complaint is that the respondents had forged the signature of the complainant and submitted to the Corporation seeking extension of the period of supply. Thereafter, seeking certain relief a suit was filed and in the suit the document

was filed. There is no allegation that this document was forged when the matter was subjudice before the Civil Court. Thus, the dicta of the Constitution 12 1954 SCR 1144 14 Page 15 Bench is squarely applicable. The High Court has clearly erred in relying on the principle stated in Gopalakrishna Menon's case (supra) which makes the impugned order wholly indefensible. Sec 195 and Sec 340- complaint lodged by person whose signature was forged – maintainable-
George Bhaktan Vs Rabindra Lele and another 2015(1) ALD (Crl) 652 (SC)

Non-production of CCTV footage, non-collection of call records (details) and sim details of mobile phones seized from the accused cannot be said to be mere instances of faulty investigation but amount to withholding of best evidence. It is not the case of the prosecution that CCTV footage could not be lifted or a CD copy could not be made.
The presumption under Section 114 (g) of the Evidence Act is only a permissible inference and not a necessary inference. Unlike presumption under Section 139 of Negotiable Instruments Act, where the court has no option but to draw statutory presumption, under Section 114 of the Evidence Act, the Court has the option; the court may or may not raise presumption on the proof of certain facts
the purpose of an expert opinion is primarily to assist the court in arriving at a final conclusion but such report is not a conclusive one. This Court is expected to analyse the report, read it in conjunction with the other evidence on record and then form its final opinion as to whether such report is worthy of reliance or not.
Tomasa Bruno and another vs State of U.P. 2015(1) ALD (Crl) 663 (S.C) = 2015 CrlJ 1690.

the compliance with the requirements of Sections 42(1) and 42(2) in regard to writing down the information received and sending a copy thereof to the superior officer, should normally precede the entry, search and seizure by the officer. But in special circumstances involving emergent situations, the recording of the information in writing and sending a copy thereof to the official superior may get postponed by a reasonable period, that is, after the search, entry and seizure. The question is one of urgency and expediency.
The officer, Sub-Inspector is an empowered officer under Section 42 of the Act. As the place is a public place and Section 43 comes into play, the question of non-compliance of Section 42(2) does not arise
The words employed in Section 27 does not restrict that the accused must be arrested in connection with the same offence. In fact, the emphasis is on receipt of information from a person accused of any offence. Therefore, when the accused-appellant was already in custody in connection with FIR no. 95 of 1985 and he led to the discovery of the contraband articles, the plea that it was not done in connection with FIR no. 96 of 1985, is absolutely unsustainable.
"…. what is prohibited under Article 20 is only conviction or sentence under an 'ex post facto' law and not the trial thereof. Such trial under a procedure different from what obtained at the time of the commission of the offence or by a Court different from that which had competence at the time cannot 'ipso facto' be held to be unconstitutional. A person accused of the commission of a particular Court or by a particular procedure, except in so far as any constitutional objection by way of discrimination or the violation of any other fundamental right may be involved.
A three-Judge Bench in Sajan Abraham (supra), placing reliance on State of Punjab v. Balbir Singh[(1994) 3 SCC 299], has held that Section 57 is not mandatory in nature and when substantial compliance is made, it would not vitiate the prosecution case.
it had also come in evidence that till the date of parcels of samples were received by the Chemical Examiner, the seal put on that parcel was intact. Under these circumstances,

the Court ruled that the said facts clearly proves and establishes that there was no tampering with the aforesaid seal in the sample at any stage and the sample received by the analyst for chemical examination contained the same opium which was recovered from the possession of the appellant. The plea that there was 40 days delay was immaterial and would not dent the prosecution case.
2015 STPL(Web) 327 SC Mohan Lal Vs. State of Rajasthan

In first complaint for offence u/s 376 IPC respondent was discharged – Second complaint on the same facts and incident - Held that in view of explanation to Section 300 Cr.P.C. proceedings in the second complaint would not be barred, because no trial had been conducted against the respondent, in furtherance of the first complaint - Having so concluded, it emerges that it is open to the appellant, to press the accusations levelled by her, through her second complaint.
2015 STPL(Web) 326 SC Ravinder Kaur Vs. Anil Kumar

Evidence Act, 1872, Section 9 – Test Identification Parade – Non-holding of – Identification first time in Court – Held that what is substantive evidence is the identification of an accused in court by a witness and that the prior identification in a test identification parade is used only to corroborate the identification in court - Holding of test identification parade is not the rule of law but rule of prudence - Normally identification of the accused in a test identification parade lends assurance so that the subsequent identification in court during trial could be safely relied upon - However, even in the absence of such test identification parade, the identification in court can in given circumstances be relied upon, if the witness is otherwise trustworthy and reliable. (Para 10) (B) Penal Code, 1860, Section 376(1) – Rape – Testimony of prosecutrix – Test Identification Parade – Non-holding of - Appellant was subjected to sexual intercourse during broad day light - Fact that she was so subjected at the time and in the manner stated by her, stands proved - Three witnesses had immediately come on the scene of occurrence and found that she was raped - Immediate reporting and the consequential medical examination further support her testimony - By very nature of the offence, the close proximity with the offender would have certainly afforded sufficient time to imprint upon her mind the identity of the offender - Appellant had gone to the extent of stating in her first reporting that she would be in a position to identify the offender and had given particulars regarding his identity - Clothes worn by the offender were identified by her when called upon to do so - There was nothing wrong or exceptional in identification by her of the accused in court - Her testimony found to be completely trustworthy and reliable - Held that the case against Respondent No.1 stands proved - Since the trial court had found the age of the Appellant to be 10-13 years of age, the age taken to be on the maximum scale i.e. 13 year - High Court was not justified in dismissing the revision - No other view was possible -Appeal allowed and t Respondent No.1 convicting for having committed the offence under Section 376(1) IPC and sentence him to undergo imprisonment for seven years and a fine of Rs.5,000/- also imposed which in its entirety shall be made over to the Appellant.
2015 STPL(Web) 302 SC Satwantin Bai Vs. Sunil Kumar & Anr

judicial process should not be used as an instrument for oppression and needless harassment- court should circumspect and take all relevant facts and circumstances into consideration before issuing process lest it would be an instrument in the hands of private complainants vendetta to harass persons needlessly
P.S.Meherhomji vs K.T.Vijay Kumar and others 2015(1) SCC (Crl) 789= (2015) 1 SCC 788.

Law does not say that prosecution must examine all eyewitnesses cited by the prosecution. When evidence of eyewitnesses was found were the of acceptance to prove the case, it was not necessary for prosecution to examine any more eyewitnesses. It is for the prosecution to decide as to how many witnesses and who should be examined as witnesses for pulling its case
Nandakumar versus state of Chhattisgarh 2015 1 SCC criminal 779 = 2015 1 SCC 776.

Suicide note, extent to which it can be relied upon, effect of remaining evidence on record.
Naresh Kumar versus state of Haryana and others 2015 1 SCC CRL 797 = 2015 1 SCC 797.

Prosecution of a woman for intentional aiding of offence of rape is covered by 3rd clause mentioned in section 107 IPC conviction of women confirmed.
Om Prakash versus state of Haryana 2015 1 SCC CRL 813 = 2015 2 SCC 84

imposition of meagre sentence solely on account of lapse of time without considering the degree of offence, will be counter-productive in the long run and against interest of society.
State of Punjab versus Bawa Singh 2015 CR LJ 1701

investigation officer was member of raiding party, centrefire police station and thereafter himself carried formal investigation. Investigation not vitiated. Moreover IO was no way personally interested to get appellant accused convicted.
Vinod Kumar versus state of Punjab 2015 CR LJ 1442.

Appellant's posted adverse comments on Facebook against respondent police officer. No intention on part of the appellant's to cause alarm in minds of respondents or to cause obstruction in discharge of his duties Facebook page of traffic police itself is a public forum meant for helping public. A place might have posted comment online under bona fides belief that it was within the permissible limits in Raiders of alleged offence is not satisfied a fat quash.
Manik Taneja versus state of Karnataka 2015 CR LJ 1483

HIGH COURT OF TELANGANA AND ANDHRA PRADESH

It may be said that even if the respondents have come to occupy public offices presently, it would not require the petitioner to obtain prior sanction for prosecution of offences punishable under the provisions of PC act, in respect of the allegations pertaining to misuse of an earlier office held by the particular respondents.
Vinod. B versus K. S.Eshwarappa and others 2015 CR LJ 1349 KARNATAKA

offence of criminal conspiracy, allegation against accused working as bank panel advocate that he had not caused personal enquiries in concerned officers regarding generality of documents constant of which you'd issue the legal opinion in favour of borrower and bank at sanctioned loan, thus causing wrongful loss to bank's. Legal prescription the report disclosed that accused that studied and analysed documents supplied to him and then issued is legal opinion nowhere it was mentioned that it was duty to cause personal enquiries regarding origin of documents. Discharge of accused

from offence of criminal conspiracy proper. The state versus K Jaipal Reddy 2015 CR LJ 1586.

Husband denying paternity. Only alternative left to the wife is to seek DNA test. The accused husband directed to undergo DNA test, proper
Banoth Krishna versus Banoth Vimala and others 2015 CR LJ 1319.

Abuse of process of law – one should not be allowed to use the criminal court as instrumentality to take personal vengeance by filing frivolous and vexatious complaints. Bar on Second FIR – There is a bar under the law to register a second FIR in respect of the same incident – proceedings quashed.
Bondi Janaki and others vs State of A.P. rep by its Public Prosecutor and another 2015(1) ALT 293 A.P.

No doubt the prosecution got a right as per the procedure contemplated by law, if required within power of the investigating Agency under Section 173 clause (8) Cr.P.C to take up further investigation with reference to two letters or any other material and submit supplementary charge sheet. For any material not covered by investigation even can be filed in a police case proceeded as police warrant case, by invoking section 311 Cr.P.C read with Sec 242(2) Cr.P.C if at all prosecution want to rely. Beyond that, there is Section 165 of Evidence Act for the court to call for to produce any record or to summon to give evidence on any aspect and put any question at any stage to any witness. None of the provisions permit giving in open court of such letters by public prosecutor in open court asking to receive by the court, that to even without any such application.
Dambala Srinivasu vs State of AP through SHO, Ramchandrapuram Police Station, rep by Public Prosecutor, High court of AP, Hyderabad and another 2015(1) ALT 302 A.P

Protection of women from domestic Violence Act - In order to constitute relationship in the nature of marriage, both parties must be qualified to enter into a legal marriage.
A perusal of section 26 of the Act at a glimpse connotes that DVC Act is only a supplementary and not a substitute to the existing enactments. The reliefs provided under the Act are not alternative but in addition to and along with any other relief that the aggrieved person may seek in a suit or other legal proceedings. This itself indicates that the very object of the Act is to provide remedial measures.
Somarapu Satyanarayana vs Vijaya Lakshmi and another 2015(1) ALT 306 AP

Immoral Traffic (Prevention) Act 1956 – for customers these provisions cannot be invoked to prosecute them.
Katamoni Nagaraju Vs State of Telangana 2015(1) ALT 318 A.P.

Admittedly, the first accused married the second accused much against the will of her father who is the first respondent. Being infuriated by the said act, the first respondent published two notices in Eenadu Daily News Paper stating that for all purposes, the first accused was dead and she had no connections whatsoever with his family. After publication of the said notices, the first accused published the aforesaid notice. According to the first accused she stated the true facts in the said notice and the said notice was published under the apprehension that some harm would be caused to her and other accused by her father who is an influential person which comes under the exception (9) of Section 499 of I.P.C.,-Case quashed.
Syed Sameena Tasneem and others.vs Sajid Hussain and others. 2015(1) ALD (Crl) 538.

The learned counsel for the petitioner also contended that the offences under Section 376 IPC and under Section 3(1)(xii) of the SCs/STs Act have not been made out. In the FIR, the 1 st respondent contended that the petitioner developed carnal acquaintance with the 1 st respondent promising to marry her. Thus, the 1 st respondent was a consenting party to the carnal acquaintance between the petitioner and the 1 st respondent. I agree with the contention of the learned counsel for the petitioner that the offence could be tantamount to an offence of cheating but not an offence under Section 376 IPC where the 1 st respondent was a willing partner to the carnal acquaintance between the petitioner and the 1 st respondent.
In the present case, the 1 st respondent indeed belongs to Scheduled Caste. However, there is no whisper in the complaint to show that the petitioner was in a position to dominate the will of the 1st respondent and used that position to exploit her sexually. Consequently, the offence under Section 3(1)(xii) of the SCs/STs Act also prima facie is not made out from the complaint.
Kukkala Siva Krishna @ Siva Vs. Chodem Kalyani and another, 2015(1)ALD (Crl)543.

in GURAJALA RAMESH AND OTHERS V. STATE OF A.P. ([1]). In that case, F.I.R. was registered on the report given by the police officer who arrested the accused and the same officer investigated the case which procedure was declared as incorrect and conviction on such investigation held as not sustainable. But, here, in our case, F.I.R. is not on the basis of any report given by P.W.4 who arrested the accused person. The very same objection was raised before the appellate court relying on the very same decision and the learned appellate judge, after distinguishing the facts of this case and the facts in the reported decision, held that it has no application
P.W.3 is a Village Secretary and Ex.Village Administrative Officer of Rajahmundry urban. Normally, in important cases, police would take the services of Village Secretary or Village Administrative Officer as a mediator, so, in that capacity, P.W.3 might have acted as a mediator for the same police station. For that, his testimony cannot be brushed aside unless there is material to show that he is a professional mediator, or enmical towards accused.
when the evidence is taken after lapse of six years, it is highly difficult to any person to remember the features of a person seen at only one time. Therefore, the objection of the revision petitioner with regard to non-identity cannot be sustained.
Gandamenu Siva and others vs State of A.P. 2015(1) ALD (Crl) 547.

Merely because there is a provision in the event of establishing the offence under Section 420 I.P.C with which the accused charged or to be charged is with imprisonment that does not immune the entity for prosecution. The controversy was resolved by the Five Judge Bench expression of the Apex Court in Standard Chartered bank V. Directorate of Enforcement [1] with the observation in the crime relating to F.E.R.A and Income Tax and other Economic offences, the person defined in Section 11 I.P.C and Section 3(42) of the General Clauses Act were taken in aid saying the entity is a juristic person and when such is the case for the criminal prosecution of the entity no immunity from the prosecution can be given merely because it is the irrespective of offences for which punishment of imprisonment is mandatory and even then in such cases in lieu of imprisonment, fine can be imposed by the Court. Once the entity is thereby arrayed as accused for its criminal liability, somebody either Director or Manager or whoever other at the time of the relevant period of commission of the offence in-charge of its affairs that alone responsible personally also though the entity can be represented even the person of the relevant period otherwise entitled to represent breathed the last to array somebody in-charge of the present affairs to

represent but for to say the subsequent representation is not liable for any penal consequences, but for the entity apart from personal liability of the then persons in-charge of its affairs relating to the crime
no leave is contemplated for the right of the police to further investigate but for at best to treat the same as an intimation.
As the Apex Court in T.T.Anthoni V. State of Kerala [11] in paras 18 and 19 by interfering to scheme of Cr.P.C in relation to registration of F.I.R, commencement of investigation and completion and filing of final report,
It was also observed that even quashing of the second F.I.R either under Article 226 of the Constitution of India or Section 482 Cr.P.C, for further investigation, does not preclude further investigation in the original crime/F.I.R and to file further report under Section 173(8) Cr.P.C.
N.Aravind Kumar vs State of A.P and another 2015 (1) ALD (Crl) 553.

As noticed by various cases and as observed by me in RAKESH GUPTA (6 supra), pendency of a civil suit is no bar for the institution of the criminal proceedings. Mere pendency of arbitral proceedings cannot restrain the 2 nd respondent from proceeding against the accused by invoking due process of law.
It may also be noticed that the practice in the State of Andhra Pradesh is not to express any view by the Magistrate when the Magistrate referring a case under Section 156(3) Cr.P.C to Police, leaving it upon for the Police to investigate the case. Merely because the order of the learned Magistrate did not show the reasons of the Court for referring the complaint to Police under Section 156(3) Cr.P.C., I am not inclined to quash the FIR
The learned Senior Counsel for the petitioner also contended that the petitioner was arrested in violation of the provisions under Section 41-A Cr.P.C. In Arnesh Kumar Vs. State of Bihar, specific directions were issued by the Supreme Court regarding the circumstances in which Police Officer may arrest. In HEMA MISHRA v. STATE OF UTTAR PRADESH, the Supreme Court reminded Police about the right of the accused from arbitrary arrest in view of Sections 41 and 41-A Cr.P.C. However, they do not affect the result of the investigation and the result of the present petition.
Dr.Raman Shrikanth vs State of Telangana. 2015 (1) ALD (Crl) 558= 2015 CR LJ 1607.

The learned Magistrate while forwarding the complaint to the police without verifying as to the role of the petitioner in the alleged commission of offence mechanically forwarded the complaint for investigation. For these reasons, I feel that it is a fit case to invoke the powers under Section 482 Cr.P.C and to quash the proceedings
Ravada Tavitamma Vs State of A.P. and another 2015(1) ALD (Crl) 565.

Property seized in Gaming Act-, there is no charge laid against them that the motorcycle and the four cell phones seized at the common gaming house are used by any or all of them as securities for money. In the absence of any such charge laid against the accused, the learned Judicial Magistrate of First Class, Kodad, could not have ordered them to be forfeited.
Pendam Narendar Vs. State of Telangana & Another 2015(1) ALD (Crl) 567.

Sections 195 to 199 Cr.P.C. act as an exception to general rule that any person can set criminal law in motion. Sections 195 to 199 Cr.P.C. would disclose that in respective of certain offences, criminal law can be set into motion by certain qualified persons only. The present offence under Section 188 IPC is one such offence and the person who is entitled to set the criminal law in motion is detailed in Section 195 Cr.P.C
Thus, the non-obstante clause with which Section 195 Cr.P.C. begins, grafts an express bar on the courts to take cognizance of, among other offences, the offence under

Section 188 IPC without following the procedure prescribed therein. Section 195 Cr.P.C. clarifies that a complaint has to be lodged by the concerned public servant before the Magistrate for taking cognizance of the offence under Section 188 IPC. This bar engrafted under Section 195 Cr.P.C. is not empty rhetoric but an insurmountable rule as can be seen from the observation of Honourable Apex Court made in respect of an offence under Section 182 IPC in the cited decision in Daulat Rams case. Kottu Satyanarayana vs State of Andhra Pradesh. 2015 (1) ALD (Crl) 572.

Thallapalli Rajaiah v. State of A.P. [2000 (1) ALT (crl) 174] . In that case, case against one of the accused was split up. The other accused were tried and were acquitted by the Sessions Court. None of the eye witnesses supported the prosecution case. The witnesses could not identify any of the culprits. Holding that there is no scope for conviction of A.7 who was the petitioner in that case, a learned single Judge held that the proceedings in P.R.C. deserve to be quashed and quashed the same accordingly-Followed.
Nyathari Babu Vs State of A.P. and another 2015(1) ALD (Crl) 587.

The Victim can file an Appeal against the acquittal judgment of lower appellate court U/Sec. 372 Cr.P.C. S. Beebi Mariam Vs State of A.P. and other. 2015(1) ALD (Crl) 588.

Cohabitating on the ground of false promise of marriage-whether amounts to rape has be seen from the facts of each case-Bhumapaka Praveen Kumar Vs State of Telangana 2015(1) ALD (Crl) 681

PW1 though supported the prosecution in chief examination, resiled therefrom in cross examination-prosecution neither decalred the witness hostile nor re-examined the witness to clarify the discrepancy-the same remained uncontroverted strengthening defence plea-acquitted.
State Vs Raghuram 2015(1) ALD (Crl) 689.

2015 STPL(Web) 1599 (AP) WILLIAM SCOTT PINCKNEY Vs. STATE OF A.P. regarding the return of passport mentioned in our march leaflet is reported as 2015(1) ALD (Crl) 590.

NEWS

- As per the G.O.Ms.No.23, Home (Legal) Department, dated:10.4.2015. the Directorate of Prosecution with the Director of Prosecution as its Head in the State of Telangana shall function here after under the administrative control of the Head of the Home Department in Secretariat in the State of Telangana.

- As per G.O.RT.No. 326 HOME (COURTS.A1) DEPARTMENT Dated:22-04-2015, Sri B.Venkatesham, Secretary to Government, Home Department in full additional charge to the post of the Director of Prosecutions, Telangana State, Hyderabad with immediate effect.

- Union Cabinet approves amendments to Juvenile Justice Bill, 2014; Juvenile Justice Board would assess whether crime committed as child or adult by 16-18 year olds

- Dishonour of Cheque Cases can only be filed before the Court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for payment is situated; Cabinet approves Amendment to nullify Dashrath Rathod Judgment

- The Judgment delivered in the sensational Satyam Scam case is available in download section of our website..

- The notification regarding the Constitution (ninety ninth) Amendment act, 2015 can be downloaded in Gazette Section of our website.

- The notification regarding the National Judicial Appointment act, 2015 can be downloaded in Gazette Section of our website.

- The A.P. Reorganisation amendment act can be downloaded in Gazette Section of our website.

ON A LIGHTER VEIN

Late one night a burglar broke into a house and while he was sneaking around he heard a voice say, "Jesús is watching you." He looked around and saw nothing. He kept on creeping and again heard, "Jesús is watching you." In a dark corner, he saw a cage with a parrot inside. The burglar asked the parrot, "Was it you who said Jesús is watching me" The parrot replied, "Yes." Relieved, the burglar asked, "What is your name?" The parrot said, "Clarence." The burglar said, "That's a stupid name for a parrot. What idiot named you Clarence?" The parrot answered, "The same idiot that named the rottweiler Jesús."

BOOK-POST

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PROSECUTION REPLENISH

(An Endeavour for learning and excellence)

Keep your eyes on the stars, and your feet on the ground.

