Spl Vol.

Prosecution Replenish

An Endeavour for Learning and Excellence

5th Anniversary Edition

Aano Bhadra Krtavo Yantu Vishwatah.(RIG VEDAM)
"Let Noble Thoughts Come To Me From All Directions"


Happy
New Year
Prosecution Replenish

Inauguration of Prosecution Replenish by Hon'ble Sri Ch.Vidyasagar garu and Sri Manik Rao garu.

REPORT by L.H.Rajeshwer Rao, on the occasion of 5th Anniversary of Prosecution Replenish

Just like a small spark ignites a haystack; a small spark in the shape of endorsement by some of the well wishers, ignited the idea of starting our leaflet.
Prosecution Replenish, has led to the fructification of a long cherished dream of creation of a media of keeping abreast with the latest law trends and enriching our dominion. Hence the tagline "an endeavour for learning and excellence".

Though the thought was proclaimed to be noble, it was not a cake walk for commencing the leaflet. But thanks to our Vidya Sagar Sir, the then I/C. DOP, who saw the spark in us and shoved us ahead. Prosecution Replenish is in fact very fortunate to have the elders blessings which made it move ahead in its endeavours.

After the initial hiccups, Prosecution Replenish Started off on a race course.
A four page hardcopy was printed and sent by post to all the prosecutors of the then state of A.P., but reports of non-delivery of our leaflet started pouring in.

Then the strategy of sending the hardcopies by post to the deputy directors was followed, but reports of non-delivery did not end.

To overcome the situations, the thought of converting our leaflet into an e-journal emanated.

hence a website was contemplated and inaugurated with the auspicious hands of Sri Vidya Sagar Sir at then APPA.

I believe that it was the first and last time till now that sports meet was held for the prosecutors.

But as life is not a smooth sail, in which eventuality, one tends to query the almighty.

Our website has been hacked umpteen times and the technicians were unable to rectify the same. The end result as of now, is that the website has become defunct.

But the almighty has been showering his choicest blessings on us, So, our prosecution replenish started off reaching the prosecutors through emails, facebook and whatsapp.
Everything happens for a cause and for our good.
Because, the failure of sending by post, by posting on website etc, have paved the way for posting the leaflet on social media, the result is that our Prosecution Replenish is acclaimed by the prosecutors and judicial officers of not only of telugu speaking states but also of all over India.

WE stand as we are now, not due to our capabilities, but due to the encouragement of all of you.
WE couldn't have accomplished the expectations of all, without the invisible support of all patrons who are physically present here and who are virtually blessing and wishing us. I take this opportunity to thank all those well wishers, I am tempted to name them, but I am afraid, the same would take the complete day, that too with my little remembering power. And it is their counsel that names do not matter.
We wanted to celebrate this in a grand manner but could pull out this modest program with the limited resources available. We as part of this program are honouring ourselves by honouring our senior retired prosecutors. They in fact require a greater honour, I request them to kindly forgive us for this small arrangements.
I would conclude by saying that
WE remain as mentioned in the rig veda

"Aano Bhadra Kratvo Yantu Vishwatah"
Let Noble Thoughts come to us from all directions.
Thanking you all from the depths of my heart.

L.H.Rajeshwer Rao
Editorial Member- Prosecution Replenish
Sr.APP, II ACMM Court,
Nampally, Hyderabad

Corrigendum

In the Commemorative diary brought out on the occasion, the names of prosecutors working on deputation in the state of Telangana, had been inadvertently missed. The inconvenience and blunder is highly regretted. The same is reproduced herein.