--Theodore Roosevelt

CITATIONS

SUPREME COURT

Common intention – Direct evidence seldom available – Can only be inferred from the evidence and circumstances appearing from proved facts
Prosecution case cannot be thrown out on ground of defective investigation. **[2015] 0 Supreme(SC) 421 RANJEET KUMAR RAM @ RANJEET KUMAR DAS Vs. STATE OF BIHAR**

Familial relations play a vital role in describing and highlighting the qualities of our society. The Indian legal system today does not differentiate between a son and a daughter-they have equal rights and duties. Indian culture has been witness to for centuries, that daughters dutifully bear the burden of being the caregivers for her parents, even more than a son. Our experience has reflected that an adult daughter places greater emphasis on their relationships with their parents, and when those relationships go awry, it takes a worse toll on the adult daughters than the adult sons. The modern era, led by the dawn of education, no longer recognizes the stereotype that a parent would want a son so that they have someone to look after them and support them in their old age. Now, in an educated and civilized society, a daughter plays a multifaceted and indispensible role in the family, especially towards her parents. She is a caregiver and a supporter, a gentle hand and responsible voice, an embodiment of the cherished values of our society and in whom a parent places blind faith and trust. **[2015] 0 Supreme(SC) 426 Shabnam Vs. State of U.P.**

age alone cannot be a paramount consideration as a mitigating circumstance. Similarly, family background of the accused also could not be said to be a mitigating circumstance. Insofar as Accused No.1 is concerned, it has been contended that he was happily married and his wife was pregnant at the relevant time. However, the Accused No.1 did not take into consideration the condition of his wife or his mother while committing the said offence and, as a result, his wife deserted him and his widowed mother is being looked after by his nephew and niece. Insofar as Accused No.2 is concerned, he has two sisters who are looking after his widowed mother. Lack of criminal antecedents also cannot be considered as mitigating circumstance, particularly taking into consideration, the nature of heinous offence and cold and calculated manner in which it was committed by the accused persons. **[2015] 0 Supreme(SC) 394 (FB) PURUSHOTTAM DASHRATH BORATE Vs. STATE OF MAHARASHTRA.**

We believe that the testimonies of the prosecution witnesses are consistent, on the whole, and minor discrepancies are such that those will not weaken the prosecution case. The prosecution witnesses have established the presence and participation of all the accused in the offence.
this Court has also laid down in Dharmendrasinh alias Mansing Ratansinh Vs. State of Gujarat, (2002) 4 SCC 679, that when other evidence, such as medical evidence, supports the prosecution's case, the difference in what is stated in the F.I.R. and in Court as regards the weapon of offence is a very insignificant contradiction. **[2015] 0 Supreme(SC) 395 Sanjeev Kumar Gupta Vs. State of U.P.**

as the witnesses have identified the accused-appellants in the Court and except giving a bald suggestion that they have not seen the accused persons, there is nothing in the cross-examination we are disposed to accept the identification in Court. Hence, the submission canvassed by the learned counsel for the appellants on this score pales into insignificance.
The last plank of submission of the learned counsel for the appellants is that no independent witness has been examined to substantiate the allegation of the prosecution. It is worth to note that Labh Singh and Harvinder Singh have not been examined by the prosecution. The explanation has been offered that the investigating agency was of the view that they had been won over. The said explanation has been totally

substantiated inasmuch as they have been examined as defence witnesses. In such a situation, no adverse inference can be drawn for non-examination of the said witnesses. That apart, the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on the perusal of the evidence on record the Court finds that the case put forth by the prosecution is trustworthy. When the evidence of the official witnesses are trustworthy and credible, there is no reason not to rest the conviction on the basis of their evidence. **[2015] 0 Supreme(SC) 389 Kulwinder Singh Vs. State of Punjab.**

the contradiction between FIR and the GD entry was not in relation to the role of the appellant and thus, he may not get any benefit out of it. Also, although the weapon attributed to the appellant by which he made the shot has not been recovered; this should not be fatal to the case of the prosecution. The only contention of the appellant left to be addressed is that there was no independent witness brought forth by the prosecution. We find this alone cannot be a ground for acquittal in view of the evidence available. **[2015] 0 Supreme(SC) 361 HARI SHANKERS Vs. STATE OF UTTAR PRADESH.**

In terms of section 24(1) and 24(8) CrPC 'case' does not include 'appeal'.
Words "without any written authority" in section 300(1) CrPC can only mean that the Public Prosecutor once engaged/appointed by the State, can prosecute the appeal without filing any formal authority. Just because of his appointment for trial case, he will not be authorised to appear before the High Court for which he has not been appointed in pursuance of Section 24(1) CrPC. **[2015] 0 Supreme(SC) 363 K.Anbazhagan Vs. State of Karnataka. (Jayalalitha case)**

T.I. Parade – Absence of – Trustworthy and reliable evidence of a witness cannot be discarded merely because no TI Parade was conducted – Instantly evidence of PW 17 trustworthy and reliable – Corroborated by other circumstances and recovery of weapon. **[2015] 0 Supreme(SC) 323 Ashwani Kumar @ Ashu Vs. State Of Punjab.**

Court held that the power of the courts to award compensation to victims under Section 357 is not ancillary to other sentences but in addition thereto and that imposition of fine and/or grant of compensation to a great extent must depend upon the relevant factors apart from such fine or compensation being just and reasonable. **[2015] 0 Supreme(SC) 328 VINAY Vs. STATE OF KARNATAKA.**

No doubt, these eye witnesses are related to the informant (PW-1), but merely for that reason their testimony cannot be disbelieved, particularly, when their presence with the appellants at the spot appears to be natural. It is relevant to mention here that the incident had taken place in village Garibpur, and all the four witnesses belong to the same village. There appears to be no personal enmity on the part of these witnesses as against the appellants. **[2015] 0 Supreme(SC) 349 Bivash Chandra Debnath @ Bivash D Vs. State of West Bengal.**
Indulgence in cheating, fabrication of records or misappropriation cannot be said to be in discharge of official duty. Section 197 Cr PC will not be attracted in such cases. **[2015] 0 Supreme(SC) 346 Inspector of Police Vs. Battenapatla Venkata Ratnam.**

Test Identification parade is not a rule of law but only rule of prudence. What is substantive evidence is the identification of an accused in court by a witness. **[2015] 0 Supreme(SC) 293 Satwantin Bai Vs. Sunil Kumar.**

It is well settled in law that non-examination of a material witness is not a mathematical formula for discarding the weight of the testimony available on record, if the same is natural, trustworthy and convincing.
The maxim "falsus in uno, falsus in omnibus", is not applicable in India. In Krishna Mochi v. State of Bihar, (2002) 6 SCC 81 it has been held thus:

"The maxim falsus in uno, falsus in omnibus has no application in India and the witnesses cannot be branded as liars. The maxim falsus in uno, falsus in omnibus (false in one thing, false in everything) has

not received general acceptance … nor has this maxim come to occupy the status of the rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded." **[2015] 0 Supreme(SC) 297 Raja @ Rajinder Vs. State of Haryana.**

Minor discrepancies cannot be ground for disbelieving evidence of eye witnesses.
Testimony of interested witness cannot, per se, be discarded.
Other independent witnesses turning hostile can be no ground to discredit evidence of injured interested witnesses.
Appellant actively participating in unlawful assembly, section 149 IPC is attracted.
Non-examination of material witnesses is not fatal to prosecution case. **[2015] 0 Supreme(SC) 290 Jodhan Vs. State of M.P.**

Accused found guilty of causing death should be made to compensate the victim or his/her dependants. If the compensation from accused resources is not adequate, the State should make it up u/s 357A. **[2015] 0 Supreme(SC) 123 STATE OF M.P. Vs. MEHTAAB**

Ashok Vs State of Maharastra 2015 Cr.L.J 2036 SC The initial burden of proof is on the prosecution to bring sufficient evidence pointing towards guilt of the accused. However, in case of the last seen together, the prosecution is exempted to prove exact happening of the incident as the accused himself would have special knowledge of the incident and thus would have special knowledge of the incident and thus would have burden of proof as per Sec 106 of the Indian Evidence Act 1872. Therefore, last seen together itself is not a conclusive proof but along with the other circumstances surrounding the incident, like relations between the accused and the deceased, enmity between them, previous history of hostility, recovery of weapon from the accused etc., non-explanation of death of the deceased, may lead to presumption of the guilt.

Vijay Pal Vs State (GNCT) of Delhi http://indiankanoon.org/doc/196726199/= 2015 Cr.L.J. 2041 SC = 2015 STPL(Web) 179 SC Ocular Evidence vis-à-vis Medical Evidence: There is no dispute that the value of the medical evidence is only corroborative. It proves that the injuries could have been caused in the manner as alleged and nothing more. The use which the defence can make of the medical evidence is to prove that the injuries could not possibly have been caused in the manner alleged and thereby discredit the eye-witnesses. Unless, however the medical evidence in its turn goes so far that it completely rules out all the possibilities whatsoever of injuries taking place in the manner alleged by the eye-witnesses, the testimony of the eye-witnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence. It is also true that the post-mortem report by itself is not a substantive piece of evidence, but the evidence of the doctor conducting the post-mortem can by no means be ascribed to be insignificant. The significance of the evidence of the doctor lies vis-à-vis the injuries appearing on the body of the deceased person and likely use of the weapon and it would then be the prosecutor's duty and obligation to have the corroborative evidence available on record from the other prosecution witnesses. It is also an accepted principle that sufficient weightage should be given to the evidence of the doctor who has conducted post mortem as compared to the statements found in the text-books but giving weightage does not ipso facto mean that each and every statement made by a medical witness should be accepted on the face value even when it is self-contradictory. That apart, it would be erroneous to accord undue primacy to the hypothetical answers of the medical witnesses to exclude the eye-witnesses account which are to be tested independently and not treated as the "variable" keeping the medical evidence as the "Constant". Where the eye-witness account is found credible and trustworthy, a medical opinion pointing to the alternative possibilities cannot be accepted as conclusive.
Dying Declaration: If the dying declaration is absolutely credible and nothing is brought on record that the deceased was in such a condition, he or she could not have made a dying declaration to a witness, there is no justification to discard the same.

Tejram Patil vs State of Maharastra 2015 Cr. L.J. 1829 SC = http://indiankanoon.org/doc/35985697/= 2015 STPL(Web) 144 SC Dying Declaration: When a dying declaration relating to circumstances of the transaction which resulted in the death of a person making the declaration are integral pat of circumstances resulting in the death of any other person, such dying declaration has relevance for death of such other person also.

Rajinder Singh Vs State of Punjab 2015 Cr.L.J. 1934 SC(FB)= http://indiankanoon.org/doc/141748525/ Dowry Death – Demand of Dowry: Statute must be given a fair, pragmatic and common sense interpretation so as to fulfill the object sought to be achieved by the Parliament. Any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act at or before or at any time after the marriage which is reasonably connected to the death of the married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of the given case clearly and unequivocally point otherwise. {***the Judgment in Appasaheb's case AIR 2007 SC 763 followed by the judgment of Kulwant Singh AIR 2013 Sc (Cri) 1034 stands Overruled}*** **Expression "soon before her death"** – "Soon before" is not synonymous with "immediately before". Days or month are not what is to be seen. What must be borne in mind is that the word "soon" does not mean "immediate". A fair and pragmatic construction keeping in mind the great social evil that has led to the enactment of Section 304B would make it clear that the expression is relative expression. Time lags may differ from case to case. All that is necessary is that demand for dowry should not be a stale but should be the continuing cause for the death of the married woman under Sec 304B. ***{The Judgment in Dinesh Vs State of Haryana 2014(5) SCALE 641 stands Overruled}***

Preventive Detention-High Court Order quashing detention order merely on the ground that accused involved in solitary case- and that no bail application has been filed by detune or his relative- not proper. **Secretary to Government(Law & Order-F) and another vs. Nabila and another. 2015(1) ALD (Crl) 708 (SC)= 2014 STPL(Web) 818 SC.**

"Ëquity follows the law" If the Law is Clear, no notions of equity can substitute the same. **Narinder S Chadha and others Vs Municipal Corporation of Greater Mumbai and others. 2015 (1) ALD (Crl) 764.(SC)= http://indiankanoon.org/doc/128982936/= 2014 STPL(Web) 812 SC**

It is settled principle of law that benefit of reasonable doubt is required to be given to the accused only if the reasonable doubt emerges out from the evidence on record. Merely for the reason that the witnesses have turned hostile in their cross-examination, the testimony in examination-in- chief cannot be outright discarded provided the same (statement in examination-in-chief supporting prosecution) is corroborated from the other evidence on record. In other words, if the court finds from the two different statements made by the same accused, only one of the two is believable, and what has been stated in the cross-examination is false, even if the witnesses have turned hostile, the conviction can be recorded believing the testimony given by such witnesses in the examination-in- chief. However, such evidence is required to be examined with great caution. **Selvaraj @ Chinnapaiyan Vs State 2015 (1) ALD (Crl) 777 (SC)= 2015(2) ALT (Crl) 56 SC= http://indiankanoon.org/doc/105603030/= 2014 STPL(Web) 816 SC**

Materials on record clearly reveal that the appellant was well acquainted with the inhabitants of the locality and as is demonstrable he had access to the house of the father of the deceased and the children used to call him "uncle". He had lured the deceased to go with him to have chocolates. It is an act of taking advantage of absolute innocence. He had taken the deceased from place to place by his bicycle and eventually raped her in a brutal manner, as if he had the insatiable and ravenous appetite. The injuries caused on the minor girl are likely to send a chill in the spine of the society and shiver in the marrows of human conscience. He had battered her to death by assaulting her with two heavy stones. The injured minor girl could not have shown any kind of resistance. It is not a case where the

accused had a momentary lapse. It is also not a case where the minor child had died because of profuse bleeding due to rape but because of the deliberate cruel assault by the appellant. After the savage act was over, the coolness of the appellant is evident, for he washed the clothes on the tap and took proper care to hide things. As is manifest, he even did not think for a moment the trauma and torture that was caused to the deceased. The gullibility and vulnerability of the four year girl, who could not have nurtured any idea about the maladroitly designed biological desires of this nature, went with the uncle who extinguished her life spark. The barbaric act of the appellant does not remotely show any concern for the precious life of a young minor child who had really not seen life. The criminality of the conduct of the appellant is not only depraved and debased, but can have a menacing effect on the society. It is calamitous. **Vasanta Sampat Dupare Vs. State of Maharashtra 2015 (1) ALD (Crl) 781 (SC) FB = 2014 STPL(Web) 777 SC FB**

The High court should have appointed a lawyer as amicus curie to argue the case of Appellant while proceeding to decide the appeal ex-parte on merits.
L. Laxmikanta vs State by Superintendent of Police, Lokayukta 2015 (2) ALT (Crl) 1 SC= 2015 STPL(Web) 93 SC.

Ramakant Mishra @ Lalu etc Vs State of U.P 2015(2) ALT (Crl) 81 SC = 2015 STPL(Web) 172 SC Once a dying declaration is said to be authentic, inspiring full confidence beyond the pale of doubt, voluntary, consistent and credible, barren of tutoring, significant sanctity is endowed to it: such is the sanctity that it can even be the exclusive and solitary basis for conviction without seeking any corroboration. Indian law on the aspect of dying declaration drifts from English law – Dying Declaration enjoys a higher level of credence vis-a-vis any other statement.
It appears to be unexceptionable that whenever a person is brought to the hospital in an injured state which indicates foul-play, the hospital authorities are enjoined to treat it as a medico-legal case and inform the police. If the doctor who has attended the injured, is of opinion that death is likely to ensue, it is essential for him to immediately report the case to police, any delay in doing so will almost never be brooked. The Police in turn should be alive to the need to record a decleration/statement pf the injured person, by pursuing a procedure which would make the recording of it beyond the pale of doubt. That is why the investigating officer is expected to alert the jurisdictional magistrate of the occurrence, who in turn should immediately examine the injured. When this procedure is adopted, conditional on the certification of a doctor that the injured is in a fit state to make a statement, a Dying decleration assumes incontrovertible evidentiary value. We cannot conceive of a more important duty cast on the Magistrate, since the life and death of Human being is of paramount importance. We think that only if it is impossible for the magistrate to personally perform the duty, should he depute another senior official. Non-adherence to this procedure would needlessly and avoidably cast a shadow on the recording of dying decleration. The prosecution would be expected to prove that every step was diligently complied with. The prosecution would have to produce the doctor or medical authority to establish that on the examination of the injured/deceased, the police had been immediately informed.

J.V. Bahurani and another vs State of Gujarat and another 2015 (2) ALT (Crl) 89 SC = 2014 STPL(Web) 836 SC Summary way – when a case in substance is not tried in a summary way, though triable summarily, but tried as a summons case, it need not be heard denovo. Succeeding Magistrate can follow the procedure contemplated under Section 326(1) of the Cr.P.C. "Speedy trial" and "fair trail" to a person accused of a crime are integral part of Article 21 of the constitution of India. There is, however, qualitative difference between the right to speedy trial and the accused right of a fair trial. Unlike the accused's right of a fair trial, deprivation of the right to speedy trial does not per se prejudice the accused in defending himself. The right to speedy trial is in its nature relative. It depends upon diverse circumstances. Each case of delay in conclusion of a criminal trial has to be seen in the facts and circumstances of such case. Mere lapse of several years since the commencement of prosecution by itself may not justify the discontinuance of the prosecution or dismissal of indictment. The factors concerning the accused's right to speedy trial have to be weighed vis-avis the impact of the crime on society and the confidence of the people in judicial system. Speedy trial secures rights to an accused but it does not preclude the rights of public justice. The nature and gravity of crime person involved, social impact and

societal needs must be weighed along with the rights of the accused to speedy trail and if the balance tilts in favour of the former the long delay in conclusion of the criminal trial should not operate against the continuation of prosecution and if the right of the accused in the facts and circumstances of the case and exigencies of the situation tilts the balance in his favour, the prosecution may be brought to an end.

Kanaklta Vs State of (NCT) of Delhi and others 2015(2) Alt (Crl) 23 SC= 2014 STPL(Web) 836 SC If an order passed by court is set aside the observations and findings recorded therein also get obliterated for all intents and purposes.

Bhim Singh and another vs State of Uttarkhand 2015(2) ALT (Crl) 62 SC= indiankanoon.org/doc/4143808/= 2015 STPL(Web) 101 SC Proof of motive or ill-will is unnecessary to sustain conviction where there is a clear evidence.

HIGH COURT

Final report- Defacto complainant should be heard-protest petition- to be dealt as Private complaint-It is further observed that the Magistrate while dropping the proceedings against the accused from the referred report filed by police, it is mandatory to hear the complainant or informant by issuing him notice and come to a fresh conclusion therefrom. It is to say without even hearing the victim or the de facto complainant, as the case may be, even police filed referred report, from the application of mind by Magistrate, material disclose the offence to take cognizance against any of the accused, it is the duty of the Magistrate within his power to take cognizance and even if he wants to accept the referred report filed by police to drop the proceedings by not choosing to take cognizance, it is also the duty of the Magistrate to hear victim or de facto complainant and come to fresh conclusion. It is to say even at that stage, protest petition can be filed by the de facto complainant or the victim, as the case may be, on which the Magistrate may proceed with as private complaint procedure to take cognizance. **Bommisetty Varchala Vs State of A.P. and another. 2015 (1) ALD (Crl) 705.= http://indiankanoon.org/doc/47697105/**

Establishment of the following two conditions is sine qua non to register the crime under Section 3 (1) (x) of the Act in view of the ratio laid down in the case cited supra. i. **The person belongs to Scheduled Caste or Scheduled Tribe being insulted or intimidated in his presence in the name of the caste;** ii. The incident must occur in any place within the public view. As per the principle enunciated in Gorige Pentaiah v. State of A.P. (2009) 1 SCC (Cri.) 446, D. Santosh Reddy v. S.H.O. of Shamshabad P.S and U.Sadasivaiah v. State of Andhra Pradesh, if the allegations made in the complaint or FIR do not satisfy the basic ingredients of Section 3 (1) (x) of the Act, the Court can quash the proceedings by exercising inherent jurisdiction under Section 482 Cr.P.C. **I.V.Rao and another Vs State of A.P. 2015 (1) ALD (Crl) 806**

Dasari Satyanarayana Vs State of A.P. rep by Public Prosecutor, High court, Hyderabad http://indiankanoon.org/doc/190525336= 2015 (2) ALT (Crl) 28 A.P When a NBW is issued and executed the offence becomes non-bailable and after execution accused has no right to claim as if it is still a bailable offence – Until an order canceling the bail is issued, a bail for all purposes is co-terminus with final result of the case and not before – mere issuance of a NBW contemplated under section 70(1) Cr.P.C pending in execution or even after execution it does not tantamount to cancellation of bail in a non-bailable offence in the absence of any such condition to that effect.

Gullampudi Veera Nagamani vs State of A.p rep by Public prosecutor and another 2015(2) ALT (Crl) 20 A.P= http://indiankanoon.org/doc/96461026/ It is settled principle of law that a person who has suppressed the material facts is not entitled to the relief sought by him either in civil or criminal proceedings.

Morabina Venkatesu and others Vs State of A.P rep by its Public prosecutor, high court of A.P, Hyderabad and another 2015(2) Alt (Crl) 31 A.P = http://indiankanoon.org/doc/32627469/ From

the judgments of the Apex court it is clear that the learned magistrate can ignore the conclusions arrived at by the investigating agency and independently apply his mind to the facts emerging from investigation and take cognizance of the case under section 190(1)(b) Cr.P.C. The argument that the petitioner can be added as accused only at the stage of Sec 319 Cr.P.C cannot be accepted. The 161 Cr.P.c statements of the witnesses would prima-facie establish the role of the petitioners in the said crime.

NEWS

- As per the information given by Sri T.Sreenivasulu Reddy, President A.P.Public Prosecutors Association, The DOP of A.P. has renewed the data cards of all prosecuting officers of the state for a period of one year.
- The High court has rejected the applications of 18 prosecutors on the ground that they have suspended their practise with the Bar council.
- The Preliminary Written Examination (Screening Test) for 34 posts of Civil Judge (Junior Division) in the A.P. State Judicial Service (28 under direct recruitment and 6 by transfer) notified for the year 2015 will be held on SUNDAY THE 12TH DAY OF JULY, 2015 FROM 10.00 a.m. TO 12 noon.
- In the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014, in rule 3, in the proviso to sub-rule (2), for the words õon or before the 30th day of April, 2015ö, the words õon or before the 15th day of October, 2015öshall be substituted. **Gazette notification is available in Gazette Zone.**

ON A LIGHTER VEIN

DAD : I want you to marry a girl of my choice.
SON : No
DAD : The girl is Bill Gates daughter.
SON : Then OK
DAD goes to BILL GATES.
DAD : I want your daughter to marry my son.
BILL GATES : No.
DAD : My son is the CEO of World Bank.
BILL GATES : then OK
DAD goes to the President of the WORLD BANK.
DAD : Appoint my son as CEO of your bank.
PRESIDENT : No.
DAD : He is the son-in-law of Bill Gates.
PRESIDENT : Then OK
This is Business.

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The mind is not a vessel to be filled, but a fire to be kindled.
----Plutarch

CITATIONS

The dying declaration recorded by the Judicial Magistrate was in the presence of a doctor who had certified about the fitness before and after recording of such statement. There was not even a suggestion in the cross examination of the Judicial Magistrate that any of the relatives of the deceased were present when such statement was recorded nor is there any circumstance which could caste a doubt about the genuiness of declaration as recorded by the Judicial Magistrate. Further the certification by doctor was also not put in challenge. Dying Declaration fully valid. **SANDEEP AND ANR. Vs. STATE OF HARYANA. 2015 STPL (Web) 426 SC.**

An appeal under the provisions of Arms Force Tribunal Act 2007, S.31 is maintainable only in case the same involves substantial question of law of general public/public importance/interest. **UNION OF INDIA AND ANOTHER Vs. EX NAIK SURENDRA PANDEY 2015 STPL (Web) 443 SC.**

The approach of High Court relying upon the confessional statements, otherwise inadmissible with the aid of other connected evidence is contrary to law. **INDRA DALAL Vs. STATE OF HARYANA 2015 STPL (Web) 429 SC.**

A complete chain of circumstantial evidence unequivocally pointing out accusing finger at the accused. Rightly convicted for murder. **PREM SINGH Vs. STATE OF HARYANA. 2015 STPL (Web) 428 SC.**

Criminal Law - Suspicion however strong it may be, cannot take the place of proof.

Common intention- direct evidence of common intention is seldom available. Such common intention of the accused can only be inferred from the evidence and circumstances appearing from proved facts of case. **RANJEET KUMAR RAM @ RANJEET KUMAR DAS Vs. STATE OF BIHAR. 2015 STPL (Web) 411 SC.**

Execution of death sentence – We hold that condemned prisoner also have a right to dignity and execution of death sentence cannot be carned out in a arbitrary, hurried and secret manner without allowing the convicts to exhaust all legal remedies **SHABNAM Vs. UNION OF INDIA & ORS. 2015 STPL (Web) 442 SC.**

Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross- examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot allowed to be lonely; a destitute.

Emphasis on re-examination by the prosecution is not limited to any answer given in the cross-examination, but the Public Prosecutor has the freedom and right to put such questions as it deems necessary to elucidate certain answers from the witness. It is not confined to clarification of ambiguities, which have been brought down in the cross-examination. VINOD KUMAR VS STATE OF PUNJAB (2015) 2 SCC (Cri) 226 = (2015) 3 SCC 220= (2015) 42 SCD 316= indiankanoon.org/doc/84557894/= 2014 STPL(Web) 56 SC= [2015] 0 Supreme(SC) 53555

the word "shall" used in sub- Section (5) cannot be interpreted as mandatory, but directory. Documents can be filed subsequently with the permission of the court.

Therefore, the High Court is right in rejecting the prayer of default bail under Section 167 (2) of Cr.P.C. Upon the filing of the police report, cognizance was taken by the learned ACJM. **Narendra**

Kumar Amin vs Cbi & Anr, (2015) 42 SCD 299= (2015) 2 SCC (cri) 259 =(2015) 3 SCC 417= indiankanoon.org/doc/24360272/ = 2015 STPL(Web) 44 SC= [2015] 0 Supreme(SC) 53549

The general rule about age determination is that the age as determined can vary plus minus two years but the Board has in the case at hand spread over a period of six years and taken a mean to fix the age of the appellant at 33 years. We are not sure whether that is the correct way of estimating the age of the appellant. What reassures us about the estimate of age is the fact that the same is determined by a Medical Board comprising Professors of Anatomy, Radiodiagnosis and Forensic Medicine whose opinion must get the respect it deserves. That apart even if the age of the appellant was determined by the upper extremity limit i.e. 36 years the same would have been subject to variation of plus minus 2 years meaning thereby that he could as well be 34 years on the date of the examination. Taking his age as 34 years on the date of the examination he would have been 18 years, 2 months and 7 days on the date of the occurrence but such an estimate would be only an estimate and the appellant may be entitled to additional benefit of one year in terms of lowering his age by one year in terms of Rule 12 (3)(b) (supra) which would then bring him to be 17 years and 2 months old, therefore, a juvenile. **Darga Ram @ Gunga vs State Of Rajasthan http://indiankanoon.org/doc/94485777/= [2015] 1 Supreme 161/ =[2015] 0 Supreme(SC) 53526 =[2015] 1 Crimes(SC) 81 = (2015) 2 SCC (Cri) 299 = (2015) 2 SCC 775.**

Undue sympathy by means of imposing inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and the society cannot endure long under serious threats. If the courts do not protect the injured, the injured would then resort to personal vengeance. Therefore, the duty of any court is to award proper sentence having regard to the nature of the offence and the manner in which it was committed. **State of Punjab Vs. Bawa Singh [2015] 0 Supreme(SC) 53550 = (2015) 2 SCC (Cri) 325 = (2015) 3 SCC 441.**

Sub-section (3) of Section 357 further empowers the court by stating that it "may" award compensation even in such cases where the sentence imposed does not include a fine. The legal position is, however, well established that cases may arise where a provision is mandatory despite the use of language that makes it discretionary.
At the stage of final hearing it is obligatory on the part of the Court to advert to the provision and record a finding whether a case for grant of compensation has been made out and, if so, who is entitled to compensation and how much. Award of such compensation can be interim. Gravity of offence and need of victim are some of the guiding factors to be kept in mind, apart from such other factors as may be found relevant in the facts and circumstances of an individual case. **Manohar Singh vs State Of Rajasthan And Ors indiankanoon.org/doc/195057826/ = (2015) 2 SCC (Cri) 332 = (2015) 3 SCC 449 = (2015) 42 SCD 303 = [2015] 0 Supreme(SC) 53551**

If the other accused was acquitted by giving benefit of doubt then on the same set of evidence, the present appellant is also entitled for acquittal.- not allowed- **Tarabai vs The State Of Maharashtra http://indiankanoon.org/doc/188079545/= [2015] 0 Supreme(SC) 53565 =[2015] 1 Crimes(SC) 157 =(2015) 42 SCD 308 = (2015) 2 SCC (Cri) 342 = (2015) 3 SCC 530.**

The legal position is fairly well-settled that in the proceedings under Section 202 of the Code the accused/suspect is not entitled to be heard on the question whether the process should be issued against him or not. As a matter of law, up to the stage of issuance of process, the accused cannot claim any right of hearing. Section 202 contemplates postponement of issue of process where the Magistrate is of an opinion that further inquiry into the complaint either by himself is required and he proceeds with the further inquiry or directs an investigation to be made by a police officer or by such other person as he thinks fit for the purpose of deciding whether or not there is sufficient ground for proceeding. If the Magistrate finds that there is no sufficient ground for proceeding with the complaint and dismisses the complaint under Section 203 of the Code, the question is whether a person accused of crime in the complaint can claim right of hearing in a revision application preferred by the complainant against the order of the dismissal of the complaint. Parliament being alive to the legal

position that the accused/suspects are not entitled to be heard at any stage of the proceedings until issuance of process under Section 204, yet in Section 401(2) of the Code provided that no order in exercise of the power of the revision shall be made by the Sessions Judge or the High Court, as the case may be, to the prejudice of the accused or the other person unless he had an opportunity of being heard either personally or by pleader in his own defence. **Gurdev Singh Vs. Surinder Singh [2015] 3 SCC 773/ [2014] 0 Supreme(SC) 927 = (2015) 3 SCC (Cri) 444**

[illegible] . **[2015] 0 సుప్రీం (SC) 421** [illegible]

[illegible] **@** [illegible] **KUMAR DAS Vs** [illegible] **= 2015 STPL(Web) 411 SC**

Art 21 of the Constitution of India guarantees “right to life with human dignity”.
Any violation of human rights is viewed seriously. The right guaranteed by Article 21 is available to every person and even the State has no authority to violate that right.
The requirements (16 in number) to be followed in the matters of Investigating police encounters in cases of death and also grievous injury cases as the standard procedure for thorough, effective and independent investigation were issued. **People’s Union for Civil Liberties & anr. V. State of Maharastra & anr 2015 (2) ALT (Crl.) 130(SC).**

It is the duty of superior courts to follow the command of statutory provisions and be guided by precedents and issue directions which are permissible in law.
Setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused’s misconduct or new adverse facts. **Abdul Basit @ Raju & ors V. Md. Abdul Khadir Chaudhary & anr 2015 (2) ALT (Crl.) 151(SC).**

In a plea of sudden fight , burden to show that the case falls under Exception 4 of Section 300 IPC is on the accused.
Whether a case falls under section 302 or 304 IPC to be decided from case to case depending on factors like the circumstances in which the incident takes place and nature of weapon used. **Dhirendra Kumar @ Dhiroo V. State of Uttarakhand 2015 (2) ALT (Crl.) 160(SC).**

Invalidity of investigation does not vitiate the result unless a miscarriage of justice has been caused thereby.**Union Of India rep. by Superintendent of Police V. T.Nathumani 2015 (2) ALT (Crl.) 165(SC).**

In appeal under Art.136 of the Constitution of India, re-appreciation of evidence is not possible in the absence of perversity or patent legal error, merely because a different view was also possible. **State of Himachal Pradesh V. Ram Pal 2015 (2) ALT (Crl.) 171(SC).**

To make out an offence under section 120 B of IPC, the prosecution must lead evidence to prove the existence of some agreement between the accused persons. **Subash @ Dhillu V. State of Haryana 2015 (2) ALT (Crl.) 179(SC).**

Generally a revision against conviction and sentence is filed after an appeal is dismissed. **Vivek Rai & anr V. High Court of Jharkhand through Registrar General and ors. 2015 (2) ALT (Crl.) 181(SC).**

It is not the requirement of law that for charging an accused u/s 15 of Prevention of Corruption Act he must also be charged either u/s.13(1) (c) of (13) (1) (d) of the Act **State Tr. Ins. Of Police. V. A.Arun Kumar and another 2015 (2) ALT (Crl.) 206(SC).**

Every breach of contract would not give rise to an offence of cheating.
Only in those cases breach of contract would amount to cheating where there was any deception played at the time of very inception.

In the absence of culpable intention at the time of making of promise, no offence u/s 420 IPC can be said to have been made out.
If the intention to cheat developed later on, the same cannot amount to cheating.
Criminal proceedings shall not be encouraged when it is found to be malafide or otherwise abuse of process of court. **Vesa Holdings P. Ltd & anr V. State of Kerala & ors. 2015 (2) ALT (Crl.) 212(SC).**

Where the direct evidence is scarce, burden of proving the case of prosecution is bestowed upon motive and circumstantial evidence.
The basic idea embedded u/s 27 of Indian Evidence Act is the doctrine of subsequent events. **Pawan Kumar V. Monu Mittal V. State of U.P. & anr. 2015 (2) ALT (Crl.) 217(SC).**

When the names of electronic and print media which have telecast/published news allegedly defaming a public servant have already been mentioned in the sanction order it is not necessary for the State Govt. to separately issue sanction order against each one of the accused. One sanction order is sufficient. **Rajdeep Sardeshi V. State of Andhra Pradesh & ors 2015 (2) ALT (Crl.) 234(SC).**

Liberty of thought and expression is a cardinal value that is of paramount significance under constitutional scheme..
S.66A of Information Technology Act is intended to punish any person who uses the internet to disseminate any information that falls within the sub-clauses of S.66A. It makes no distinction between mass dissemination and dissemination to one person.
S.66A severely curtails information that may be sent on the internet based on whether it is grossly offensive, annoying, inconvenient, etc., and being unrelated to any of the eight subject matters under Art(19) (2) must, therefore, fall foul of Art.19(1) (a) and not being saved under Art.19(2) is declared as unconstitutional.
Information Technology (Procedure and Safeguards for blocking fo access of information by public) Rules 2009 ï Rules provides for hearing before the committee set up which looks into whether or not it is necessary to block such information ï Merely because certain additional safeguard such as those found in Sec.95 and 96 Cr.P.C. are not available does not make the rules constitutionally infirm. **Shreya Singal V. Union of India. 2015 (2) ALT (Crl.) 251 (SC).**

Omission of and important witnesses is indeed fatal to the case of the prosecution.**Vemu Prabhakar @ Bobby & ors V. State of A.P. rep by P.P. High Court 2015 (2) ALT (Crl.) 105 (AP).**

Test to Quash - One of the fundamental test to determine whether a prima facie case is made out or not is to consider whether a case would be made out in the absence of contrary evidence, if the allegations are accepted as true. **Ch.Nagabushanam V. State of A.P rep. by P.P. High Court 2015 (2) ALT (Crl.) 114 (AP).**

Apprehension of an accused ï employee losing his job cannot be a ground to suspend his conviction. Veracity of accusation has to be tested on the anvil of trial. **V.Gopal Reddy V. State of Telangana 2015 (2) ALT (Crl.) 118 (AP)**

We are, therefore, persuaded to take the view that the bank account of the accused or any of his relation is `property' within the meaning of Section 102 of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into. The contrary view expressed by Karnataka, Gauhati and Allahabad High Courts, does not represent the correct law. **Smt.Karreddula Aruna Devi. vs Branch Manager, Andhra Bank P.G.R.L.C.Jr.College Branch, Vikasnagar, Dilsukhnagar, Hyderabad. 2015(1) ALD (Crl) 886**

PREVENTIVE DECISION : It is, therefore, plain that it is only after the Advisory Board, to which the case had been referred, reports that the detention is justified, the government should determine what

period of detention should be and not before. The fixing of the period of detention in the initial order itself in the present case was, therefore, contrary to the scheme of the Act and cannot be supported. **J.Bujji vs. Govt. of A.P. and others. 2015(1) ALD(Crl) 892.**

PREVENTIVE DECISION: even if the order of detention is made by the District Magistrate or Commissioner of Police under sub-section (2) of Section 3, specifying the period of detention for 3 months or even a larger period than it but not exceeding 12 months, if such an order does not get confirmed by the State Government within 12 days period of time from the day it is made, such an order cannot have any effect beyond the 12 th day.
It is certainly desirable that a separate detention order and grounds forming the basis for such detention order be passed but, most importantly they be communicated to the detainee simultaneously. In the instant case, a comprehensive order of detention containing the grounds that formed the basis for subjective satisfaction of the detaining authority have been included therein. Thus the requirement of law as well as the protection available under Clause (5) of Article 22 was simultaneously achieved. Hence, the same is not fatal to the detention order.
It is true that, where the ordinary course of law is adequate and sufficient to deal with the offences indulged in, then perhaps, the preventive detention should not be resorted to. But as was pointed out by the Supreme Court in Dr. Ram Manohar Lohia v. State of Bihar [20] , Arun Ghosh v. State of West Bengal [21] , Madhu Limaye v. Sub Divisional Magistrate, Monghyr [22] and Ashok Kumar v. Delhi Administration & others [23] , if the dangerous activities of the detenue are such as to threaten the public order, the situation warrants invocation of the harsher option of preventive detention. The distinction between the areas of ñpublic orderò and ñlaw and orderò must be constantly borne in mind. The act complained of against the detenue itself, may not be the determining factor about its gravity. But, it is the potentiality of the act which can disturb the even tempo of the life of the community that makes it prejudicial to the maintenance of public order. **B.Venkata Ramana Vs Govt. of A.P. 2015(1) ALD (Crl) 897= [2014] 0 Supreme(AP) 40688.**

when the dispute touching the same subject property is already pending in civil court, parallel proceedings under Section 145 Cr.P.C. are not maintainable before an Executive Magistrate. There is no demur about this legal principle. However, the present case is concerned, it appears, Executive Magistrate has not passed any final order under Section 145 Cr.P.C. by taking the statements of the parties, but he only passed a preliminary order restraining both the parties from entering into property in order to prevent breach of peace. By virtue of dictum laid down by the Supreme Court the Executive Magistrate is debarred from passing any final order under Section 145 Cr.P.C. declaring his opinion on the possession by either party. Therefore, the parties have to approach concerned civil court to vindicate their rights in respect of disputed properties and obtain a suitable interim order as they are representing that standing crop is there on the disputed land. Till the parties obtain a suitable interim order from the civil court, in order to prevent the breach of peace, the preliminary prohibitory order passed by Executive Magistrate, in the considered view of this Court, shall be maintained. **Chella Venkata Ramana Reddy Vs State of A.P. and Another. 2015 (1) ALD (Crl) 927.**

Application for Cancellation of bail can be filed by the defacto complainant. Syed Abdul Majid And others Vs M.A.Jabbar and another. 2015(1)ALD (Crl) 939.

304 A IPC : The contentions like the trial court did not bestow its attention to the facts, evidence and the law and that the maximum speed of the vehicle like tractor trailer is a very low speed when compared to other heavy vehicles and that the cycle was not damaged and PW1 did not sustain injuries in the accident are no circumstances to brush aside the direct evidence showing the rashness and negligence on the part of the accused while driving the tractor trailer at the time of accident. PW1ôs evidence is very clear that after the tractor hit the cycle from behind he fell to the left side and that the deceased fell to the right side and that therefore, the deceased came under the wheels of the vehicle. Therefore, there is explanation for the cycle not getting damaged and PW1 not sustaining injuries in the subject accident. It is not the case of the accused that he has rendered necessary assistance to the victims after the accident in due discharge of his legal obligation under the provisions of the Motor Vehicles Act. His case is one of total denial. Therefore, it follows that he is

liable to be punished for the offences with which he was charged. **Rajula Pothu Raju Vs State of A.P. 2015 (1) ALD (Crl) 955.**

The trial court proceeded in its judgment as if there was no charge at all framed under Section 506 of the IPC and completely ignored the case of the prosecution on the said charge. Further, even though no charge under Section 420 of the IPC was framed, the trial Court had dealt with the said charge and found the accused not guilty of the said offence. Therefore, the way the trial Court dealt with the matter is totally unsatisfactory and not in accordance with the facts and the law. Therefore, this court is of the well considered view that the judgment of the trial court is unsustainable and is liable to be set aside. **A.D.Rita Kumari vs. N.Ravi Manohar and others. 2015(1) ALD (Crl) 960.**

The Medial evidence that Doctor who conducted PME stating that the burns were not accidental coupled with the fact of presence of kerosene on scalp and dust in larynx, would dislodge the ocular evidence of the deceasedôs minor daughter that the burns are accidental. **Vijay Pal Vs State of Delhi. 2015(1)ALD(Crl)1015(SC)= indiankanoon.org/doc/196726199/**

Plea on behalf of the appellant that since no efforts were made by the prosecution to file the photographs and the recorded conversation of the prosecutrix with the appellant and, therefore, the prosecutrix's version should not be relied on repelled ï Held that prosecutrix had no control over the investigating agency and nor the lapse on the part of the investigating agency could in any manner affect the creditability of the statement of the prosecutrix - Courts below rightly placed reliance on the sworn testimony of the prosecutrix on this issue and came to a just and proper conclusion that having regard to the facts and circumstances of the case coupled with the explanation given by the prosecutrix, there was no delay in lodging the FIR by her mother and even if there was some delay then, in our considered view, the same was satisfactorily explained.
Once the prosecutrix states in her evidence that she did not consent to act of sexual intercourse done by the accused on her which, as per her statement, was committed by the accused against her will and the accused failed to give any satisfactory explanation in his defence evidence on this issue, the court will be entitled to draw the presumption under Section 114-A of the Act, 1872 against the accused holding that he committed the act of sexual intercourse on the prosecutrix against her will and without her consent
Reduction of Sentence ï Prayer for - Plea that looking to the young age of the appellant and further he being the first offender and the fact that he has already undergone 3 years 1 month in jail, this Court should take some lenient view in the matter of awarding of the sentence to him repelled ï Held that the appellant has been awarded minimum mandatory sentence of 7 years.
DEEPAK Vs. STATE OF HARYANA 2015 STPL(Web) 186 SC [JT 2015 (3) SC 28 = 2015(3) SCALE 414 = 2015 AIR(SCW) 1748 = 2015 CRI. L. J. 2049 = (2015) 4 SCC 762

Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 12 ï Juvenile Justice (Care and Protection of Children) Act, 2000, Section 7A ï Juvenility ï Claim for ï Despite the availability of the matriculation certificate for the determination of the age of the respondent, the trial Court directed a medical examination of the respondent which has been rightly set aside by the High Court by the impugned order ï Held that in the event of the claim of juvenility being ascertainable on the basis of a matriculation certificate, it is not open to the opposite party to demand a medical examination for establishing the age of the accused/convict. 2015 STPL(Web) 622 SC **- STATE OF BIHAR Vs. CHHOTU PANDEY @ ROSHAN PANDEY**

NEWS

- Prosecution Replenish wishes Sri M.A.Rawoof, J.D, D.O.P., Telangana, a very happy retired Life.
- Prosecution Replenish wishes Sri Balaji Kumar, Sri Giridhar Rao, Prosecutors, a very happy retirement.

- Prosecution Replenish wishes Sri Sheik Abdul Razak, Typist, Sanga Reddy District; Sri Madhava Reddy, Typist, Khammam District, a very happy retirement life.
- Prosecution Replenish Congratulates Sri. V.Balabuchaiah, PP, MSJ Court, Hyderabad for adoring the FAC of JD, D.O.P. office, Telangana.
- The following prosecutors working in the state of A.P. are transferred

Sl. No.	Name of the Prosecutor,	Designation & Place of work	Transfer and place of Court
	P. Seshaiah,	Additional Public Prosecutor, Gr-I/Spl. PP, Spl. Court for SC & ST (POA) Act, 1989, Eluru, West Godavari District.	Additional Public Prosecutor, GrI/Spl. PP, Spl. Court for SC & ST (POA) Act, 1989-cum IV ADJ Court, Tirupathi, Chittoor Dt.
1.	I.Raja Ratnam,	Additional Public Prosecutor, Grade-II,Addl. ASJ Court, Rajahmundry, East Godavari dt.	Additional Public Prosecutor, Grade ï II, ADJ Court, Bhimavaram, West Godavari dt.
2.	P.Madhusudhana Rao,	Addl. Public Prosecutor, Grade-II, Prl. ASJ Court, Vijayawada, Krishna District.	Additional Public Prosecutor, Grade-II, ASJ Court, Machilipatnam, Krishna District.
3	SRA Rosedar,	Additional Public Prosecutor, Grade-II, ASJ Court, Kadapa	Additional Public Prosecutor, Grade-II, Prl. ASJ Court, Chittoor.
4	S.Tarakeswarlu,	Additional Public Prosecutor, Grade-II, ASJ Court, Madanapalli, Chittoor District.	Additional Public Prosecutor, Grade-II, ASJ Court, Kadapa.

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WE endeavored to publish one of the best quotes of Dr. APJ ABDUL KALAM, but believe us, we were unable to agree on any one of the quotes, as each one of them were indispensable GEMS of Wisdom, so ultimately resolved to satisfy with a mere photograph of the great person. We also were unable to find words to express our tribute to our leader, and settled with the above words, as any number of words would not be sufficient to describe this Great Soulé é May his soul rest in peace.

CITATIONS

Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007, is applicable in determining the age of the victim of rape. Question of determination of age of prosecutrix by medical examination arise only in absence of documentary evidence. **State of Madhya Pradesh VS Anoop Singh [2015] 0 Supreme(SC) 676.**

When the ingredients of section 304-B are satisfied, presumption u/s 113-B Evidence Act arises. When the husband and the father-in-law of deceased were present at the place of incident and they did not offer any reasonable explanation of the incident, they have to be held guilty. **[2015] 0 Supreme(SC) 678 BASISTH NARAYAN YADAV Vs. KAILASH RAI**

Shreya Singhal Vs Union Of India – 66A of IT Act declared as violative of Constitution. Reported as (2015) 2 SCC (Cri) 449 = (2015)5 SCC 1.