Name **Sarva Sri**	**Designation**	**Working as**
A.Shanker	**Addl. PP Grade-I**	**LA, State Disaster Response and Fire Services** **✆ 9848580698**
T.Rajyalakshmi	**Addl.PP. Gr-II**	**LA-cum-Spl. PP, ACB** **✆ 9391085636**
D.Raghu	**Sr.APP**	**CLI, Excise Academy** **✆ 9948536404**
N.Srinivas	**Sr.APP**	**LA-cum-Spl. PP, ACB** **✆ 9885354941**
G.Lakshmi Lavanya	**APP**	**LA-cum-Spl. PP, ACB** **✆ 9441427694**
A.Lakshmi Manogna	**APP**	**LA-cum-Spl. PP, ACB** **✆ 8978976054**
G.Kavitha	**APP**	**LA-cum-Spl. PP, ACB** **✆9290124517**
D.Upanisha	**APP**	**FM, TS Police Academy, Hyd.** **✆9177653857**
Aparna Shastry	**APP**	**FM, TS Police Academy, Hyd.** **✆9848887449**

Important G.O's. & Circulars

When public holidays have been allowed to be prefixed to HPL or EOL, if the competent authority is satisfied about its justification, he may allow salary during public holidays at the rates prevailing on the previous day. When the public holidays are allowed to be suffixed, as the leave would terminate before the public holidays, full salary as on duty may be allowed during public holidays suffixed. (Govt. Circular Memo No. 86595/1210/FR.I/7, Dt.29.05.81).

When a Govt. servant is certified medically fit for joining duty, holiday(s), if any, succeeding the day he is so certified (including that day) shall automatically be allowed to be suffixed to the leave, and holiday(s), if any proceeding the day he is so certified shall be treated as part of the leave. When the certificate is of a date intervening the holidays, the entire period of holidays may be treated as part of leave. (G.O.Ms.No.319, Fin. & Plg., Dt.18.12.81)

FR 73: (Over-stayed of Leave) A Govt. servant who remains absent after the end of his leave is entitled to no leave salary for the period of such absence, and that period will be debited against his leave account as though it is leave on half pay unless extension of leave is granted by the competent authority (LR 6A).

Any kind of leave admissible under these rules may be granted in combination with any other kind of leave so admissible or in continuation with any other kind of leave so admissible or in continuation with any other kind of leave admissible or in continuation of leave already taken whether the same or of any kind (FR 18 LR 6)

Leaves – Recommendation of the 9th Pay Revised Commission relating to enhancement of sanction of Earned Leave at a time from 120 days to 180 days in respect of State Government Employee – Orders issued. G.O.Ms.No. 153 FINANCE (FR.I) DEPARTMENT Dated: 04.05.2010

No action to be taken on anonymous/pseudonymous complaints vide Central Vigilance Commission, Circular no. 7/11/2014 dated 29/11/2014.

G.O.Ms.No. 591 GENERAL ADMINISTRATION (SER.C) DEPARTMENT Dated: 20-10-2011. In rule 6 of the said rules, for the existing Note, the following shall be substituted, namely:-

> "NOTE: The results of the **Departmental Tests** shall also be published on **official website** (www.apspsc.gov.in) of the Andhra Pradesh Public Service Commission, in addition to the publication in the Andhra Pradesh Gazette, which would be considered as **authentic** publication for intending **all benefits** to the candidates, who are provisionally declared to have passed the Tests. The Commission shall, however, send a hard copy of the results duly signed to all the District Collectors and Heads of the Departments for official record and reference."

As per G.O.Ms.No.193, Home (General-B) Dept, dt: 23-08-2001, the Addl.DGP, CID/ Inspector General of Police, as the case may be is appointed as Competent Authority to exercise control over the properties attached by Government U/Sec 8 and such functions U/Sec. 4(2) of Protection of depositors of financial Establishments Act, 1999.

The Joint Collector of the District is notified as ADJUDICATING Officer under the Food Safety and Standards Act, 2006, vide G.O.Ms. No.310 Health, Medical & Family Welfare(L.1) Dept. dated 17/10/2011.

As per the G.O.Ms No.260 Health, Medical & Family Welfare (M1) Dept. dt. 26/06/2001 and G.O.Ms No.148 Health, Medical & Family Welfare (M1) Dept. dt. 20/04/2001, the Concerned Superintendent of Police and Superintendent of Police, CID, is appointed as appropriate authority for investigation and filing complaint before MM or JMFC under provisions of A.P. Transplantation of Human Organs act, 1994.