Merely because the deceased suffered 70 per cent burns, this does not raise an assumption that he could not have given the oral dying declaration. We are of the opinion that the High Court was right in believing the oral dying declaration of the deceased as it did not suffer from any infirmity. Therefore, the contention of the respondent that the deceased could not give a dying declaration is devoid of merit.
The provisions of Section 106 of the Evidence Act itself are unambiguous and categoric in laying down that when any fact is especially within the knowledge of a person, the burden of proving that fact is upon him. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company with the deceased. He must furnish an explanation which appears to the Court to be probable and satisfactory. If he does so he must be held to have discharged his burden. If he fails to offer an explanation on the basis of the facts within his special knowledge, he fails to discharge the burden cast upon him by Section 106 of the Evidence Act
The ground of defense taken by the appellant, that she did not have any motive to kill the deceased, is ill founded and does not break the chain of circumstances. Therefore, when facts are clear it is not necessary to have proof of motive or ill-will to sustain conviction. **Dasin Bai @ Shanta Bai VS State of Chhattisgarh (2015) 2 SCC (Cri) 553 = (2015) 4 SCC 186.**

statement of family members of the deceased-lady cannot be discarded on the ground that they are relatives and are interested witnesses, till a contradiction is shown in their deposition or cross examination. Accused not successful in rebutting the presumption u/sec. 113 B IEA, Conviction confirmed. **Rajinder Kumar Vs State of Haryana (2015) 2 SCC (Cri) 568 = (2015) 4 SCC 215.= 2015 (2) ALD (Crl) 9 (SC).**

304 B IPC - The accused have taken the defense that the PWs. have also stated in their statements that no demand for dowry was made before marriage and that the marriage was concluded by the consent of the two parties. They also took the defense that no prior police complaint of dowry demand was made by the family of the deceased. However, in light of the decision of this Court in State of Himachal Pradesh v. Nikku Ram & Ors. (supra) and the social evil of dowry that is prevalent in the Indian society, this defense does not hold water. The demand for dowry can be made at any time and not necessarily before marriage. When facts are clear, it is immaterial whether motive was proved. Absence of motive does not break the link in the chain of circumstances connecting the accused with the crime. **Bhim Singh and anr Vs State of Uttarakhand (2015) 2 SCC (Cri) 580 = (2015)4 SCC 281 = 2015 (2) ALD (Crl) 1(SC).**

A person faced with injury with a deadly weapon to his life cannot be expected to weigh in balance the precise force needed to avoid danger. RPD . **Pratubha Govindji Rathod and another Vs. State of Gujarat (2015) 2 SCC (Cri) 617 = (2015) 4 SCC 363.**

In appeal, the High Court reassessed the entire evidence and came to the conclusion that it cannot be said to be the duty of the prosecution in the circumstances to explain injuries on the person of the accused,
The High Court disagreed with the Trial Court and held that there is no reason to disbelieve the statement of Mander Singh, the brother of the deceased and Sukhwinder Kaur, the widow, only because they were near relations of the deceased. It is settled law, that the statement of a relative of the deceased cannot be discarded merely on the ground that he or she is an interested party.
Gurjit Singh @ Gora & another Vs State of Haryana (2015) 2 SCC (Cri) 624 = (2015) 4 SCC 380.

It is settled principle of law that, to establish commission of murder by an accused, motive is not required to be proved. Motive is something which prompts a man to form an intention. The intention can be formed even at the place of incident at the time of commission of crime. It is only either intention or knowledge on the part of the accused which is required to be seen in respect of the offence of culpable homicide. In order to read either intention or knowledge, the courts have to examine the circumstances, as there cannot be any direct evidence as to the state of mind of the accused. **Sanjeev Vs State of Haryana (2015) 2 SCC (cri) 630 = (2015) 4 SCC 387.**

the rule can be summarized as that the initial burden of proof is on the prosecution to bring sufficient evidence pointing towards guilt of accused. However, in case of last seen together, the prosecution is exempted to prove exact happening of the incident as the accused himself would have special knowledge of the incident and thus, would have burden of proof as per Section 106 of Indian Evidence Act. Therefore, last seen together itself is not a conclusive proof but along with other circumstances surrounding the incident, like relations between the accused and the deceased, enmity between them, previous history of hostility, recovery of weapon from the accused etc., non-explanation of death of the deceased, may lead to a presumption of guilt. **Ashok Vs State of Maharastra (2015) 2 SCC 636 = (2015) 4 SCC 393.**

It must be remembered that since crimes are generally committed in the privacy of residential homes, it is not easy to gather direct evidence in such cases. That is why the legislature has by introducing Sections 113A and 113B of the Indian Evidence Act, tried to strengthen the prosecution hands by permitting a presumption to be raised if certain foundational facts are established and the unfortunate event has taken place within a period of seven years. **Amruthlal Liladharbhai Kotak and others Vs State of Gujarat. (2015) 2 SCC 661 = (2015) 4 SCC 452.**

Days or months are not what is to be seen. What must be borne in mind is that the word ñsoonò does not mean ñimmediateò. A fair and pragmatic construction keeping in mind the great social evil that has led to

the enactment of Section 304B would make it clear that the expression is a relative expression. Time lags may differ from case to case. All that is necessary is that the demand for dowry should not be stale but should be the continuing cause for the death of the married woman under Section 304B.
ñSoon beforeò is not synonymous with ñimmediately beforeò.
RAJINDER SINGH VS STATE OF PUNJAB. 2015 (2) ALD (Crl) 32 (FB) (SC) = indiankanoon.org/doc/141748525/ = (2015) 42 SCD 444

376 IPC- the judgments in ***Baldev Singh v. State of Punjab, (2011) 13 SCC 705 and Ravindra v. State of Madhya Pradesh, (2015) 4 SCC 491,*** have to be confined to the facts of the said cases and are not to be regarded as binding precedents.

in a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the reputation. And reputation, needless to emphasise, is the richest jewel one can conceive of in life. No one would allow it to be extinguished. When a human frame is defiled, the ñpurest treasureò, is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct. Sometimes solace is given that the perpetrator of the crime has acceded to enter into wedlock with her which is nothing but putting pressure in an adroit manner; and we say with emphasis that the Courts are to remain absolutely away from this subterfuge to adopt a soft approach to the case, for any kind of liberal approach has to be put in the compartment of spectacular error. Or to put it differently, it would be in the realm of a sanctuary of error. We are compelled to say so as such an attitude reflects lack of sensibility towards the dignity, the elan vital, of a woman. Any kind of liberal approach or thought of mediation in this regard is thoroughly and completely sans legal permissibility. (2015) 42 SCD 770 State of M.P. Vs Madanlal

As we have already indicated, the learned Chief Judicial Magistrate has basically directed for further investigation. The said part of the order cannot be found fault with, but an eloquent one, he could not have directed another investigating agency to investigate as that would not be within the sphere of further investigation and, in any case, he does not have the jurisdiction to direct reinvestigation by another agency. Therefore, that part of the order deserves to be lancinated and accordingly it is directed that the investigating agency that had investigated shall carry on the further investigation and such investigation shall be supervised by the concerned Superintendent of Police.
(2015) 42 SCD 766 CHANDRA BABU @ MOSES Vs STATE THROUGH INSPECTOR OF POLICE & ORS.

304 B IPC- **The defence has not come up with a substantial case of its own except claiming that the deceased was not murdered but she caught fire from a stove while cooking food. The defence has contended various lacunae in the case of the prosecution. They have relied heavily on the non-examination of important witnesses in this case. But besides this, the defence has failed to explain any other circumstance surrounding the death of the deceased or the circumstances after her death.- Conviction restored- (2015) 42 SCD 754 - Basisth Narayan Yadav Vs. Kailash Rai**

Though there is no specific provision for amendment of complaint, the courts can allow such amendment in cases .(2015) 42 SCD 746 - S.R. Sukumar Vs. S. Sunaad Raghuram
Quash of proceedings ï In matrimonial cases, courts have to be cautious when omnibus allegations are made particularly against relatives. **Tarmani Parakh V. State of M.P. 2015 (2) ALT (Crl.) 336 (SC)**

Court while dealing with a criminal trial is to perform the task of ascertaining the truth from the material before it. It has to punish the guilty and protect the innocent.
Burden of proof is on the prosecution to establish its case beyond reasonable doubt.
Minor Discrepancies - much weight cannot be given to minor discrepancies.

Though rule against self incrimination is there, the scope and the content of the said rule does not require the Court to ignore the conduct of the accused is not correctly disclosing the facts within his knowledge.
Any infirmity in the statement made u/s 313 Cr.P.C. cannot be treated as fatal **State of Kranataka Vs. Smt.Suvarnamma 2015 (2) ALT (Crl.) 343 (SC)**

When suits were pending before the competitive civil courts, Executive Magistrate will have no jurisdiction to pass any final order under section 145 Cr.PC. **Chella Venkata Ramana Reddy & anr V. State of A.P, through SHO Chebrolu P.S. 2015 (2) ALT (Crl.) 164 (AP)**

S.43 D of Unlawful Activities (Prevention) Act, 1967 -The provisions of Cr.P.C. shall apply insofar as they are not inconsistent with the provisions of the Act, 1967. **Shah Mudassir @ Mudassir Talha V. State of Telangana rep. by ACP, Hyderabad 2015 (2) ALT (Crl.) 202 (AP)**

The word used in proviso added to S.24(8) Cr.P.C. is to assist the prosecution and not the public prosecutor.
There is a basic difference in between the proviso to S.24(8) Cr.P.C. and Section 301 Cr.P.C.
By insertion of S.24(8) proviso court is now authorised to permit the victim to engage a lawyer of his choice to assist the prosecution.
S.302 Cr.P.C cannot be extended to other courts other than Magistrate court.
The power of Court under S.482 Cr.P.C in no way interdict to permit the defacto complainant to represent through advocate for coming on record in the bail application of the accused. **Delta Car Pvt Ltd., V. Sanjiv Shah & anr 2015 (2) ALT (Crl.) 216 (AP)**

In cases of fictitious marriages leading to sexual intercourse, the question whether the alleged acts of the accused tantamount to acts of rape can be decided only after trial. **Bhumpaka Praveen Kumar V. State of Telangana, rep by P.P High Court at Hyderabad 2015 (2) ALT (Crl.) 239 (AP)**

Article 20 (3) of the Constitution of India, which protects a person accused of an offence from being compelled to be a witness against himself, does not extend to protecting such an accused from being compelled to give his sample of blood etcetera for the purposes mentioned in Section 53 of the CrPC during the course of investigation into an offence.
in Ramlal Narang v. State (Delhi Administration) the Honble Supreme Court held as under: -
Though Section 53 Cr.P.C., refers only to examination of the accused by medical practitioner at the request of a police officer, there is no reason why the Court should not have a wider power for the purpose of doing justice in criminal cases by issuing a direction to the police officer to collect blood sample from the accused and conduct DNA test for the purpose of further investigation under Section 173(8) of the Code.
The above ratio was referred to in the order impugned also. In the case on hand, the police officer had sought permission of the learned Magistrate for an appropriate direction. Therefore, the contention of the accused that the request of the police officer cannot be considered when he is not in custody is devoid of merit. **Kodi Satish Naidu Vs, State of Andhra Pradesh 2015(2) ALD (Crl) 87.**

Section 156 (3) Cr.P.C. lays down that a Magistrate who is empowered under Section 190 Cr.P.C. to take cognizance of an offence, may refer the compliant to police under Section 156(3) Cr.P.C. for investigation without taking cognizance. This reference is thus a pre-cognizance reference. In such an instance, **the concerned police have to register the FIR basing on such reference and shall conduct investigation** and file a final report/charge sheet under Section 173(2) Cr.P.C. or file a referred report. Now, the question is whether during the pendency of investigation whether a Magistrate can interfere with the registration and give directions.
The Apex Court laid down that **Magistrate under Section 156(3) Cr.P.C. has power to monitor investigation to ensure that it is properly done, if the investigation is not done properly.** The Apex Court in a decision reported in Sakiri Vasu vs. State of U.P. referring its earlier judgments, has elaborately

discussed about the power of Magistrate under Section 156(3) Cr.P.C. The Apex Court in earlier decision reported in Dilawar Singh v. State of Delhi (2007 Crl.L.J.4709) at para-17 held thus:
13. We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Cr.P.C., and **if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order or orders as he thinks necessary for ensuring a proper investigation.** All these powers a Magistrate enjoys under Section 156(3) Cr.P.C.
The prerogative of police to investigation has been kept in tact, but they were only asked to investigate whether the accused have in fact committed the offences under the **newly added sections** including the ones which are already referred. So, the act of Magistrate cannot be found fault with.
The reason for the rule **(doctrine of implied power)** is quite apparent. Many matters of minor details are omitted from legislation. As Crawford observes in his **'Statutory Construction'** (3rd edn. page 267): If these details could not be inserted by implication, the drafting of legislation would be an indeterminable process and the legislative intent would likely be defeated by a most insignificant omission.
In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and/or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation **including monitoring the same.** Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision. **Aknuri Kankaraj and others Vs State of Telangana rep. by PP and another. 2015(2) ALD (Crl) 94.**

We hasten to add that whether there was unauthorized detention for any period or not is examined by us. But, from the material produced before us, it is difficult for us to conclude the same. According to us, for taking some other measure other than the writ of habeas corpus, viz., the grievance of unauthorized detention or illegal detention can only be examined at the instance of the persons, who were affected personally and not by any other person. Admittedly, the petitioners are not affected personally, for embarking upon enquiry with regard to the alleged unauthorized detention for the period mentioned in the writ petition. Apparently, at the time of production, they did not make any complaint whether they had or still have grievance or not. **Besal Veeramma Visakhapatnam and others Vs The State of A.P.,Rep. by its Secretary,Department of Home, Secretariat, Hyderabad and others 2015(2) ALD (Crl) 99**

The petitioner is the Manager of a Hotel situated in Srisailam. the petitioner is not intending to sell the black pepper as such. Hence, the sample of such article should not have been taken by the respondent. The Petitioner is not a manufacturer and when the goods are not meant for sale. Quashed. **Mohd.Ali Mirza Vs. State of A.P.,Rep.by the Food Inspector, Division-I,Kurnool, Kurnool District. 2015 (2) ALD (Crl) 102.**

Sections 417, 376 and 109 I.P.C. ï Quash Petition-Respondent No.1 submitted that she is willing to withdraw the complaint in view of the marriage between her and petitioner No.1.- **not Quashed**- direct the Investigating Officer to consider the material placed by petitioner No.1 and respondent No.1 and pass appropriate orders. **Kasa Suresh and others Vs Boodi Gayathri and another. 2015 (2) ALD (Crl) 108.**

the trial Court must be convinced itself that such a local inspection of the scene of offence is necessary to appreciate the evidence properly. When the Court did not feel such necessity, neither the parties nor the higher courts can either commend or command the trial Court to invariably conduct a local inspection. That is not the purport of Section 310 Cr.P.C. **Dovari Venkataraman and others Vs. State of A.P. 2015 (2) ALD (Crl) 109.**

it clear that **N.B.Ws. have to be executed only by the Police Officer** and the same should be done on high priority. The criminal procedure Code does not anywhere prescribe any mode of execution of the warrants or the authority which should execute the warrant. As per the police manual it is only the police who have

to execute the warrants. **Neither the Code of Criminal Procedure nor the Criminal Rules of Practice contemplate execution of N.B.Ws. by the complainant, more so in a case arising out of a private complaint.** Even Section 258 CrPC only gives power to the Magistrate to close a case arising otherwise than on a private complaint. There is no provision in the code which permits a Magistrate to dismiss a complaint due to non execution of warrants pending against the accused. **K.Sangameshwer Vs Md. Chand Pasha and another. 2015 (2) ALD (Crl) 111.**

the taking of cognizance on the sworn statements of the defacto-complainant and other witnesses of the complainant instead of recording the sworn statements by the Magistrate is since not sanctioned by law, the order is liable to be set aside. There is no need to go into the scope of Section 319 of Cr.P.C. as it is not the stage, where trial is commenced against the sole accused and from said evidence it is showing complicity of other accused. **Jayasri Singh and others. Vs. The State of A.P. rep. by Public Prosecutor, High Court of A.P. 2015 (2) ALD (Crl) 130.**

Section 370A takes in its fold the customer also. So, despite the police charge sheeting petitioner/A3 only for the offence under Section 4 of PIT Act and the Committal Court accepting the same, it is evident from the charge sheet that the petitioner/A3 is prima facie liable for charge under Section 370A though not under Section 4 of PIT Act with which he was charge sheeted. **S.Naveen Kumar @ Naveen. Vs. The State of Telangana. 2015 (2) ALD (Crl) 156.**

Now the question is whether two or more separate complaints in different police stations relating to same offence/occurrence can be lodged and investigated into. It must be said that this legal question is no more res integra and the same was dealt with by a learned Judge of this High Court in a recent decision reported in Akbaruddin Owaisi vs. The Government of Andhra Pradesh . In that case the questions that came up for consideration are: Does Section 154 of the Criminal Procedure Code, 1973 (hereinafter called "Cr.P.C.") permit registration of two separate complaints in two different police stations for offences arising out of one occurrence/event/incident?

Two successive FIRs are registered in two different police stations in respect of same set of facts constituting offences. Therefore, simultaneous and parallel investigation in the above two FIRs cannot be permitted. Veerabhadram Vislavath. Vs The State of Andhra Pradesh. 2015 (2) ALD (Crl) 162

Only after examination of one formal witness evidence of prosecution closed and accused respondent was acquitted. High Court upon perusal of the record has come to hold that notices were not served on the witnesses. Order of the trial Court was replete with glaring defects that had led to miscarriage of justice. Retrial order by High Court valid. - **2015 STPL(Web) 1612 SC BABLU KUMAR AND ORS. Vs. STATE OF BIHAR AND ANR.**

Criminal Procedure: Further investigation ï Jurisdiction of Magistrate ï Investigation by other agency - CJM could not have directed another investigating agency to investigate as that would not be within the sphere of further investigation. He does not have the jurisdiction to direct reinvestigation by another agency - **2015 STPL(Web) 1516 SC CHANDRA BABU @ MOSES Vs. STATE THROUGH INSPECTOR OF POLICE & ORS.**

Quashing of FIR: Attempt to murder - Compromise - It can be held to be an offence as between the private parties simpliciter. Inasmuch as such offences will have a serious impact on the society at large, it runs beyond our comprehension to state that after the commission of such offence the parties involved have reached a settlement and, therefore, such settlement can be given a seal of approval by the Judicial Forum. - **2015 STPL(Web) 1515 SC STATE OF M.P. Vs. MANISH & ORS.**

Mohammedan Law: Bigamy ï Permissibility - In view of mandate in Holy Quran it is amply clear that Bigamy is not sanctified unless a man can do justice to orphans - As per mandate of Holy Quran all Muslims men have to deal justly with orphans - A married Muslim man having his wife alive cannot marry

with another Muslim woman, if he cannot deal justly with orphan - A mandate has been given that in such circumstances a Muslim man has to prevent himself to perform second marriage, if he is not capable of fostering his wife and children - **2015 STPL(Web) 1290 ALL ISHARAT & ANR. Vs. STATE OF U.P. & ORS.**

Rape: Compromise - We would like to clearly state that in a case of rape or attempt of rape, the conception of compromise under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. - **2015 STPL(Web) 1260 SC STATE OF M.P. Vs. MADANLAL**

Human Rights Violation: Jail Inmates ï State Governments directed to take steps to install CCTV cameras in all the prisons in their respective States, within a period of one year but not later than two years; they shall also consider installation of CCTV cameras in police stations in a phased manner depending upon the incidents of human rights violation reported in such stations - State Governments shall consider appointment of non-official visitors to prisons and police stations in terms of the relevant provisions of the Act wherever they exist in the Jail Manuals or the relevant Rules and Regulations - **2015 STPL(Web) 1769 SC**

NEWS

- Prosecution Replenish Congratulates Sri V.Bala Buchaiah, Public Prosecutor, Metropolitan Sessions Court, Hyderabad for being posted as Joint Director of Prosecutions in the Office of the Director of Prosecutions and for being placed in full additional charge of the post of Director of Prosecutions, Telangana, Hyderabad-Orders-Issued vide HOME (COURTS.A1) DEPARTMENT G.O.RT.No. 630 Dated: 25-07-2015.

ON A LIGHTER VEIN

Naughty Kid : Hello! Do you have a refrigerator?
Man : Yes
Kid : Is it running?
Man : Yes
Kid : Get hold of it…. Otherwise it might run away.
The man Slams down the phone……
After a few minutes, the phone rings again.
Naughty Kid : Hello! Do you have Refrigerator.
Man(angrily): NO, I don't have.
Kid : Didn't I told you to hold it.

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An Endeavour for learning and excellence)

The price of success is hard work, dedication to the job at hand, and the determination that whether we win or lose, we have applied the best of ourselves to the task at hand.--Vince Lombardi

CITATIONS

We are disposed to think so when we weigh the medical testimony vis-a vis the ocular testimony. There is no dispute that the value of medical evidence is only corroborative. It proves that the injuries could have been caused in the manner as alleged and nothing more. The use which the defence can make of the medical evidence is to prove that the injuries could not possibly have been caused in the manner alleged and thereby discredit the eye-witnesses. Unless, however the medical evidence in its turn goes so far that it completely rules out all possibilities whatsoever of injuries taking place in the manner alleged by eyewitnesses, the testimony of the eye-witnesses cannot be thrown out on the ground of alleged inconsistency between it and the medical evidence. It is also true that the post-mortem report by itself is not a substantive piece of evidence, but the evidence of the doctor conducting the post-mortem can by no means be ascribed to be insignificant. The significance of the evidence of the doctor lies vis-à-vis the injuries appearing on the body of the deceased person and likely use of the weapon and it would then be the prosecutorôs duty and obligation to have the corroborative evidence available on record from the other prosecution witnesses. It is also an accepted principle that sufficient weightage should be given to the evidence of the doctor who has conducted the post-mortem, as compared to the statements found in the textbooks, but giving weightage does not ipso facto mean that each and every statement made by a medical witness should be accepted on its face value even when it is self-contradictory. It is also a settled principle that the opinion given by a medical witness need not be the last word on the subject. Such an opinion shall be tested by the Court. If the opinion is bereft of logic or objectivity, the court is not obliged to go by that opinion. That apart, it would be erroneous to accord undue primacy to the hypothetical answers of medical witnesses to exclude the eyewitnessesô account which are to be tested independently and not treated as the óvariableô keeping the medical evidence as the óconstantô. Where the eyewitnessesô account is found credible and trustworthy, a medical opinion pointing to the alternative possibilities cannot be accepted as conclusive.

In State of Madhya Pradesh v. Dal Singh and Others10, a two-Judge Bench placed reliance on the dying declaration of the deceased who had suffered 100% burn injuries on the ground that the dying declaration was found to be credible.

Vijay Pal Vs State, (2015) 2 SCC (Cri) 733 = (2015) 4 SCC 749.

in our considered view, if the Investigating Officer did not conduct the investigation properly in not being able to seize the photographs and recorded conversation then it could not have been made a ground to discredit the sworn testimony of the prosecutrix, which was otherwise found to be trustworthy and consistent.

21. **No one can dispute that the prosecutrix had no control over the investigating agency and nor the lapse on the part of the investigating agency could in any manner affect the creditability of the statement of the prosecutrix.**

22. In our considered opinion, the courts below, therefore, rightly placed reliance on the sworn testimony of the prosecutrix on this issue and came to a just and proper conclusion that having regard to the facts and circumstances of the case coupled with the explanation given by the prosecutrix, there was no delay in lodging the FIR by her mother and even if there was some delay then, in our considered view, the same was satisfactorily explained.

23. This takes us to the next two submissions of the learned counsel for the appellant. The courts below have held that the age of the prosecutrix on the date of commission of the offence was around 16 years and 3 months. Assuming this finding to be proper, we are of the considered opinion that these submissions have no merit in the light of the statutory presumption contained in Section 114-A of the Evidence Act, 1872 against the appellant, which in our opinion remain unrebutted at the instance of the appellant.

Once the prosecutrix states in her evidence that she did not consent to act of sexual intercourse done by the accused on her which, as per her statement, was committed by the accused against her will and the accused failed to give any satisfactory explanation in his defence evidence on this issue, the court will be entitled to draw the presumption under Section 114-A of the Indian Evidence Act against the accused holding that he

committed the act of sexual intercourse on the prosecutrix against her will and without her consent. The question as to whether the sexual intercourse was done with or without consent being a question of fact has to be proved by the evidence in every case before invoking the rigour of Section 114-A of the Indian Evidence Act

Deepak Vs State of Haryana, (2015) 2 SCC (Cri) 744 = (2015) 4 SCC 762.= 2015 (2) ALT (Cri) 441 (SC)

Complainant (PW-6) has himself investigated the crime, as such, the credibility of the investigation is also doubtful in the present case, particularly, for the reason that except the police constables, who are subordinate to him, there is no other witness to the incident.

Jasbir Singh @ Javri @ Jabbar Singh Vs State of Haryana (2015) 2 SCC (Cri) 796 = (2015) 5 SCC 762.

Section 35 of NDPS act raises a presumption as to knowledge and culpable mental state from the possession of illicit articles.

The officer, Sub-Inspector is an empowered officer under Section 42 of the Act. As the place is a public place and Section 43 comes into play, the question of non-compliance of Section 42(2) does not arise.

The words employed in Section 27 IEA does not restrict that the accused must be arrested in connection with the same offence. In fact, the emphasis is on receipt of information from a person accused of any offence. Therefore, when the accused-appellant was already in custody in connection with FIR no. 95 of 1985 and he led to the discovery of the contraband articles, the plea that it was not done in connection with FIR no. 96 of 1985, is absolutely unsustainable.

it had also come in evidence that till the date of parcels of samples were received by the Chemical Examiner, the seal put on that parcel was intact. Under these circumstances, the Court ruled that the said facts clearly proves and establishes that there was no tampering with the aforesaid seal in the sample at any stage and the sample received by the analyst for chemical examination contained the same opium which was recovered from the possession of the appellant. The plea that there was 40 days delay was immaterial and would not dent the prosecution case.

Mohan Lal Vs State of Rajasthan, 2015(2) ALD (Crl) 185 (SC)

age alone cannot be a paramount consideration as a mitigating circumstance. Similarly, family background of the accused also could not be said to be a mitigating circumstance. Insofar as Accused No.1 is concerned, it has been contended that he was happily married and his wife was pregnant at the relevant time. However, the Accused No.1 did not take into consideration the condition of his wife or his mother while committing the said offence and, as a result, his wife deserted him and his widowed mother is being looked after by his nephew and niece. Insofar as Accused No.2 is concerned, he has two sisters who are looking after his widowed mother. Lack of criminal antecedents also cannot be considered as mitigating circumstance, particularly taking into consideration, the nature of heinous offence and cold and calculated manner in which it was committed by the accused persons.

it would be necessary for this Court to notice the impact of the crime on the community and particularly women working in the night shifts at Pune, which is considered as a hub of Information Technology Centre. **In recent years, the rising crime rate, particularly violent crimes against women has made the criminal sentencing by the Courts a subject of concern. The sentencing policy adopted by the Courts, in such cases, ought to have a stricter yardstick so as to act as a deterrent. There are a shockingly large number of cases where the sentence of punishment awarded to the accused is not in proportion to the gravity and magnitude of the offence thereby encouraging the criminal and in the ultimate making justice suffer by weakening the system's credibility**. The object of sentencing policy should be to see that the crime does not go unpunished and the victim of crime as also the society has the satisfaction that justice has been done to it.

Purushottam Dashrath Borate & anr. Vs. State of Maharashtra 2015(2) ALD (Crl) 218 (SC)

It has consistently been held by this Court that what is substantive evidence is the identification of an accused in court by a witness and that the prior identification in a test identification parade is used only to corroborate the identification in court. Holding of test identification parade is not the rule of law but rule of prudence. Normally identification of the accused in a test identification parade lends assurance so that the subsequent identification in court during trial could be safely relied upon. However, even in the absence of such test identification parade, the identification in court can in given circumstances be relied upon, if the witness is otherwise trustworthy and reliable. **MS. S. Vs. SUNIL KUMAR & ANR. 2015(2) ALD (Crl) 248 (SC),**

Long back, an eminent thinker and author, Sophocles, had to say: **"Law can never be enforced unless fear supports them."** Though the aforesaid statement was made centuries back, it has its pertinence, in a way, with the enormous vigour, in todayôs society. It is the duty of every right thinking citizen to show veneration to law so that an orderly, civilized and peaceful society emerges. It has to be borne in mind that law is averse to any kind of chaos. It is totally intolerant of anarchy. If any one defies law, he has to face the wrath of law, depending on the concept of proportionality that the law recognizes. It can never be forgotten that the purpose of criminal law legislated by the competent legislatures, subject to judicial scrutiny within constitutionally established parameters, is to protect the collective interest and save every individual that forms a constituent of the collective from unwarranted hazards. It is sometimes said in an egocentric and uncivilised manner that law cannot bind the individual actions which are perceived as flaws by the large body of people, but, the truth is and has to be that when the law withstands the test of the constitutional scrutiny in a democracy, the individual notions are to be ignored. At times certain crimes assume more accent and gravity depending on the nature and impact of the crime on the society. No court should ignore the same being swayed by passion of mercy. It is the obligation of the court to constantly remind itself that the right of the victim, and be it said, on certain occasions the person aggrieved as well as the society at large can be victims, never be marginalised. In this context one may recapitulate the saying of Justice Benjamin N. Cardizo ñJustice, though due to the accused, is due to the accuser tooò. And, therefore, the requisite norm has to be the established principles laid down in precedents. It is neither to be guided by a sense of sentimentality nor to be governed by prejudices
STATE OF PUNJAB Vs. SAURABH BAKSHI 2015(2) ALD (Crl) 261 (SC),

the object of A.P. Prohibition of Ragging Act, 1997 is to prohibit ragging in educational institutions in respect of all categories of students but not in respect of junior students alone. If that were the intendment of Legislators, the term student perhaps would have been defined as a person who is newly/freshly admitted into educational institution. **Puli Dinesh Babu Vs The State of Telangana 2015(2) ALD (Crl) 277,**

a person in detention by virtue of the order of detention under any enactment authorizing preventive detention or is in illegal detention of any private individual has a right to approach the High Court under Article 226 of the Constitution of India in a Habeas Corpus petition and such a petition under Rule 14 (a) of the Rules is required to be heard by a Bench of Two Judges.
G.Archana and others Vs The State of Andhra Pradesh & others 2015(2) ALD (Crl) 325 (FB)

This itself shows that the allegations made by the petitioner in the FIR followed by several complaints was never taken seriously by the police authorities and in a routine manner the investigation was entrusted to SI police one after another. Moreover, the respondents in the counter affidavit tried to justify the reason for not taking steps for the purpose of recording the statement of the petitioner victim under Section 164, Cr.P.C. and also failure in medically examining the petitioner as required under Section 164A of the Code of Criminal Procedure.
Prima facie the police has acted in a partisan manner to shield the real culprits and the investigation of the case is not being conducted in a proper and objective manner. Since local police is allegedly involved as per the statement of the petitioner recorded under Section 164, there may not be fair investigation.
Rashmi Behl vs State of Uttar Pradesh and others 2015 (2) ALT (Cri) 449 (SC)

Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea

compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. **Musku Srinivas Reddy Vs Musku Ram Reddy and others 2015 (2) ALT (Cri) 304 (AP)**

2015 STPL(Web) 2197 (DEL) SUDHIR CHAUDHARY Vs. STATE = 2015 [2] JCC 1447
giving of voice sample for purpose of investigation cannot be included in expression ‗to be a witnessô ï By giving **voice sample,** accused does not convey any information based upon his personal knowledge which can incriminate him ï Accused was not asked nor expected to furnish any statement based on his personal knowledge as would be barred under Article 20(3) of the Constitution of India ï Voice sample is not substantive piece of evidence ï Use of such sample is limited to purposes for which it was collected ï Only use of such sample is for comparison and no other ï Merely because text provided to petitioners contained some inculpatory statements, it would not mean that petitioners were forced to be witness in their own case ï Once accused persons had given their consent for furnishing their voice samples, they could not be allowed to shift their stand.

2015 STPL(Web) 2102 (SC)(DB)-State of Kerala and others vs. S. Unnikrishnan Nair and others
Criminal Procedure Code, 1973, Section 482 ï Penal Code, 1860, Sections 182, 194, 195, 195A and 306 ï Quashing of Proceedings ï Abetment of Suicide ï It is the suicide note which forms the fulcrum of the allegations -On a plain reading of the same, it is difficult to hold that there has been any abetment by the respondents ï The note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else ï Respondents were inferior in rank and it is surprising that such a thing could happen ï That apart, the allegation is really vague ï He has also made the allegation against CJM and against the Advocate ï Suicide note really does not state about any continuous conduct of harassment ï High Court is justified in quashing the proceeding, for it is an accepted position in law that where no prima facie case is made out against the accused, then the High Court is obliged in law to exercise the jurisdiction under Section 482 of the Code and quash the proceedings. **The Suicide note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else. 306 IPC not attracted**.

2015 STPL(Web) 1882 (SC)(DB) JOGENDRA YADAV & ORS. Vs. STATE OF BIHAR & ANR.
Criminal Procedure Code, 1973, Section 319 and 227 ï Discharge ï Summoning as Additional Accused ïï **A person summoned as an accused under Section 319 Cr.P.C. is not entitled to avail remedy of discharge u/s 227 Cr.P.C.** ï An order for addition of an accused made after considering the evidence cannot be undone by coming to the conclusion that there is no sufficient ground for proceeding against the accused without appreciation of evidence. It would not result in any undue hardships to the accused since the remedy before a superior court is available in challenging the order of summoning u/s 319 Cr.P.C.

Held that when the respondent applied for appointment on compassionate grounds on 17.07.2006, it was necessary for her, to fulfill the qualification stipulated in the notification dated 16.3.2005 - Since, admittedly the respondent did not fulfill the aforesaid qualification, she was not eligible to claim appointment on compassionate grounds, under the resolution dated 10.3.2000 - Impugned order passed by the High Court directing appointment of respondent deserves to be set aside. **2015 STPL(Web) 2088 SC State of Gujarat and Another Vs. Chitraben**

Ossification test being a mere opinion cannot prevail over proved documentary and reliable oral evidence.
Question of consent becomes irrelevant in case of a prosecutrix below 16 years of age.
Consent, when a helpless young girl below 16 years of age falls under the dominion of two grown up males, cannot be conceived.
Persons abusing and manipulating their social relationship to commit the crime of rape on helpless girl below 16 years of age are not entitled to reduction of sentence. **[2015] 0 Supreme(SC) 770 Parhlad Vs. State of Haryana**

The **First Information Report** need not necessarily contain each and every particular injury sustained by the deceased. It needs to contain only some information about the crime and some information about the manner in which the offence has been committed. It is not required to contain the minute details of the whole crime.

private defence under Section 97 of IPC and the benefit under exception to Section 300 of IPC will not go together. **[2015] 0 Supreme(SC) 786 Sunil Khergade Vs. State of Maharashtra**

Police remand of an absconding accused arrested thereafter at the stage of further investigation by CBI but before filing of supplementary charge sheet can be sought u/s 167(2). **[2015] 0 Supreme(SC) 820 Central Bureau of Investigation Vs. Rathin Dandapat**

even if a person was not entitled to the **benefit of juvenilities** under the 1986 Act or the present Act prior to its amendment in 2006, such benefit is available to a person undergoing sentence if he was below 18 on the date of the occurrence. Such relief can be claimed even if a matter has been finally decided, as in the present case. **ABDUL RAZZAQ Vs STATE OF U.P. 2015 (2) ALT (Cri) 397 (SC)**

Even if the Government issued the orders, an obligation is cast upon the prosecutor to consider the facts and circumstances independently and impartially and he being a responsible Officer of the Court is required to file a petition in the Court setting out the reasons as to why the prosecution is sought to be withdrawn. In the instant case, the petition filed by the Public Prosecutor do not contain the requisite particulars to show that an impartial and independent decision was taken by the Public Prosecutor in the matter of seeking permission to **withdraw** the prosecution and that the said withdrawal was within the larger interest of the public.

12. The Court is empowered with the discretion of either giving the consent or refusing to accord permission to withdraw from the prosecution if it is satisfied that the said withdrawal from the prosecution is not in the public interest or will sub serve any of the constitutional obligations of the State. Solemn obligation is cast on the three Agencies to act to uphold the Rule of Law. Deviation if any, should be only in exceptional cases and for the larger good of the society.

Criminal justice is not a plaything and a criminal Court is not a play ground for politicking. The political fervour should not convert prosecution into persecution, nor political favour reward wrongdoer by withdrawal from prosecution. If political fortunes are allowed to be reflected in the processes of the Court very soon the credibility of rule of law will be lost.

S.R.Laxmirajam vs The State Of A.P. indiankanoon.org/doc/48984199/

A case cannot be quashed on the ground that the Victim **changed her version in 164 Cr.P.C.** from that of her version in 161 Cr.P.C. statement. The truthness or otherwise of the versions should be tested by Trial.

Kalki Ramu vs The State Of Telangana, on 3 August, 2015 indiankanoon.org/doc/170014167/

NEWS

- The three judge bench of the Apex Court of India decided vide orders dated 11/8/2015 that whether or not the right to privacy is a fundamental right, will be decided by the Constitution Bench. Till then interim orders passed which say not person should suffer because of not having AADHAAR. In WRIT PETITION (CIVIL) NO.494 OF 2012 Justice K.S. Puttaswamy (Retd.) & Another VS Union of India & Others.
- Lok Sabha passed the Negotiable Instruments (Amendment) Bill, 2015 which was introduced in Lok Sabha on 27.7.2015 by the Finance Minister Mr. Arun Jaitley.
- India Enters into agreements with Afganisthan and Oman. The agreement on Mutual Legal Assistance Treaty (MLAT) in Civil and Commercial matters is a comprehensive agreement for reciprocal arrangement with foreign countries for service of summons under Section 29(c) of the Code of Civil Procedure, 1908(CPC), for execution of Civil Decrees under Section 44 A of the CPC, for issuing Letter of Request under Section 77 of the CPC, for taking of evidence under Section 78 of the CPC and for enforcement of Arbitral Awards under Section 44 (b) of the Arbitration and Conciliation Act, 1996.

ON A LIGHTER VEIN

Let us rehearse some of the technical definitions of some of the terms,

School	A place where Papa pays and Son plays.
Lecture	**An art of transferring information from the notes of the Lecturer to the notes of the students without passing through 'the minds of either'**
Father	A banker provided by nature.
Conference Room	**A place where everybody talks, nobody listens and everybody disagrees later on.**
Office	A place where you can relax after your strenuous home life..
Experience	**The name men give to their mistakes.**
Life Insurance	A contract that keeps you poor all your life so that you can die Rich.
Marriage	**It's an agreement in which a man loses his bachelor degree and a woman gains her masters.**
Conference	The confusion of one man multiplied by the number present.
Dictionary	**A place where success comes before work.**
Compromise	The art of dividing a cake in such a way that everybody believes he got the biggest piece.
Boss	**Someone who is early when you are late, and late when you are early.**
Politician	One who shakes your hand before elections and your Confidence after.
Doctor	**A person who kills your ills by pills, and kills you by bills.**
Classic	Books, which people praise, but do not read.
Smile	**A curve that can set a lot of things straight.**
Yawn	The only time some married men ever get to open their mouth.
Etc.	**A sign to make others believe that you know more than you actually do.**
Philosopher	A fool who torments himself during life, to be wise after death
Atom Bomb	**An invention to end all inventions.**

EXPERT SPEAK

Trial of cases involving offences under Protection of Children from Sexual Offences Act and S.C's and S.T's (POA) Act:

The non-obstante clause as given under section 42-A the POCSO Act, 2012 runs as follows:

"42A. Act not in derogation of any other law. – The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

It is true that the non-obstante clause in section 42-A has been constructed in a different manner, however, a perusal of Section 20 of the S.C's and S.T's (POA) Act, 1989 and Section 42-A of the POCSO Act would reveal that there is a direct conflict between the two non-obstante clauses contained in these Acts. Now the question is which provision of these acts would prevail?

The Apex Court in the case of Swaran Singh v. Kasturi Lal, AIR 1977 SC 265 provided the guidelines for resolving a direct conflict between two non-obstante clauses. The Court observed that when two or more laws operate in the same field and each contains a non-obstante clause stating that its provisions will override those of any other law, the cases have to be decided by reference to the object and purpose of the laws under consideration.

If we examine the object and purpose of the S.C's and S.T's (POA) Act, 1989, we find that the this Act was passed with a view to prevent the commission of atrocities against the members of the Scheduled Castes and Scheduled Tribes; to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of thereof. The procedure laid down in this Special Act is almost identical to the one provided under the Code of Criminal Procedure for trial of sessions cases.

Apart from provisions of compensation, no procedural safeguards have been incorporated in this Act, which address the vulnerabilities of these weaker sections of the society. On the other hand, POCSO Act has been enacted with a view to protect children from offences of sexual assault, sexual harassment and pornography. It professes to protect children of all castes and classes including those belonging to Scheduled Castes and Scheduled Tribes. It provides numerous safeguards to prevent exploitation of children and protect them during various stages of investigation, inquiry and trial. Thus, interests of children, including those belonging to Scheduled Castes and Scheduled Tribes, would be protected better if provisions of the Protection of Children from Sexual Offences Act are applied to a case.

The same has been reiterated in the judgment delivered on 08/04/2015 in CRLRC no. 1596/2014 by our High Court.

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No one can destroy iron, But its own rust can!! Likewise no one can destroy us, But our own mindset can. Anonymous

CITATIONS

R.DINESHKUMAR@DEENA Vs. STATE REP. BY INSPECTOR OF POLICE AND ORS. (2015) 42 SCD 477 = [2015] 2 Crimes(SC) 50 = (2015) 3 SCC (Cri) 1 = (2015) 7 SCC 497 = It is the settled legal position that an offence of conspiracy is complete the moment two or more persons agree to do an illegal act, or agree to do an act which is not illegal in itself but by illegal means or in the alternative if two or more persons agree to cause to be done an illegal act or an act which is not illegal through illegal means.

under Section 319, but it is axiomatic that the deposition made by a witness during the course of the trial of a sessions case is certainly evidence within the meaning of that expression as defined under Section 3 of the Evidence Act.

no prosecution can be launched against the maker of a statement falling within the sweep of Section 132 of the Evidence Act on the basis of the ñanswerò given by a person while deposing as a ñwitnessò before a Court.

(2015) 42 SCD 931 AG VS SHIV KUMAR YADAV & ANR, (i) The trial court and the High Court held that the accused had appointed counsel of his choice. He was facing trial in other cases also. The earlier counsel were given due opportunity and had duly conducted cross-examination. They were under no handicap;

(ii) No finding could be recorded that the counsel appointed by the accused were incompetent particularly at back of such counsel;

(iiii) Expeditious trial in a heinous offence as is alleged in the present case is in the interests of justice;

(iv) The trial Court as well as the High Court rejected the reasons for recall of the witnesses;

(v) The Court has to keep in mind not only the need for giving fair opportunity to the accused but also the need for ensuring that the victim of the crime is not unduly harassed;

(vi) Mere fact that the accused was in custody and that he will suffer by the delay could be no consideration for allowing recall of witnesses, particularly at the fag end of the trial;

(vii) Mere change of counsel cannot be ground to recall the witnesses;

(viii) There is no basis for holding that any prejudice will be caused to the accused unless the witnesses are recalled;

(ix) The High Court has not rejected the reasons given by the trial court nor given any justification for permitting recall of the witnesses except for making general observations that recall was necessary for ensuring fair trial. This observation is contrary to the reasoning of the High Court in dealing with the grounds for recall, i.e., denial of fair opportunity on account of incompetence of earlier counsel or on account of expeditious proceedings;

(x) There is neither any patent error in the approach adopted by the trial court rejecting the prayer for recall nor any clear injustice if such prayer is not granted.

PAWAN KUMAR @ MONU MITTAL Vs. STATE OF U.P. & ANR. (2015) 3 SCC (Cri) 27 = (2015) 7 SCC 148= The ñfact discoveredò as envisaged under Section 27 of the Evidence Act embraces the place from which the object was produced, the knowledge of the accused as to it, but the information given must relate distinctly to that effect.

In the light of Section 27 of the Evidence Act, whatever information given by the accused in consequence of which a fact is discovered only would be admissible in the evidence, whether such information amounts to confession or not.

When a witness is examined at length it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. 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.

Tomasa Bruno and another vs State of U.P. 2015(1) ALD (Crl) 663 (S.C) reported in our May 2015 Edition is reported as (2015) 3 SCC (Cri) 54 = (2015) 7 SCC 178. Failure to use scientific evidence and produce them amounts to withholding of evidence.

SATISH KUMAR JAYANTI LAL DABGAR Vs. STATE OF GUJARAT, (2015) 3 SCC (Cri) 108 = (2015) 7 SCC 359 The Legislature has introduced the aforesaid provision with sound rationale and there is an important objective behind such a provision. It is considered that a minor is incapable of thinking rationally and giving any consent. For this reason, whether it is civil law or criminal law, the consent of a minor is not treated as valid consent. Here the provision is concerning a girl child who is not only minor but less than 16 years of age. A minor girl can be easily lured into giving consent for such an act without understanding the implications thereof. Such a consent, therefore, is treated as not an informed consent given after understanding the pros and cons as well as consequences of the intended action. Therefore, as a necessary corollary, duty is cast on the other person in not taking advantage of the so-called consent given by a girl who is less than 16 years of age. **Even when there is a consent of a girl below 16 years, the other partner in the sexual act is treated as criminal who has committed the offence of rape. The law leaves no choice to him and he cannot plead that the act was consensual**. A fortiori, the so-called consent of the prosecutrix below 16 years of age cannot be treated as mitigating circumstance.

Merely because the appellant has now married hardly becomes a mitigating circumstance. Likewise, the appellant cannot plead that prosecutrix is also married and having a child and, therefore, appellant should be leniently treated.

Manik Taneja versus state of Karnataka 2015 CR LJ 1483 which was mentioned earlier in our leaflet is reported as (2015) 3 SCC (Cri) 132 = (2015) 7 SCC 423 regarding comments posted on facebook social media.

RAMDEV FOOD PRODUCTS PRIVATE LIMITED Vs. STATE OF GUJARAT , (2015) 3 SCC (Cri) 192(FB) = (2015) 6 SCC 439 (FB) the direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone instance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued. Cases where Magistrate takes cognizance and postpones issuance of process are cases where the Magistrate has yet to determine ñexistence of sufficient ground to proceedò. Category of cases falling under Para 120.6 in Lalita Kumari (supra) may fall under Section 202. Subject to these broad guidelines available from the scheme of the Code, exercise of discretion by the Magistrate is guided by interest of justice from case to case.