As per G.O.Rt.No.1482, Labour Employment, Training & Regulation (Lab-IV) dt. 27/08/1998, the inspector of Factories is appointed as **Inspectors under Child Labour (Prohibition) Act, 1986**, in their respective areas.

As per G.O.Rt. No. 475 Home (Pol.D) dt. 16/08/1991, the Assistant Commissioner of police/All Inspectors of Police, in their respective jurisdiction as **Special Police officers to deal with offences under Immoral Traffic Prevention Act.**

As per G.O.Ms. No. 115, Home Courts.C Dt. 24.07.2008, the First Additional District & Sessions Judge in all Districts, and the 1st Addl. MSJ in Hyderabad, Vishakapatnam and Vijayawada are appointed as **Human Rights Court** to deal with offences under Human Rights act.

As per G.O.Ms. No. 135, Health, Medical & Family Welfare (J1) Dept. dt. 01/05/2004, **the Inspector of Police is competent to compound the offences** under Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and distribution0 Act, 2003.

As per G.O.Ms. No.5 Home(PS & C) Dept, dt, 05/01/2008, the inspectors/incharge officers of District Crime Records Bureau(DCRB), City Crime Records Bureau(CCRB) and Railway Crime Records Bureau (RCRB) as **Special Juvenile Police units** under direct supervision of the concerned Jt.Commisioner/Deputy Commissioners-Crimes of respective Districts. Further all the inspectors/Sub-inspectors including Railways are appointed as **Child Welfare Officers**.

The I Addl. District & Sessions Judge in all district and the I Addl. MSJ, are designated as **Special Court under POCSO Act, 2012** vide G.O. Rt. No. 630 dated 23/03/2013.

As per G.O.Ms. no. 144 Law(LA & J-Home Courts-C1) Dept dt. 15/12/2011, notified the Family Court at District Hqrtrs for the area covered by Such Family Court and for remaining area the Principal Senior Civil Judge, where there are more than one senior Civil Judge court and the Senior Civil Judge court, where only one court is functioning at such station to try cases filed under the **Prohibition of Child Marriage Act, 2006**.

As per G.O.Ms. no. 546 dt.5/6/1987, the Principal Munsiff Magistrate at Hqrtrs, where there are more than one Munsiff Magistrate (Except Warangal District) and the Munsiff Magistrate at the other District Hqrtrs where there is only one and V MM in metropolitan Area, Hyderabad were conferred powers to try offences punishable under **A.P.Land Grabbing (Prohibition) Act, 1982.** Further the District Judge of all districts and Chief Judge, City Civil court, Hyderabad in respect of Hyderabad District were constituted as Special Tribunals under A.P.Land Grabbing Prohibition Act.

As per G.O.Ms No.98 Law (LA & J- Home-Courts. C) Dept dt. 06/09/2011, the I ADJ Courts in District and the I AMSJ court in metropolitan areas are designated to deal with the offences involving **Adulterated Drugs or Spurious Drugs** and punishable under various clauses of the Drugs and Cosmetics Act.

As per G.O.Rt. No. 824 Agriculture and Co-operation (FP.II) Dept dt. 15/08/2006, the JMFC, Adilabad; the IACMM Court, Hyderabad; the AJMFC, Karimnagar; the IAJMFC, Khammam; JMFC,Mahboobnagar; AJMFC, Sanga Reddy, Medak; JMFC, Nalgonda;AJMFC, Nizamabad; IIMM, R.R.District; III AJMFC,Warangal are the designated **Special courts to deal with Insecticide Act,1968, the Seed Act, 1966 and Fertiliser (Control) order, 1985**.

As per G.O.Ms. No. 50 Energy (P.R.II) dt.1.5.2007, the following officers can accept money by way of **compounding the offence of theft of electricity** punishable under Electricity Act, 2003.

A) Officers in-charge of distribution of the Area
   i. Chief Engineer
   ii. Superintending Engineer
   iii. Divisional Engineer
   iv. Assistant Divisional Engineer

B) Officers of Detection of Pilferage of Energy Wing
   i. Superintending Engineer
   ii. Divisional Engineer
   iii. Assistant Divisional Engineer

C) Officers of the Anti- Power theft Squad.
   i. Superintendent of Police
   ii. Additional Superintendent of Police.
   iii. Deputy Superintendent of Police.
   iv. Station House Officer.

The High Court of A.P vide its Circular bearing ROC No. 243/SO/99 dated 17/01/2000, has designated the principle District Judge of Concerned District as the **appellate authority under Sec 6(a) of Essential Commodities Act, against confiscation of goods**.

The High Court of A.P vide its Circular bearing ROC No. 20/SO-1/2001 dated 10/11/2003, has designated the I Addl. District & Sessions Judge of Concerned District and the I Addl. MSJ of Hyderabad as **Special Courts to try offences U/Sec. 135 to 139 of Electricity Act, 2003.**

The High Court of A.P vide its Circular bearing ROC No. 807/SO/77 dated 12/08/1977, directed that except when the accused are examined under sec. 239, 251 and 313 Cr.P.C, or at the time of framing charges or when they are heard, they may be allowed to sit and for that purpose a bench or seat may be provided in the dock. Reiterated in ROC No. 1086/SO/81 Dt. 18.08.1981.

The High Court at Hyderabad vide its Circular bearing no. 2145/SO-4/2015 dt. 15.09.2015 has directed instructions to be passed to Juvenile Justice Boards to take up enquiries 3 days a week till the number of pending enquiries falls to 100 and further directed to report the presence of the Social worker Members quarterly.

ROC No. 6018/OP.CELL-E/2000 dt. 9.1.2001, the High Court directed the unit heads to ensure expeditious numbering of charge-sheets, if they are in order, or return them with proper endorsements, by giving specific instructions to the concerned.

ROC.No.844/98-VIGILANCE CELL dt.2.2.1999, the High Court instructed all Judicial Officers in the state not to address letters direct to the Director of Prosecutions, Hyderabad, for appointment of A.P.P.O's to their courts and that they shall make their requests through the District Judge or the Addl. District Judge of the concerned District.

ROC No.2354/OP CELL-E/2006 dt. 09.11.2006, High Court directed all presiding officers dealing with pretty cases, in case of police failing to secure the presence of the accused, to stop proceedings under Sec 258 Cr.P.C.

ROC. No. 1476/SO/91-4 dt. 22.01.1992, 3 constables from each Police Station be provided exclusively for attending Court work like Service of Summons and for execution of N.B.Ws.

ROC no.1476/SO/91-3 dt 22.01.1992, cases of each police station be posted on one day in a week.

ROC No. 1319/SO/82-1 dt. 20.01.1983, Notices to Medical Witnesses be issued at least seven clear days prior to the date of attendance to make alternate arrangements for the witnesses. Reiterated in ROC No. 540/SO/2001 dt. 1.8.2001.

ROC No. 1298/SO/81 dt. 24.10.1981, the Witness shall be provided a table and chair on a raised platform, while giving evidence.

ROC.No. 1097/SO/81 dt. 3.9.1981, witnesses should be examined on the same day on which they are summoned, especially when they come from long distances.

ROC. No. 1183/SO/79-5 Dt. 3.9.1980, the regular summons i.e., form no. 39 should not be used to summon Medical Witnesses, the modified form mentioned in ROC No. 1092/SO/76 dt.24.12.76 should be used, which depicts whether the witness is being summoned as prosecution or defence witness and mentioning in detail the document, if any, that the witness has to bring for giving evidence.

ROC. No. 1183/SO/79-3 dt. 3.09.1980, the attendance certificate to official witnesses should be issued by Magistrate, even though the case is adjourned. Courts should also see that in the event of adjournment, the official witnesses should be prior informed about adjournment telegraphically or otherwise.

ROC No. 1183/S)/79-2, dt.3.11.1980, Doctors to be allowed to sit along with lawyers, if they follow the dress regulation as mentioned in ROC 1183/SO/79-1 dt.3.11.1980

ROC No. 1183/SO/79-1 dt. 3.9.1980, the medical witnesses should wear white coat (apron) or full suit with the neck-tie or closed suit, while giving evidence.