The maxim 'expressio unius est exclusion alterious' (express mention of one thing excludes others) has been called a valuable servant but a dangerous master.

the scheme of the section appears to be that when a complaint is sent to the police for investigation and report, they are to investigate in precisely the same manner and to arrest in precisely the same way as they would have done if their powers had been first invoked by a first report under S. 154, their being only this difference, that in the one case the police embody the result of their investigation to the Magistrate in a report which the Magistrate proceeds to consider under S.203, while in the other case the police embody the result of their investigation in what is called a challan or charge-sheet, but which is really a police report under S.190(b), the term challan or charge sheet not occurring in the section, the accused person, in any case, if arrested by the police, being produced before the Magistrate in the ordinary way.

EDWARD Vs. INSPECTOR OF POLICE, AANDIMADAM P.S. 2015(2)ALD (Crl) 355 (SC) Even if there is a difference between ocular and medical evidence, it is clear from the facts that the accused were present there with the common intention to attack the deceased. Thus, a difference between ocular and medical evidence will not stand any ground in acquitting the accused in the present case.

in the case of Dalip Singh and Ors. v. State of Punjab, (1954) 1 SCR 145, it has been held by this Court that, it is true **when feelings run high and there is a personal cause for enmity**, there is a tendency to drag in an innocent person against whom the witness has a grudge but foundation must be laid for such a criticism and each case must be judged and governed on its own facts. In this case we do not see any evidence for the eye-witness to be inimical towards the accused.

In the case of Bipin Kumar Mondal v. State of West Bengal, (2011) 2 SCC (Cri) 150 = (2010) 12 SCC 91, it has been held by this Court that there is no legal impediment in convicting a person on **the sole testimony of a single witness** provided he is wholly reliable. In the present case there is no ground to doubt the reliability of the evidence provided by PW-3.

INDER SINGH & ORS. Vs. STATE OF RAJASTHAN, 2015(2) ALD (Crl) 384 (SC) The criticism that some of the accused had sustained injuries for which the prosecution has not offered any explanation has

rightly been rejected by the trial court because there is no counter version or even a suggestion disclosing that any of the accused had received injuries in the same occurrence and at the same place. None of the persons allegedly injured on the side of the defence have lodged any case disclosing where and under what circumstances they sustained the injuries. **In the facts of the case, in absence of any counter version and any plea of self-defence, it would be hazardous to presume at the instance of the defence that the accused persons sustained the injuries in course of same occurrence and at the same place.** Only if these two ingredients were established, the defence would have been entitled to seek an explanation from the prosecution in respect of some injuries on three of the accused persons. Their injuries were neither fatal nor they caused any threat to life and that also reduces the burden upon the prosecution to explain injuries on the accused.

[2015] 0 Supreme(SC) 870 State, Rep. by Inspector of Police Central Crime Branch Vs. R. Vasanthi Stanley As far as the load on the criminal justice dispensation system is concerned it has an insegragable nexus with speedy trial. A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial or **the principle that when the matter has been settled it should be quashed to avoid the load on the system.** That can never be an acceptable principle or parameter, for that would amount to destroying the stem cells of law and order in many a realm and further strengthen the marrows of the unscrupulous litigations. Such a situation should never be conceived of.

[2015] 0 Supreme(SC) 872 PERIYAR & PAREEKANNI RUBBERS LTD. Vs. STATE OF KERALA

The binding effect of judgment of this Court vis-à-vis State and Central Government circulars is considered in the case of CCE v. Ratan Melting & Wire Industries, (2008) 13 SCC 1 wherein it is held that the law laid down by this Court is the law of the land. The law so laid down is binding on all Courts/Tribunals and bodies and that the circulars issued by the State or the Central Government cannot prevail over the law laid down by this Court. Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is, therefore, an essential function of the Court to interpret a legislation. **The statements of the Court on matters other than law like facts may have no binding force as the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts.** It is the principle found out upon a reading of a judgment as a whole, in the light of the questions before the Court that forms the ratio and not any particular word or sentence. To determine whether a decision has ñdeclared lawò it cannot be said to be a law when a point is disposed of on concession and what is binding is the principle underlying a decision. A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which the judgment was delivered. **An "obiter dictum" as distinguished from a ratio decidendi is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision.** Such an obiter may not have a binding precedent as the observation was unnecessary

for the decision pronounced, but even though an obiter may not have a binding effect as a precedent, but it cannot be denied that it is of considerable weight

[2015] 0 Supreme(SC) 873 BHANUBEN Vs. STATE OF GUJARAT On the issue that the above mentioned witnesses are interested witnesses and their evidence cannot be accepted by this Court as contended by the learned counsel on behalf of the appellants is also rejected in the light of the decision of this Court in the case of Vishwanath Agrawal v. Sarla Vishwanath Agrawal, (2012) 7 SCC 288 wherein this Court has held thus:

ñ39é é .**In a matrimonial dispute, it would be inappropriate to expect outsiders to come and depose.** The family members and sometimes the relatives, friends and neighbours are the most natural witnesses.

The veracity of the testimony is to be tested on objective parameters and not to be thrown overboard on the ground that the witnesses are related to either of the spouse. Exception has been taken by the courts below that the servants of the house should have been examined and that amounts to suppression of the best possible evidenceé é .ò

RANJEET KUMAR RAM @ RANJEET KUMAR DAS Vs. STATE OF BIHAR 2015(2)ALD (Crl) 419 (SC) Ordinarily, courts do not give much credence to the identification made in the court for the first time; but **the identification of the accused for the first time in court is permissible in law. But the said principle has to be applied in the facts and circumstances of each case.** While PW2 was examined in the court, trial court which had the opportunity of seeing and observing demeanour of PW2 found her version identifying Chintoo Singh (A-5) trustworthy and we see no reason to take a different view.

When PW2 **(MINOR)** was examined as a witness in the court during trial, the trial judge had also put preliminary questions to the child witness Rubi Kumari (PW2) and satisfied that she was capable of understanding the questions put to her. When the trial court has ascertained the discernment of PW2 and has formed an opinion that PW2-Rubi Kumari is competent to testify and then recorded her evidence, we see no reason to discredit PW2ôs testimony. **PW2 though sole witness, by concurrent findings courts below found her evidence unassailable and we find no ground to take a different view.**

Nallajerla Murali Krishna @ Murali. Vs. The State of Telangana 2015 (2) ALD (Crl) 428 (A.P) any subsequent legislation made by Parliament later again shall prevail even to the earlier State Legislation received the assent of the President.

Sec 354 IPC is triable by Magistrate Court and it is compoundable.

Cognizant Technology Solutions India Pvt. Tamil Nadu Vs Iridium Interactive Ltd. Hyderabad 2015 (2) ALD (Crl) 452 (A.P.) It must be noted that the employees are working under the complainant under certain terms of contract. **The relationship between complainant and its employee is only a master-servant relationship but not the owner-property relationship**. If any employee in pursuit of better job opportunities leaves the company, he cannot interdict them. Of course, if there exists a contract between complainant and its

employees requiring them to work for certain number of years under him and any of them prefers to leave in the midway, he may impose penalty against such scuttler. However, by no stretch of imagination he can claim any violation of his legal right against the new employer. In a commercial era of cut throat competition where one organization prefers to dominate others by hook or crook and where human relations are eclipsed by monetary considerations, it is too naive to expect unshaken fidelity and loyalty from the employees. That apart no law is laid down prohibiting one organization inviting the employees of another organization to its fold by offering lucrative pay packages. So, complainant cannot harp that accused committed any offence. As already stated, it may at best take action against its own employees if the service contract between them permits such action. It is all because the employees are not the property of the complainant.

The offences under Sections 406, 418, 409, 420 and 120B IPC are not attracted.

Gude Bhavani Sujatha Vs Muggula Srinivas Rao & Anr 2015 (2) ALD (Crl) 516.

24(8) & 302 Cr.P.C. The Victim got a right to ask the court and the court may permit the victim to engage an advocate of his or her choice to assist the prosecution irrespective of there is any APP or Addl.PP or Special PP, as the case may be.

Mohd. Rafiuddin Ahmed Rep. by its GPA Holder Syed Ismail vs The State of Telangana 2015 (2) ALD (Crl) 520. From the expression whoever being the husband or the relatives of the husband of a woman, what we can infer is that the status of husband as on the date of offence is relevant but not as on the date of filing complaint. Precisely, as on the date of offence under Sec.498-A IPC, if the husband and wife relationship existed between the parties, that would be suffice to attract the offence. **Subsequent divorce between parties will not have any impact on launching prosecution under this section**. Therefore, the expression being the husband should be understood only with reference to the date of offence as otherwise, the very object with which Section 498A was inducted into the Code will be defeated. That a divorced wife cannot launch prosecution for the atrocities committed by her husband during the subsistence of the marriage is the interpretation, it will lead to anomalous and disastrous results to the effect that a husband can cause all sorts of harassment to her within the purview of Sec.498A IPC and pronounce Talaq against her and still get over from the prosecution. That is not the intendment of the framers of the law.

Prevention of Corruption Act, 1988 ï Misconduct ï where misconduct is proved, alleged enmity between complainant and delinquent officer is immaterial. **Chaitanya Prakash Audichya V. C.B.I. 2015 (3) ALT (Crl.) 1 (SC).**

Rape ï the offence is heinous in nature and there is no reason for granting benefit of probation in such cases. **State of Rajasthan V. Sri Chand 2015 (3) ALT (Crl.) 15 (SC).**

Prevention of Corruption Act , 1988 – to find accused guilty of the offence u/s13(1) (d), there must be demand and acceptance by receiving illegal gratification. **K.L.Bakolia V. State through Director, C.B.I 2015 (3) ALT (Crl.) 19 (SC).**

S.156(3) Cr.P.C. - Issuing a direction stating ñas per the applicationò to lodge an FIR reflects the erroneous approach of the Learned Magistrate.

Power U/s156(3) Cr.P.C. warrants application of judicial mind.

Applications u/s156(3) Cr.P.C. are to be supported by an affidavit duly swon by the applicant who seeks invocation of the jurisdiction of the magistrate. Magistrate shall verify the truth and veracity of the allegations.

If the affidavit is found to be false, the applicant will be liable for prosecution in accordance with law. **Priyanka Srivastava V. State of U.P. 2015 (3) ALT (Crl.) 26 (SC).**

Dying Declaration made on verge of death has special sanctity. It enjoys a sacrosanct status as a piece of evidence.

Once court is satisfied that dying declaration is true and free from any embellishment, such a statement by itself, sufficient to record conviction, without looking for any corroboration.

In case of more than one Dying Declaration, Court to scrutinize all of them to find out each one of them passes the test of being trustworthy.**Sandeep and another V. State of Haryana 2015 (3) ALT (Crl.) 49 (SC).**

S.258 Cr.P.C. applies only to those cases which are instituted on police reports but not to the cases instituted upon private complaints **Deevi Srinivasa Sai Radha Lakshmi & anr V. State of A.P. rep. by P.P and anr 2015 (3) ALT (Crl.) 3 (AP).**

Prevention of Money Laundering Act, 2002 – Section 5 of the Act shall be read together with Section 8 of the Act

Joint Director is competent to pass provisional attachment order.

Violation of principles of natural justice does not arise at the time of passing of provisional attachment under PML Act **P.Trivikrama Prasad & ors. V. Enforcement Directorate, rep by its Joint Director and ors. 2015 (3) ALT (Crl.) 6 (AP).**

Criminal Law Amendment Ordinance, 1944 though pre-constitutional law, continues to be validly in force in view of Article 372 of the Constitution of India.

Supervisory power under Article 227 of the Constitution can be invoked in criminal matters also. **K.Somasekhar Reddy & ors V. State rep. by its SHO. Kadapa. 2015 (3) ALT (Crl.) 32 (AP).**

S.310 Cr.P.C. – the said provision cannot be invoked when the court has not felt the necessity or desirability of having such local inspection.

There is no duty cast on the court to have local inspection simply because one of the party to the litigation makes an application.

When the Court did not feel such necessity, neither the parties nor the higher courts can either commend or command the trial court to invariably conduct a local inspection. **Dovari Venkataraman & ors V. State of A.P. rep. by its P.P. 2015 (3) ALT (Crl.) 125 (AP).**

A case cannot be quashed on the ground that the Victim changed her version in 164 Cr.P.C. from that of her version in 161 Cr.P.C. statement. The truthness or otherwise of the versions should be tested by Trial. **Kalki Ramu vs The State Of Telangana, on 3 August, 2015**

the law on the issue of dying declaration can be summarised to the effect that in case the court comes to the conclusion that the dying declaration is true and reliable, has been recorded by a person at a time when the deceased was fit physically and mentally to make the declaration and it has not been made under any tutoring/duress/prompting; it [pic]can be the sole basis for recording conviction. In such an eventuality no corroboration is required. In case there are multiple dying declarations and there are inconsistencies between them, generally, the dying declaration recorded by the higher officer like a Magistrate can be relied upon, provided that there is no circumstance giving rise to any suspicion about its truthfulness. In case there are circumstances wherein the declaration had been made, not voluntarily and even otherwise, it is not supported by the other evidence, the court has to scrutinise the facts of an individual case very carefully and take a decision as to which of the declarations is worth reliance. **Sandeep And Anr vs State Of Harayana on 26 May, 2015. Supreme Court of India.**

NEWS

- The Supreme Court of India has told the National Highways Authority of India (NHAI) and concessionaires that they cannot collect toll from commuters if the road condition is in a bad shape.
- The Central Information Commission has held that the personôs name and the extent of the land that is owned by them or is owned by any public authority would come under the purview of public records and cannot be treated as private information or third party information in ***Mr. Surender Pal Singh V. Sub-divisional Magistrate, GNCTD, Delhi.***
- The Supreme Court on Thursday issued notice to the central government on a petition challenging the second re-promulgation of land ordinance to amend the 2013 land acquisition law to relax the process of acquiring land.
- The Government of Telangana declared the Office of the Central Crime Stations in all Police units of Telangana State to be Police Stations to register and investigate the cases and includes any local area specified the purpose as per GOMs. No. 65 dated 22/09/2015.
- The Superannuation felicitation of Sri V.Balabuchiah, JD-DOP(FAC) was held at Hotel Seasons Grand, Nallakunta and aptly . The Chief Guest of the evening was Sri Rajeev Trivedi, the Honôble Home Secretary, Government of Telangana and the Guest of Honour was Sri. R.Damodar, Former District Judge cum Ex-Secretary, Law, Hyderabad.
- Sri M.Bichappa, Public Prosecutor, Principal Sessions Court, Sangareddy, Medak District posted as Joint Director in the Office of Director of Prosecutions and kept FAC of Director of Prosecutions, Telangana, Hyderabad vide G.O.RT.No. 864 HOME (COURTS.A1) DEPARTMENT Dt: 30/09/2015. Prosecution Replenish congratulates Sri M.Bichappa garu.

- A.P. Reorganisation Act, 2014 - Telangana State Prosecution Service ï Tentative allocation of State Cadre employees ï Prosecutors allotted to the State of Telangana ï Joined to duties ï Postings - Orders ï Issued vide G.O.RT.No. 848, HOME (COURTS.A) DEPARTMENT Dated: 24/09/2015

  1. Sri S.K.Rama Rao, Additional Public Prosecutor Grade.I Additional Public Prosecutor Grade.I / Spl. Public Prosecutor, Spl. Court for trial of offences under SCs & STs(POA) Act, 1989-cum-Addl.Dist.& Sessions Court, Khammam
  2. Sri K.Chandrasekhar, Additional Public Prosecutor Grade.I Additional Public Prosecutor Grade.I / Special Public Prosecutor, Special Court for trial of offences under SCs & STs (POA) Act, 1989-cum-V Additional District & Sessions Court, Adilabad
  3. Sri J.Srinivas Reddy, Additional Public Prosecutor Grade.II Additional Public Prosecutor Grade.II, Assistant Sessions Court, Sanga Reddy, Medak District.
  4. Sri K.Ajay, Additional Public Prosecutor Grade.II Additional Public Prosecutor Grade.II as Faculty Member(Law), RBVRR Telangana State Police Academy, Hyderabad on usual terms & conditions of deputation initially for a period of one year against the vacant post of Public Prosecutor/Faculty Member(Law).

- Other Allocations connected with Directorate of Prosecutions.

  Sri B. Kamaleswara Rao, Personal Assistant, O/o Directorate of Prosecutions, - Government of Andhra Pradesh - Allotted to State of Telangana ï Relieving ï Orders ï issued vide GORT 1044 dt. 07/9/2015

  Sri S. Kumaraswamy, Office Sub-ordinate, O/o Director Prosecutions, A.P, Hyderabad - Government of A.P. allotted to Government of Telangana ï Relieving ï Orders ï issued vide GORT 1045 dt 07/09/2015.

- The following prosecutors have been tentatively allotted to State of A.P. under the A.P. Reorganisation act, 2014 and relieved
  1. Smt. Rafat, Additional Public Prosecutor Grade.I/Special Public Prosecutor, Special Court for Trial of Offences under SC & ST (POA) Act, 1989, Warangal, Government of Telangana Vide GORT 726 dt.2/9/2015.
  2. Smt. Jala Stella Neela Manjari, Additional Public Prosecutor Grade.II, Government of Telangana Vide GORT 727 dt. 2/9/2015.
  3. Smt. Chunduru Subhashini, Additional Public Prosecutor Grade.II, Assistant Sessions Judge Court, Nalgonda, Government of Telangana Vide GORT 728 dt. 2/9/2015.
  4. Sri M.Lakshmana Rao, Additional Public Prosecutor Grade.II, Assistant Sessions Judge Court, Medak, Government of Telangana Vide GORT no. 733 dt. 2/9/2015.
  5. Smt. Jala Hulda Josphine, Additional Public Prosecutor Grade.II, Assistant Sessions Judge Court, Sangareddy, Government of Telangana Vide GORt 730 dt. 2/9/2015.
  6. Sri M.Malleshwara Rao, Additional Public Prosecutor Grade.II, Assistant Sessions Judge Court, Nagarkurnool, Mahaboobnagar District, Government of Telangana vide GORT no. 734 dt. 2/9/2015.

- The Following prosecutors are shortlisted for District Judge (Entry Level) Interview. Prosecution Replenish congratulates them and Wishes them ALL THE BEST.

  P.Mahalaxmi- 2011 Batch
  BSV.Hima Bindu- 2011 Batch
  M.Nagaraju- 2015 Batch
  G.Manohar Reddy- 2008 Batch
  B.Sirisha ï 2008 Batch

ON A LIGHTER VEIN

A Woman Is Driving First Time On The Highway.

Her Husband Calls & Says: "Be Careful Love, It's Just Been On The Radio That Some One Is Driving The Wrong Way On The Highway"

She Replies: "Someone? These Idiots Are In Hundreds"

The Telangana Public Prosecutors (Cadre) Association and the prosecutors of Hyderabad Unit congratulating Sri M.Bichappa Garu, J.D- cum- DOP (FAC), Directorate of Prosecutions, Telangana.

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Suggestions; articles and responses welcome to make this as the most informative leaflet

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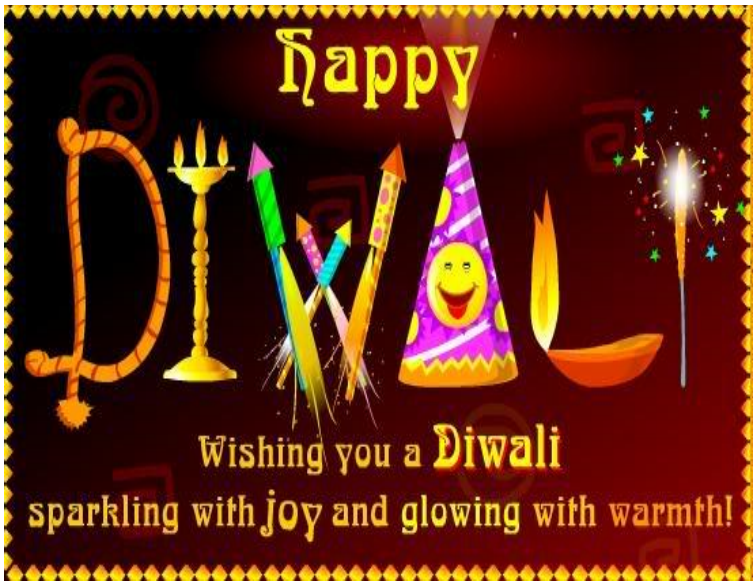
PROSECUTION REPLENISH

(An Endeavour for learning and excellence)

Vol- III Part 10 Monthly Leaflet November, 2015



CITATIONS

FIR is not meant to be an encyclopedia nor is it expected to contain all the details of the prosecution case. It may be sufficient if the broad facts of the prosecution case are stated in the FIR. Complaint was lodged within few hours after the tragic event. PW-1 has lost his young daughter just married before six weeks in unnatural circumstances. Death of a daughter within few days of the marriage, the effect on the mind of the father-PW1 cannot be measured by any yardstick. While lodging the report, PW-1 must have been in great shock and mentally disturbed. Because of death of his young daughter being grief stricken, it may not have occurred to PW-1 to narrate all the details of payment of money and the dowry harassment meted out to his daughter. Unless there are indications of fabrication, prosecution version cannot be doubted, merely on the ground that FIR does not contain the details.

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

Non-mention of details of money paid to the appellants and the demand of dowry and cruelty and harassment meted out to Archana in the statement of PW-1 does not affect the credibility of PW-1. As rightly observed by the High Court, it cannot be expected from a father to narrate everything when he himself was in agony due to death of his own daughter.

The investigating officer is not obliged to anticipate all possible defences and investigate in that angle. In any event, any omission on the part of the investigating officer cannot go against the prosecution. **Interest of justice demands that such acts or omission of the investigating officer should not be taken in favour of the accused or otherwise it would amount to placing a premium upon such omissions.**

V.K.Mishra and another Vs State of Uttarakhand and another. 2015(2) ALD (Crl) 533 (SC) (THREE JUDGE BENCH)

the witnesses have identified the accused-appellants in the Court and except giving a bald suggestion that they have not seen the accused persons, there is nothing in the cross-

examination we are disposed to accept the identification in Court. Hence, the submission canvassed by the learned counsel for the appellants on this score pales into insignificance.
that no independent witness has been examined to substantiate the allegation of the prosecution. It is worth to note that Labh Singh and Harvinder Singh have not been examined by the prosecution. The explanation has been offered that the investigating agency was of the view that they had been won over. The said explanation has been totally substantiated inasmuch as they have been examined as defence witnesses. In such a situation, no adverse inference can be drawn for non-examination of the said witnesses. That apart, the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on the perusal of the evidence on record the Court finds that the case put forth by the prosecution is trustworthy. When the evidence of the official witnesses are trustworthy and credible, there is no reason not to rest the conviction on the basis of their evidence.
KULWINDER SINGH AND ANR VS STATE OF PUNJAB. 2015(2) ALD (Crl) 578 (SC)- (2015) 3 SCC (Cri) 345= (2015) 6 SCC 674.

"The distinction between a strict and a liberal construction has almost disappeared with regard to all classes of statutes, so that all statutes, whether penal or not, are now construed by substantially the same rules. 'All modern Acts are framed with regard to equitable as well as legal principles.' 'A hundred years ago,' said the court in Lyons' case [Lyons v. Lyons, 1858 Bell CC 38 : 169 ER 1158] , 'statutes were required to be perfectly precise and resort was not had to a reasonable construction of the Act, and thereby criminals were often allowed to escape. This is not the present mode of construing Acts of Parliament. They are construed now with reference to the true meaning and real intention of the legislature."
the statute with which we are dealing must be given a fair, pragmatic, and common sense interpretation so as to fulfill the object sought to be achieved by Parliament, we feel that the judgment in Appasaheb's case followed by the judgment of Vipin Jaiswal do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise.
RAJINDER SINGH Vs. STATE OF PUNJAB (2015) 3 SCC (Cri) 225= (2015) 6 SCC 477.

Charge sheet showing accused as absconding can be filed. Direction that charge sheet not to be numbered unless all accused are produced before court- not proper.
STATE OF UTTAR PRADESH VS ANIL KUMAR SHARMA AND ANR. (2015) 3 SCC (CRI) 368= (2015) 6 SCC 716.

Putting the criminal law into motion is not a matter of course. To settle the scores between the parties which are more in the nature of a civil dispute, the parties cannot be permitted to put the criminal law into motion and Courts cannot be a mere spectator to it.
POOJA RAVINDER DEVIDASANI Vs. STATE OF MAHARASHTRA & ORS (2015) 3 SCC (CRI) 378= (2014) 16 SCC 1.

The question raised by the respondent is well answered by this Court in a number of decisions rendered in a different perspective. The matter of investigation by an officer not authorized by law has been held to be irregular. Indisputably, by the order of the Magistrate investigation was conducted by Sub-Inspector, CBI who, after completion of investigation, submitted charge-sheet. It was only during the trial, objection was raised by the Respondent that the order passed by the Magistrate permitting Sub-Inspector, CBI to

investigate is without jurisdiction. Consequently, the investigation conducted by the officer is vitiated in law. Curiously enough the respondent has not made out a case that by reason of investigation conducted by the SubInspector a serious prejudice and miscarriage of justice has been caused. It is well settled that invalidity of investigation does not vitiate the result unless a miscarriage of justice has been caused thereby.

UNION OF INDIA ETC., REP.THR.SUPDT.OF POLICE Vs. T. NATHAMUNI (2015) 3 SCC (CRI) 411= (2014) 16 SCC 285.

Sections 406, 409, 420 read with Section 34 of Indian Penal Code (IPC).

The impugned orders passed by the High Court and the other authorities below are challenged before us mainly on the following grounds: -

(i) Respondent No. 1/complainant is not a member of the "Mukka Welfare Society" nor is he in any manner connected with the affairs of the Society, as such he has **no locus** to file the criminal complaint.

(ii) The sale deeds in question were executed in the year 1996, and the criminal complaint is filed malafide by respondent No. 1 **after a period of fourteen years**, in the year 2010, as such the courts below have erred in law in not taking note of said fact.

(iii) The courts below have erred in law in not appreciating that the complaint in question **was filed to get personal vendetta** by respondent No. 1 against the Directors of the Society.

(iv) The courts below further erred in not considering the fact that the complainant/respondent No. 1 **had earlier filed a complaint**, with same set of facts, before the Deputy Commissioner, Dakshin Kannada, Mangalore, and the same was sent to Police Station Suratkal for investigation, and the Circle Inspector, after investigation, did not find any offence to have been committed by the appellants, as the dispute was purely of civil in nature.

(v) Ingredients of the offences punishable under Sections 406, 409 and 420 IPC are not made out.

(vi) None of the transactions of sale in question is against any bye-law or clause of Memorandum of Association of the Society

we are of the view that none of the offences for which the appellants are summoned, is made out from the complaint and material on record. We further find that it is nothing but abuse of process of law on the part of the complainant to implicate the appellants in a criminal case after a period of twelve years of execution of registered sale deeds in question, who is neither party to the sale deeds nor a member of the Society. Therefore, we allow the appeal and set aside the orders passed by the High Court and that of the courts below.

Mr. Robert John D'Souza and others Vs Mr. Stephen V. Gomes and another 2015 (3) ALT (Cri) 106 (S.C.)= 2015(2) ALD (Crl) 563 (SC)

If the amendment sought to be made relates to a simple infirmity which is curable by means of a formal amendment and by allowing such amendment, no prejudice could be caused to the other side, notwithstanding the fact that there is no enabling provision in the Code for entertaining such amendment, the Court may permit such an amendment to be made. On the contrary, if the amendment sought to be made in the complaint does not relate either to a curable infirmity or the same cannot be corrected by a formal amendment or if there is likelihood of prejudice to the other side, then the Court shall not allow such amendment in the complaint.

Though, the proposed amendment was not a formal amendment, but a substantial one, the Magistrate allowed the amendment application mainly on the ground that no cognizance was taken of the complaint before the disposal of amendment application. Firstly, Magistrate was yet to apply the judicial mind to the contents of the complaint and **had not taken cognizance** of the matter. Secondly, since **summons was yet to be ordered** to be issued to the accused, no prejudice would be caused to the accused. Thirdly, the

amendment **did not change the original nature** of the complaint being one for defamation. Fourthly, the publication of poem 'Khalnayakaru' being in the nature of **subsequent event** created a new cause of action in favour of the respondent which could have been prosecuted by the respondent by filing a separate complaint and therefore **to avoid multiplicity of proceedings**, the trial court allowed the amendment application.- upheld by High court- no infirmity.
S.R. SUKUMAR Vs S. SUNAAD RAGHURAM 2015 (3) ALT (Cri) 147 (S.C.)

The earlier referred judgments in Prosecutionreplenish regarding

i. **Sec 65B IEA between P.V.Anvar Vs P.K.Basheer is reported as 2015(3) ALT (Cri) 161 (S.C.)**
ii. **The offence of Rape cannot be allowed to be compromised between State of M.P. Vs Madanlal is reported as 2015(3) ALT (Cri) 161 (SC)= 2015(2) ALD (Crl) 571 (SC) = (2015) 3 SCC (Cri) 287= (2015) 7 SCC 681.**

Once the document is duly marked without objection regarding to the stamp duty to impound and collect with penalty, it is not open to raise any objection after its marking in this regard as per the settled law. Thus, the trial Court's finding as if it is inadmissible even after its marking without its objection on any stamp duty and penalty required for impounding, is unsustainable.
Dr.Battula Parameswara Reddy Vs. Charity International Trust, Chittoor town rep. by its Secretary C.Karunakara Babu(died) and Others. 2015(3) ALT (Cri) 141(A.P).

The investigation in a crime, such as the one in hand, was required to be handled with utmost care and caution and all the necessary steps to preserve the evidence were to be taken by the Investigating Officer, for production of the same before the Court. In the instant case, it is admitted by the witnesses as well as Investigating Officer that when they first visited the scene of offence, they saw found the deceased lying dead on the cot, found four empty bottles of wine and three or four glasses. It obviously means that such glasses were used by the persons, who had consumed liquor immediately preceding the death of the deceased. **The Investigating Officer, PW-13, admits that he has not taken any steps whatsoever to preserve the finger prints on such crucial objects for connecting the criminal with the crime. Similarly, no endeavour was made to get examined the finger prints on the weapon of offence alleged to have been used by the accused.** A case of this nature warrants for a scientific investigation, since admittedly there was no eye-witness to the incident. The persons, who spent time with the deceased just prior to his death, are the persons, who fall in the category of last seen together, and their identity, was essential and their role required probe. Unfortunately, the Investigating Officer, PW-13 has failed to act accordingly.
Battala Manjunath Vs. State of A.P. 2015(3) ALT (Cri) 162 (A.P.)

Section 5 of the A.P. Protection of Depositors of Financial Establishments Act, 1999- Since it was not the Competent authority i.e Additional Director General of Police, CID (as per notification issued under Section 4 of the Act vide G.O.Ms.No.193, Home (Gen.B) dt.23-08-2001) who filed the memo on 24-11-2004 in C.C.No.24 of 2004 (out of which Crl.Appeal No.1581 of 2005 arises) before the XXI Metropolitan Magistrate but it was the Inspector of Police, WCO, Team-III who filed such memo for addition of Section 5 of the Act, it could not be said that there was satisfaction of the competent authority that the above company and the accused had committed default punishable under Section 5 of the Act and it would not be a case where the competent authority had launched prosecution. This goes to the root of the matter and consequently the accused have to be presumed to be prejudiced by this act of the Inspector of Police and the Magistrate, and this vitiates the prosecution.
Yousuf Bin Awad Vs State of A.P. 2015(3) ALT (Cri) 171 (A.P.)

pendency of a civil suit is no bar for the institution of the criminal proceedings. Mere pendency of arbitral proceedings cannot restrain the 2 nd respondent from proceeding against the accused by invoking due process of law.
Dr.Raman Srikanth Vs State of Telangana. 2015 (3) ALT (Cri) 189 (A.P)

there are serious lapses on the part of the prosecution. Firstly, when the accused is said to have come to the police station by holding the head of her husband, any sensible or police officer would have arranged for the confession before a Judicial Magistrate. Secondly, though the sari of the accused is said to have been stained with blood, it was not sent for analysis by Forensic Laboratory. It may look somewhat odd, that a lady who caught the head of her husband to the police station is sought to be treated as innocent. Fortunately or unfortunately, law stipulates certain parameters for declaring a person as guilty. Even the confession must accord with law.
A perusal of the evidence of PW.8 discloses that he was the only constable available at the station, and he recorded the confession statement of the accused, after summoning some witnesses. Howsoever, truthful or otherwise it may be, it cannot be accepted. A police constable is neither authorized to register a crime nor to record the confessional statement. Obviously for this reason, the trial Court ignored almost the entire evidence of PW.8.
Malluri Rama Devi Vs State of A.P. 2015(3) ALT (Cri) 207 (DB)

The submission of the learned counsel for the appellant that the evidence of PW2 is not acceptable **as Section 161 Cr.P.C. statement was recorded very late** and is not worthy enough. PW2 has given a reason that he was out of station for days after the incident. There has neither been any effective cross examination of PW2 by the defence on this point. Further, the **contradiction between FIR and the GD entry** was not in relation to the role of the appellant and thus, he may not get any benefit out of it. Also, although the **weapon** attributed to the appellant by which he made the shot has **not been recovered**; this should not be fatal to the case of the prosecution. The only contention of the appellant left to be addressed is that there was **no independent witness** brought forth by the prosecution. We find this alone cannot be a ground for acquittal in view of the evidence available.
Harishankers Vs State of U.P. 2015(8) SCJ 97

it is apparent that there was discovery of a fact as per the statement of Mehmood Ali and Mohd. Firoz. Co- accused was nabbed on the basis of identification made by the accused Mehboob and Firoz. He was dealing with fake currency notes came to the knowledge of police through them. Recovery of forged currency notes was also made from Anju Ali. Thus the aforesaid accused had the knowledge about co-accused Anju Ali who was nabbed at their instance and on the basis of their identification. These facts were not to the knowledge of the Police hence the statements of the accused persons leading to discovery of fact are clearly admissible as per the provisions contained in section 27 of the Evidence Act which carves out an exception to the general provisions about inadmissibility of confession made under police custody contained in sections 25 and 26 of the Evidence Act. **Mehboob Ali & Anr vs State Of Rajasthan on 27 October, 2015** indiankanoon.org/doc/1507526/

NEWS

- A.P.- Postings to Additional Public Prosecutors Grade-I/ Additional Public Prosecutors Grade-II - Allotted to the State of Andhra Pradesh - As per the tentative allocation list of State Cadre employees between the Successor States of Andhra Pradesh and Telangana - Orders ï Issued vide G.O.RT.No. 1174 HOME (COURTS.A) DEPT Dated:15.10.2015.

Sl.No.	Name of the officer (Smt/Sri)	Place of Posting
1	Rafat, Addl.PP. Gr.I.	II Additional District and Sessions Judgeôs Court, Adoni, Kurnool District.
2.	J.S. Neelamanjari, Addl. PP.Gr.II,	Additional Assistant Sessions Judgeôs Court, Nellore, SPSR Nellore District.
3.	Ch. Subhashini, Addl.PP. Gr.II,	Assistant Sessions Court.,Amalapuram, East Godavari District.
4.	J.H. Josphine, Addl. PP.Gr.II.	Deputed to C.I.D., A.P., as Legal Adviser-cum- Special Public Prosecutor, Hyderabad.
5.	M. LaxmanaRao, Addl. PP.Gr.II.	Assistant Sessions Court.,Bapatla, Guntur District.
6.	M. MalleswaraRao, Addl.PP.Gr.II.	I Addl. Assistant Sessions Court, Rajahmundry, East Godavari District.

- TELANGANA- Public Services ï Prosecuting Officers ï Certain Asst. Public Prosecutors Call back and Posting Orders - Issued. HOME (COURTS.A) DEPARTMENT G.O.RT.No. 899 Dated: 15/10/2015. (i) Ms. Rita Lal Chand, Asst. Public Prosecutor, Spl. Mobile (PCR) Court, Nalgonda be posted as Asst. Public Prosecutor, Chief Metropolitan Magistrate Court, Hyderabad. (ii) Ms. B.Swathi, Asst. Public Prosecutor, Spl. Mobile (PCR) Court, Mahaboobnagar be posted as Asst. Public Prosecutor, VI Addl. Chief Metropolitan Magistrate Court, Hyderabad.

- TELANGANA- Public Services ï Re-Constitution of Departmental Promotion Committee for the First and Second Level Gazetted posts in Prosecutions Department ï Orders ï Issued. HOME (COURTS-A1) DEPARTMENT G.O.RT.No. 893 Dated: 14/10/2015 **the Departmental Promotion Committee** with the following members for a period of two years from 13.12.2014 for the First and Second Level Gazetted posts i.e. **Administrative Officer(Legal) and Senior Assistant Public Prosecutors in Prosecution Department**: 1. Director of Prosecutions, Telangana, Hyderabad Chairman/Convener, 2. Director General of Police, Telangana, Hyderabad Member 3. Deputy Secretary / Joint Secretary/ Additional Secretary to Government concerned in the Administrative Member Department of Government.

- Budget Estimates 2015-16ï Release of Budget for Rs.8,94,000/- to Directorate of Prosecutions, Andhra Pradesh ï Administrative Sanction ï Orders ï Issued. HOME (COURTS.A) DEPARTMENT G.O.Rt.No.1206 Date:30.10.2015.

- Prosecution Replenish congratulates
  1. Smt BSV Hima Bindu,
  2. Sri Nagaraj
  3. Sri Manohar Reddy

  For being selected as District Judge(Entry Level) and wishes them all the Best.

ON A LIGHTER VEIN

Harry was sick and tired of being constantly badgered by his wife Barbara for spending so much time at the bar. Hoping it would help matters, Harry invited Barbara along with him. ñSo what would you like?ò Harry cordially asked, as she took her seat next to him. ñOh I donôt knowò Barbara replied, ñI guess Iôll take the same thing as you.ò ñOKò said Harry to the bartender, ñweôll take two Johnny Walkerôs on the rocks!ò Barbara barely took a sip of the drink before she started gagging ñOh my gosh! Get me a cup of water! This stuff is horrible! How do you drink this garbage?òñSee?òsaid Harry ñand you think I come here just to have a good time?ñ

Hon'ble A.P.Law Secretary Sri. C.S.S.V. Durga Prasad attended and addressed Krishna District Prosecuting officers meet on 31.10.2015 at Vijayawada, Asst. commissioner of prohibition & excise Vijayawada was also present in the meeting presided over by Sri **Ramakoteswara Rao Byra**

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Suggestions; articles and responses welcome to make this as the most informative leaflet

PROSECUTION REPLENISH

(AN ENDEAVOUR FOR LEARNING AND EXCELLENCE)


May the spirit of
Christmas bring you peace,
The gladness of Christmas
give you hope,
The warmth of Christmas
grant you love.
Merry Christmas


Here Are My Wishes For You
H Ours Of Happy Times With Friends And Family
A Bundant Time For Relaxation
P Rosperity
P Lenty Of Love When You Need It The Most
Y Outhful Excitement At Lifes Simple Pleasures
N Ights Of Restful Slumber
E Verything You Need
W Ishing You Love And Light
Y Ears And Years Of Good Health
E Njoyment And Mirth
A Angels To Watch Over You
R Embrances Of A Happy Years!
Happy New Year!
2016

CITATIONS

If the Complainant is aggrieved by the acts of the IO, her remedy is otherwise but not to contend that she was not given notice before taking cognizance. There is no procedure contemplated in CrPC to give any notice to the complainant while taking cognizance. **Dr.Thumperthi Vani Devi Vs SHO, Ongole 2015(2) ALD (Crl) 514 (AP)**

conviction can be recorded on the sole testimony of police officer. Supreme court in BALDEV SINGH Versus STATE OF HARYANA in criminal appeal dated CRIMINAL APPEAL NO.167 OF 2006 dated 4.11.2015

police officer in course of investigation is authorised to seize or prohibit operation of bank account of any person on the reliable information to police that booty or any property connected with crime is deposited in the account. High court of Hyderabad in Smt. Karreddula Aruna devi Vs. Branch manager Andhra Bank 2015 Crl.L.J 630

a delay in transmitting the special report to the Magistrate is linked to the lodging of the FIR. If there is no delay in lodging an FIR, then any delay in communicating the special report to the Magistrate would really be of little consequence, since manipulation of the FIR would then get ruled out. Nevertheless, the prosecution should explain the delay in transmitting the special report to the Magistrate. **However, if no question is put to the investigating officer concerning the delay, the prosecution is under no obligation to give an explanation.** There is no universal rule that whenever there is some delay in sending the FIR to the Magistrate, the prosecution version becomes unreliable. In other words, the facts and circumstances of a case are important for a decision in this regard.
27. The delay in sending the special report was also the subject of discussion in a recent decision being Sheo Shankar Singh v. State of U.P.[5] wherein it was held that before such a contention is countenanced, the accused must show prejudice having been caused by the delayed dispatch of the FIR to the Magistrate.
it was recently held in Ashok Debbarma v. State of Tripura that while the evidence of identification of an accused at a trial is admissible as a substantive piece of evidence, it would depend on the facts of a given case whether or not such a piece of evidence could be relied upon as the sole basis for conviction of an accused. It was held that **if the witnesses are trustworthy and reliable, the mere fact that no TIP was conducted would not, by itself, be a reason for discarding the evidence of those witnesses.** In arriving at this conclusion, this Court relied upon a series of decisions. Earlier, a similar view was expressed in Manu Sharma v. State (NCT of Delhi). Supreme Court of India **State Of Rajasthan vs Daud Khan** on 4 November, 2015

Material on record would show that Chander Singh-SI who investigated the case was not examined by the prosecution in spite of several opportunities. No doubt, it is always desirable that prosecution has to examine the investigating officer/police officer who prepared the rukka. **Mere non-examination of investigating officer does not in every case cause prejudice to the accused or affects the credibility of the prosecution case.** Whether or not any prejudice has been caused to the accused is a question of fact to be determined in each case. Since Ram Singh-PW-1 was a part of the police party and PW-1 has signed in all recovery memos, non- examination of Chander Singh-SI could not have caused any prejudice to the accused in this case nor does it affect the credibility of the prosecution version. Supreme Court of India **Baldev Singh vs State Of Haryana** on 4 November, 2015

By careful reading of Section 199(4) of the Cr.P.C., it does not indicate that in order to initiate criminal proceedings against the accused, the public servant needs to obtain sanction from the

State Government in respect of each one of the persons against whom the same transaction of offence is alleged and the names of the accused are required to be mentioned specifically in the sanction order accorded by the State Government. It is sufficient if one sanction is accorded to prosecute all the concerned persons involved in that occurrence, contending that the fact of the investigation by the CBI in Sohrabuddinôs case was the subject matter before this Court at para 2 of the judgment in the case referred to supra, therefore, by publishing the same in the newspaper by the appellants (in Crl. A. Nos. 854 & 858 of 2012) cannot be made the basis of any defamation as the said news item was published after referring to the aforesaid judgment which is a public record. This contention urged on behalf of the appellants is wholly untenable in law for the reason that at para 2 of the said judgment of this Court in the above referred case is only with regard to the facts of that case, whereas, the allegations made against the appellants herein are for publishing and telecasting defamatory statements against the second respondent, which question of fact has to be examined, considered and answered only after regular trial proceedings before the learned Additional Metropolitan Sessions Judge. Therefore, the above contention urged in this regard is wholly untenable and the same is rejected. **RAJDEEP SARDESAI Vs. STATE OF ANDHRA PRADESH & ORS. (2015) 3 SCC (Cri) 476 = (2015) 8 SCC 239.**

On the same factual premise, as has been noticed in the foregoing paragraphs (wherein the appellant had filed a complaint for initiation of proceedings under Section 376 of the Indian Penal Code), the appellant filed a second complaint, this time accusing the respondent of offences under Sections 493, 494, 495, 496, 420, 506 read with Section 120-B of the Indian Penal Code.
the respondent had been discharged in furtherance of the complaint made by the appellant, without any trial having been conducted against him (the respondent), was not disputed. Based on the above factual contention, learned counsel for the appellant had placed emphatic reliance, on the explanation under Section 300 of the Criminal Procedure Code. The explanation relied upon, clearly mandates that the dismissal of a complaint, or the discharge of an accused, would not be construed as an acquittal, for the purposes of this Section. In this view of the matter, we are in agreement with the contention advanced at the hands of the learned counsel for the appellant. We are of the considered view, that proceedings in the second complaint would not be barred, because no trial had been conducted against the respondent, in furtherance of the first complaint. **RAVINDER KAUR VS ANIL KUMAR (2015) 3 SCC (Cri) 492 = (2015) 8 SCC 286.**

the settled proposition of law is that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating. In other words for the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in the absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out. **Vesa Holdings P. Ltd. & Anr.Vs State of Kerala & Ors. (2015) 3 SCC (Cri) 498 = (2015) 8 SCC 293=2015 STPL(Web) 326 SC.= 2015 (2) ALT (Crl.) 212(SC). (reported in July, 2015 leaflet).**

The risks while admitting a Dying Declaration and the statements falling within the domain of Section 32(1) run higher in contrast to other sundry evidences, and this entails a huge bearing on their admissibility and credibility. Such statements are neither made on oath nor the maker of the statement would be available for cross-examination nor are they made under the influence of the supremacy and the solemnity of the court-room. This is the reason why this **Court has consistently underlined the necessity to examine this specie of evidence with great circumspection and care. However, once a Dying Declaration is held to be authentic, inspiring full confidence beyond the pale of doubt,**

voluntary, consistent and credible, barren of tutoring, significant sanctity is endowed to it; such is the sanctitude that it can even be the exclusive and the solitary basis for conviction without seeking any corroboration **RAMAKANT MISHRA @ LALU ETC. Vs. STATE OF U.P. (2015) 3 SCC (Cri) 503 = (2015) 8 SCC 299.**

apply the principles set down therein (Gian Singhôs case), it can be stated that when it comes to the question of compounding an offence under Sections 307, 294 and 34 IPC along with Sections 25 and 27 of the Arms Act, by no stretch of imagination, it can be held to be an offence as between the private parties simpliciter. Inasmuch as such offences will have a serious impact on the society at large, it runs beyond our comprehension to state that after the commission of such offence the parties involved have reached a settlement and, therefore, such settlement can be given a seal of approval by the Judicial Forum. **STATE OF M.P Vs. MANISH & ORS (2015) 3 SCC (Cri) 510 = (2015) 8 SCC 307 = indiankanoon.org/doc/16596453/= (2015) 42 SCD 778.**

Coming to the case at hand, it is found that when a stand was taken that the 2nd respondent was a history sheeter, it was imperative on the part of the High Court to scrutinize every aspect and not capriciously record that the 2nd respondent is entitled to be admitted to bail on the ground of parity. It can be stated with absolute certitude that it was not a case of parity and, therefore, the impugned order clearly exposes the non-application of mind. That apart, as a matter of fact it has been brought on record that the 2nd respondent has been charge sheeted in respect of number of other heinous offences. The High Court has failed to take note of the same. Therefore, the order has to pave the path of extinction, for its approval by this court would tantamount to travesty of justice, and accordingly we set it aside. **Neeru Yadav Vs State of U.P and another indiankanoon.org/doc/162220359/= (2014) 42 SCD 187= (2015) 3 SCC (Cri) 527 = (2014) 16 SCC 508.**

The materials adverted to show that it was a final report on the facets investigated into by the investigating agency. Furthermore, the requisite sanctions as required under Sections 18 and 18A of the UAPA and so also under Section 7 of the Explosive Substances Act were also accorded by the concerned authorities. The charge-sheet so filed before the learned Special Court was complete in all respects so as to enable the learned Special Court to take cognizance in the matter. Merely because certain facets of the matter called for further investigation it does not deem such report anything other than a final report. In our opinion Section 167(2) of Cr.P.C. stood fully complied with and as such the petitioners are not entitled to statutory bail under Section 167(2) of Cr.P.C. **ABDUL AZEEZ P V. AND OTHERS Vs. NATIONAL INVESTIGATION AGENCY indiankanoon.org/doc/77134467/ = (2014) 42 SCD 082 = (2015) 3 SCC (Cri) 534 = (2014) 16 SCC 543.**

There is no requirement of law for mentioning the names of all the witnesses in the FIR, the object of which is only to set the criminal law in motion. **Animosity is a double edged sword. While it can be a basis for false implication, it can also be a basis for the crime** [Ruli Ram & Anr. Vs. State of Haryana (2002) 7 SCC 691; State of Punjab Vs. Sucha Singh & Ors. (2003) 3 SCC 153]. **Kunwarpal @ Surajpal & Ors. Vs. State of Uttarakhand And Anr.= indiankanoon.org/doc/158771486/ = 2014 STPL(Web) 827 SC = (2015) 3 SCC (Cri) 539 = (2014) 16 SCC 560.**

We have seen the original record and the endorsements of the Doctor. The dying declaration Ext.34 thus inspires complete confidence and we do not see any reason to doubt the veracity thereof. Additionally the threat that Sushila would be set on fire was given the previous day, as per Ext.30, recorded on the previous day. **Mahadeo Narayan More and another vs. State of Maharastra. indiankanoon.org/doc/153514230/= (2015) 3 SCC (Cri) 546 = (2014) 16 SCC 573.**

In case a missing child is not recovered within four months from the date of filing of the First Information Report, the matter may be forwarded to the Anti-Human Trafficking Unit in each State in order to enable the said Unit to take up more intensive investigation regarding the missing child. The Anti-Human Trafficking Unit shall file periodical status reports after every three months to keep the Legal Services Authorities updated.

It may also be noted that, in cases where First Information Reports have not been lodged at all and the child is still missing, an F.I.R.should be lodged within a month from the date of communication of this Order and further investigation may proceed on that basis.

Once a child is recovered, the police authorities shall carry out further investigation to see whether there is an involvement of any trafficking in the procedure by which the child went missing and if, on investigation, such links are found, the police shall take appropriate action thereupon.

The State authorities shall arrange for adequate Shelter Homes to be provided for missing children, who are recovered and do not have any place to go to. Such Shelter Homes or After-care Homes will have to be set up by the State Government concerned and funds to run the same will also have to be provided by the State Government together with proper infrastructure. Such Homes should be put in place within three months, at the latest.

Any private Home, being run for the purpose of sheltering children, shall not be entitled to receive a child, unless forwarded by the Child Welfare Committee and unless they comply with all the provisions of the Juvenile Justice Act, including registration. **BACHPAN BACHAO ANDOLAN Vs UNION OF INDIA & ORS. (3 JUDGE BENCH) (2015) 3 SCC (Cri) 552 = (2014) 16 SCC 616**

The upshot of this analysis is that no vested right is granted to a complainant or informant or aggrieved party to directly conduct a prosecution. So far as the Magistrate is concerned, comparative latitude is given to him but he must always bear in mind that while the prosecution must remain being robust and comprehensive and effective it should not abandon the need to be free, fair and diligent. So far as the Sessions Court is concerned, it is the Public Prosecutor who must at all times remain in control of the prosecution and a counsel of a private party can only assist the Public Prosecutor in discharging its responsibility. The complainant or informant or aggrieved party may, however, be heard at a crucial and critical juncture of the Trial so that his interests in the prosecution are not prejudiced or jeopardized. It seems to us that constant or even frequent interference in the prosecution should not be encouraged as it will have a deleterious impact on its impartiality. **If the Magistrate or Sessions Judge harbours the opinion that the prosecution is likely to fail, prudence would prompt that the complainant or informant or aggrieved party be given an informal hearing.** Reverting to the case in hand, we are of the opinion that the complainant or informant or aggrieved party who is himself an accomplished criminal lawyer and who has been represented before us by the erudite Senior Counsel, was not possessed of any vested right of being heard as it is manifestly evident that the Court has not formed any opinion adverse to the prosecution. Whether the Accused is to be granted bail is a matter which can adequately be argued by the State Counsel. We have, however, granted a full hearing to Mr. Gopal Subramanium, Senior Advocate and have perused detailed Written Submissions since we are alive to impact that our opinion would have on a multitude of criminal trials. **Sundeep Kumar Bafna vs State Of Maharashtra & Anr (2015) 3 SCC (Cri) 558 = (2014) 16 SCC 623 =** indiankanoon.org/doc/102030495/ = (2014) 41 SCD 343 = **2014 (2) ALD (Crl.) 86 (SC) (reported in August,2014 leaflet) = 2014 AIR SCW 2115 (reported in Jan,2015 leaflet)= 2014(2) ALT (Crl) 132 (SC) (Reported in July,2014 leaflet).**

It has consistently been held by this Court that what is substantive evidence is the identification of an accused in court by a witness and that the prior identification in a test identification parade is used only to corroborate the identification in court. Holding of test identification parade is not the rule of law but rule of prudence. Normally identification of the accused in a test identification parade lends assurance so that the subsequent identification in court during trial could be safely relied upon. However, even in the absence of such test identification parade, the identification in court can in given

circumstances be relied upon, if the witness is otherwise trustworthy and reliable. The law on the point is well-settled and succinctly laid down in **Ashok Debbarma. Ms. S Vs. Sunil Kumar & Anr (2015) 3 SCC (Cri) 644 = (2015) 8 SCC 478.**

The High Court observed that there were four dying declarations on record. The first being the oral declaration to PW1 Suryakanta, the second being as deposed to by PW5 Narmadbai, the third was Ext. 96 as recorded by the Executive Magistrate and the last was Ext. 98, i.e. her statement as recorded by the police under Section 161 Cr.P.C. which now could be treated as dying declaration.
The dying declaration Ext.96, in our view is definitely trustworthy. It also stands corroborated on material aspects by other declaration Ext.98. If some exaggeration on part of PW1 Suryakanta and PW5 Narmadabai is eschewed, their oral testimonies also lend full support. Whether Sadhana was able to speak coherently is a matter which stands dealt with by PW7 Dr. Vijay Kalne, and we have no hesitation in placing reliance on dying declaration Ext.96. The High Court was in error in discarding said dying declaration. The view which weighed with the High Court was not even a possible view. We, therefore hold that the charges under Sections 302 and 354 as against Pradip and Pravin respectively stand fully proved. **State of Maharashtra Vs. Pravin Mahadeo Gadekar, (2015) 3 SCC (Cri) 649 = (2015) 8 SCC 489.= indiankanoon.org/doc/89630131/ = 2015 STPL(Web) 304 SC.**

the DD is admissible not only in relation to the cause of death of the person making the statement and as to circumstances of the transaction which resulted in his death, if the circumstances of the said transaction relate to death of another person, the statement cannot be held to be inadmissible when circumstances of "his" death are integrally connected to the circumstances of death of such other person. Tejram Patil Vs State of Maharashtra indiankanoon.org/doc/35985697/ = 2015 STPL(Web) 144 SC = (2015) 3 SCC (Cri) 653 = (2015) 8 SCC 494.

Now an offence seldom consists of a single act. It is usually composed of several elements and as a rule a whole series of acts must be proved before it can be established.... Now it is evident that the entrustment and/ or domino here were in an official capacity and it is equally evident that there could in this case be no disposal, lawful or otherwise, save by an act done or purporting to be done in an official capacity....” From a perusal of the case law referred to supra, it becomes clear that for the purpose of obtaining previous sanction from the appropriate government under Section 197 of CrPC, it is imperative that the alleged offence is committed in discharge of official duty by the accused. It is also important for the Court to examine the allegations contained in the final report against the Appellants, to decide whether previous sanction is required to be obtained by the respondent from the appropriate government before taking cognizance of the alleged offence by the learned Special Judge against the accused. **Prof. N.K.Ganguly vs Cbi New Delhi** on 19 November, 2015 by Supreme Court

Court cannot draw an adverse inference against an accused based on his statement recorded under Section 313 Cr.P.C.
It is only in the backdrop of Section 304B IPC that an accused must furnish credible evidence which is indicative of his innocence, either under Section 313 Cr.P.C or by examining himself in the witness box or through defence witnesses as he may be best advised. Having made this clarification, refusal to answer any question put to the accused by the court in relation to any evidence that may have been presented against him by the prosecution or the accused giving an evasive or unsatisfactory answer, would not justify the court to return a finding of guilt on this score.
In our legal system the accused is not required to establish his innocence.
NAGRAJ Vs STATE 2015 (3) ALT (Crl) 219 SC

Responsibility of public Prosecutor in charge of the case:

Section 301 occurs in Chapter XXIV Cr.P.C that deals with the ñGeneral Provisions as to inquiries and Trials.ò Section 24(8) and 301(1) when read together, needless to say, confers a right on the public Prosecutor who is in charge of a case to appear and plead without having any written authority. He remains and functions as the sole authority in charge of the case. There can be no cavil over the same. The core question is, whether ñin charge of the caseò would include an appeal arising out of the said case in the hierarchical system. Section 24(1) deals with specific power of the Government to appoint Public Prosecutor. Section 24(8) confers the power on the State Government to appoint a Special Public Prosecutor for any case or class of cases. If the word case is given a meaning to include the appeal, it will be denuding the power of appointing authority. The law does not so countenance. As such ***A Public Prosecutor, appointed to conduct a case before the trial court, cannot be deemed to be appointed for the purpose of appeal arising therefrom, solely because of the language employed in Section 301(1) of Cr.P.C.***
K. ANBAZHAGAN Vs STATE OF KARNATAKA AND OTHERS 2015 (3) ALT (Crl) 242 SC

Grounds for Acquittal – Absence of independent witnesses alone cannot be a ground of acquittal. HARISHANKERS Vs STATE OF UTTAR PRADESH 2015 (3) ALT (Crl) 210 SC

In cases of NDPS Act the punishment is severe; therefore strict proof is required for establishing search, seizure and recovery of contraband. **MAKKAN SINGH Vs STATE OF HARYANA 2015 (3) ALT (Crl) 236 SC**

On being confronted with an unforeseen and sudden situation it is quite likely that individuals would react differently and if any witness being petrified by such an unexpected turn of events being in the grip of fear and alaram, as a matter of reflex hid himself from the assailants, his version of the episode in our estimate is not liable to be discarded as a whole as the same is otherwise cogent, coherent and compact. **DAYA RAM AND OTHERS Vs STATE OF HARYANA 2015 (3) ALT (Crl) 199 SC**

The cases dealing with offences against the Society, the private respondents will have to be necessarily face trial and come out unscathed by demonstrating their innocence. Offence against the society cannot be settled by parties out of Court. **STATE OF MP Vs MANISH AND OTHERS 2015 (3) ALT (Crl) 228 SC**

Mercy Petition ï when a mercy petition is rejected, there has to be a minimum period of 14 days between its rejection being communicated to the petitioner and the scheduled date of execution. **YAKUB ABDUL RAZAK MENON Vs STATE OF MAHARASHTRA AND ANOTHER 2015 (3) ALT (Crl) 231 SC**

The award of compensation is concerned, particularly in the case of homicidal death, monetary benefits cannot be equated with the life of a person and the societyôs cry for justice. Object is just to mitigate hardship that is caused to the deceased. **RAVINDER SINGH Vs STATE OF HARYANA AND OTHERS 2015 (3) ALT (Crl) 206 SC**

Section 145 ï Cross examinations of witness ï So long as the questions which have relevance for the defence of the accused or questions which will have a direct bearing upon the alleged commission of offence, are put the Magistrate is bound to record the same. **If irrelevant questions are put to a witness, court is bound to remind the counsel to stay focused with regard to the issue on hand instead of unnecessarily dragging on the proceedings to somehow gain time. Cross examination is not meant to test the patience of the presiding officer or the witness in box.** If a counsel or party is desirous of putting any particular question to a witness and if the court has good reason to believe the question to be irrelevant, a brief memo, explaining in writing the significance of the questions, to the

court, should be submitted. **NARESH KUMAR Vs STATE OF ANDHRA PRADESH AND ANOTHER 2015 (3) ALT (Crl) 261 AP**

Cause of Action ï when no part of the cause of action has arisen at a particular place, claim cannot be made at that place ostensibly on the ground that complainant was residing at the time of filing of the case.
Section 498A IPC is not a continuing offence and that Court cannot hold that cause of action has arisen partly at the place where the wife has been residing after she was driven away from the matrimonial home. **SIVANGALA THANDI DEEPAK AND OTHERS VS STATE OF A.P REP BY ITS PUBLIC PROSECUTOR AND OTHERS 2015 (3) ALT (Crl) 226 (A.P)**

DNA PROFILING ï there is no legal bar for directing the examination of the accused by a medical practitioner for the purpose of DNA Profiling.
Compelling accused to give blood samples ï Article 20(3) of the constitution of India, which protects a person accused of an offence from being compelled to be a witness against himself, does not extend to protecting such an accused from being compelled to give his sample of blood etcetra for the purposes mentioned in Section 53 of the Cr.P.C during the course of investigation into an offence **KODI SATISH NAIDU Vs STATE OF AP REP BY ITS PUBLIC PROSECUTOR AND ANOTHER 2015 (3) ALT (Crl) 254 (AP)**

If a magistrate satisfied he can order a proper investigation and take other suitable steps for ensuring proper investigation. **There is an implied power in the magistrate under Section 156(3) Cr.P.C to order registration of a criminal offence and/or to direct the officer in charge of the concerned Police Station to hold a proper investigation and take all necessary steps that may be necessary for ensuring a proper investigation including monitoring the same**. (Emphasis relied on Dilawar Singh Vs State of Delhi 2007 (3) ALT (Crl) 385 SC **AKNURI KANKARAJ AND OTHERS Vs STATE OF TELANGANA, REP BY PP AND ANOTHER 2015 (3) ALT (Crl) 245 (AP)**

Fraudulent Intention ï To constitute an offence under Section 420 IPC, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation.
it must be said that the contractual relationship between the parties is purely a civil matter and non-payment of the amounts claimed is also a civil dispute.D.B. POWER LIMITED REP BY DGM LEGAL MR. VIKAS ADHIA, MUMBAI AND OTHERS Vs STATE OF TELENGANA REP BY PUBLIC PROSECUTOR AND ANOTHER 2015 (3) ALT (Crl) 346 (AP) = 2015(2) ALD (Crl) 712.

It is not necessary to decide whether the Police Officer who registered Cr.No. 59 of 2008 was justified in registering separate case or not.
As and when it appears that any case is to be tried with another case on the ground that evidence may be tried together overlapping in both the cases, it is for the concerned police officers or to the accused to take steps at the initial stage.
Now in this case charges have been framed, trial commenced and no steps were taken to club both the cases together at the initial stage or atleast before commencement of trial. Now much water has flown. At this stage, it is not possible to club both cases together.
the concerned Public Prosecutor or the defence counsel or the learned Sessions Judges hearing the case should take appropriate steps at the initial stage to see that cases are clubbed or joint trials are conducted in similar circumstances. **Madapuram Maddileti Naidu & Ors. Vs. State of Andhra Pradesh, 2015(2) ALD (Crl) 718.**

P.C.Act. merely because PW3 commenced pre- trap proceedings before FIR was registered it cannot be said that there was any manipulation of FIR to suit the case of the prosecution.
In the instant case, as already state supra, the defence has not raised even a whisker of objection concerning sanction proceedings. Therefore, at this belated stage the AO cannot clamour that failure of justice has been occasioned to him. **K. R. Chandra Paul Vs. The State of A.P, 2015(2) ALD (Crl) 723**

It is also noticed that the withdrawal of the prosecution against the accused Officer is not in any public interest but the Government has decided to take a lenient view since the Officer has retired from the service.
Even if the Government issued the orders, an obligation is cast upon the prosecutor to consider the facts and circumstances independently and impartially and he being a responsible Officer of the Court is required to file a petition in the Court setting out the reasons as to why the prosecution is sought to be withdrawn. In the instant case, the petition filed by the Public Prosecutor do not contain the requisite particulars to show that an impartial and independent decision was taken by the Public Prosecutor in the matter of seeking permission to withdraw the prosecution and that the said withdrawal was within the larger interest of the public.
The Court is empowered with the discretion of either giving the consent or refusing to accord permission to withdraw from the prosecution if it is satisfied that the said withdrawal from the prosecution is not in the public interest or will sub serve any of the constitutional obligations of the State. Solemn obligation is cast on the three Agencies to act to uphold the Rule of Law. Deviation if any, should be only in exceptional cases and for the larger good of the society. **S.R.Laxmirajam.Vs. The State of A.P. 2015(2) ALD (Crl) 742= 2015 (3) ALT (Crl) 339 (A.P.)**

Law is no more res integra on the point if the complaint allegations reveal both criminal offence and actionable civil wrong, aggrieved party can initiate both or either of the actions.
A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not. **Dr. Raman Srikanth.Vs. State of Telangana, 2015(2) ALD (Crl) 750.**

the minor discrepancies that have been pointed out by the learned counsel for the appellant, really **do not create any kind of dent** in the testimony of the prosecution witnesses to treat them as reproachable and remotely do not destroy the prosecution version. **Om Prakash Vs Union of India & Ors. 2015(2) ALD (Crl) 811 (SC)**

a Magistrate can disagree with the police report and take cognizance and issue process and summons to the accused. Thus, **the Magistrate has the jurisdiction to ignore the opinion expressed by the investigating officer and independently apply his mind to the facts that have emerged from the investigation.**
The Magistrate could not have directed another investigating agency to investigate as that would not be within the sphere of further investigation **CHANDRA BABU @ MOSES Vs STATE, 2015(2) ALD (Crl) 825 (SC)= 2015 CrlJ 4538**

Lack of awareness, knowledge or intent is neither to be considered nor accepted in economic offences. The submission assiduously presented on gender leaves us unimpressed. An offence under the criminal law is an offence and it does not depend upon the gender of an accused.

A grave criminal offence or serious economic offence or for that matter the offence that has the potentiality to create a dent in the financial health of the institutions, is not to be quashed on the ground that there is delay in trial or the principle that when the matter has been settled it should be quashed to avoid the load on the system. That can never be an acceptable principle or parameter, for that would amount to destroying the stem cells of law and order in many a realm and further strengthen the marrows of the unscrupulous litigations. Such a situation should never be conceived of. **State, Rep. by Inspector of Police Central Crime Branch Vs R. Vasanthi Stanley & Anr. 2015 CrlJ 4767**

It is further well settled that fairness of trial has to be seen not only from the point of view of the accused, but also from the point of view of the victim and the society. In the name of fair trial, the system cannot be held to ransom. The accused is entitled to be represented by a counsel of his choice, to be provided all relevant documents, to cross-examine the prosecution witnesses and to lead evidence in his defence. **The object of provision for recall is to reserve the power with the court to prevent any injustice in the conduct of the trial at any stage.** The power available with the court to prevent injustice has to be exercised only if the Court, for valid reasons, feels that injustice is caused to a party. Such a finding, with reasons, must be specifically recorded by the court before the power is exercised. It is not possible to lay down precise situations when such power can be exercised. The Legislature in its wisdom has left the power undefined. Thus, the scope of the power has to be considered from case to case. The guidance for the purpose is available in several decisions relied upon by the parties. It will be sufficient to refer to only some of the decisions for the principles laid down which are relevant for this case. **AG Vs. SHIV KUMAR YADAV & ANR. 2015 CrlJ 4640**

The Suicide note, except saying that the respondents compelled him to do everything and cheated him and put him in deep trouble, contains nothing else.
Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the Legislature and the ratio of the cases decided by this court are clear that in order to convict a person under section 306 IPC there has to be a clear mensrea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide. **State of Kerala and Others Vs. S. Unnikrishnan Nair and Others 2015 CrlJ 4495.**

ON A LIGHTER VEIN

Reaching the end of a job interview, the Human Resources Officer asks a young engineer fresh out of the Massachusetts Institute of Technology, "And what starting salary are you looking for?"

The engineer replies, "In the region of $125,000 a year, depending on the benefits package."

The interviewer inquires, "Well, what would you say to a package of five weeks vacation, 14 paid holidays, full medical and dental, company matching retirement fund to 50% of salary, and a company car leased every two years, say, a red Corvette?"

The engineer sits up straight and says, "Wow! Are you kidding?"

The interviewer replies, "Yeah, but you started it."

NEWS

- The colleagues of 2013-2015 Batch posted in the State of Telangana will undergo induction training at RBVRR PA, Hyderabad from 14/12/2015 for three months.
- Sri P.Ravinder Reddy Sir, PP, PDJ Court, Karimnagar, was transferred and posted as Public Prosecutor MSJ Court, Hyderabad.
- The Telangana Public Prosecutors (Cadre) Association is going for elections on 13/12/2015, as per the information given by General Secretary Sri P.Krishna Murthy.
- Prosecution Replenish wishes Sri J.V.Narsing Rao Sir, a very happy and healthy retired life
- Prosecution Replenish takes this opportunity to thank Sri J.V.Narsing Rao Sir, for guiding the replenish leaflet, right from inception to till date, not only as one of the Editor of the leaflet, but as a counselor, at all times. Replenish expects the same guidance in future.

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Suggestions; articles and responses welcome to make this as the most informative leaflet