ROC No. 5339/97/OP.CELL-E, dt.11.2.98, Courts to foresee to minimize the waiting time for medical witnesses present in court.

ROC No. 465/61-B1 dt. 9.8.1961, the letters to S.P. of police regarding the non-service of process in Long Pending Cases by the magistrates should be routed through the District Judge. They cannot directly address such letters to the S.P.

ROC No. 5804/58-B1 dt. 24/12/1958, the INTIMATION regarding the arrest, detention, bail orders, conviction, acquittal, transfer from one jail to another of MLA's and MLC's should be given to the Speaker of respective officers as per Rule 182 & 183 of A.P.Legislative Assembly Rules.

ROC No. 1100/2001 Dt. 13.2.2001, the transfer orders of Medical Officers and I.O's should be communicated to the District and Sessions Judge.

ROC No. 2969/OP-CELL-F.2001 dt. 23.6.2001, the courts are directed to follow 309 Cr.P.C. and the guidelines mentioned in Jagjit Singh Vs. State of Punjab [2000(2) ALD (Cri) 98 (SC)], State of U.P. Vs Sambhu Nath Singh & ors [2001(2) Supreme 595] Scrupulously and not to grant adjournment when Witness is present on flimsy grounds.

ROC No. 2963/OP-CELL-E/2004 dt. 15.7.2004, Criminal courts to strictly COMPLY the sec 363 Cr.P.C. and Rule 72 of Criminal Rules of Practise.

ROC No. 1496/SO/93 dt. 16.9.1993, Guidelines for service of summons on Medical Witnesses.

- The summons be served on Administrative head of Hospital.
- The Admn. Head would intimate to the court, within two days thereof about the service on witness doctor.
- Doctors will be required to appear at 2.30 P.M.
- If the Dr. does not appear, Magistrate should intimate the Admn, head of hospital, who shall take steps for attendance of Dr. in court on next day.
- If the case is likely to adjourn, Magistrate should intimate the Admn, head of hospital.
- While I.O. requiring the Magistrate to record the DD, shall simultaneously intimate the Admn. head of Hospital, to make available the concerned Dr.
- The Magistrate requested to record the DD, shall be provided to the extent possible transport to Hospital and back, by the I.O./SHO.

- If there is default on part of the Medical officer, the magistrate shall inform the same to the CMM or MSJ, or as the case may be, who inturn will report the same to the Admn, Head, of Hospital.
- The Admn. Head of Hospital shall meet the CMM or MSJ or as the case may be, Once in a month for proper monitoring.

Reiterated in ROC No. 863/SO/99 dt. 18.2.2000.

RoC No. 459/SO/79 dt. 30.4.1979, the copies of judgments be supplied within 15 days as prescribed U/Rule 145 of C.R.P. to the S.P's concerned, to prefer appeal, in case of acquittals, either by printing, typing or cyclostyling.

ROC No. 813/SO/91 Dt. 31.7.1991, Copies of judgment be served on S.P's concerned, along with accused and in case of acquittal within two weeks, free of cost. These copies shall be treated as Certified Copies.

ROC No. 18 dt. 2.11.2000, legible and readable certified copies/carbon copies of judgments/orders should be furnished.

ROC No. 813/SO/91 Dt.31.7.1991, prosecutor concerned to bring to the notice of magistrate in case of judgment/order copy is/are not being sent to S.P.

ROC No. 1006/2001/VIGILANCE CELL Dt. 18.10.2001, Magistrate should deliver the judgments heard by him, before handing over the charge on his transfer.

ROC No. 1061/OP-CELL-E/2005 dt. 26.7.2005, return of warrant is not a sine quo non for initiating action against the accused under Sec 82 Cr.P.C. if the Court comes to a conclusion that there is no near chance of apprehension of absconding accused, the court can direct the police to return the warrant and proceed under Sec 82, 83 and 299 Cr.P.C.

ROC No. 1230/OP-CELL-E/2005 dt. 20.8.2005, the courts should deal with cases relating to Senior citizens on priority basis.

ROC No. 981/OP-CELL/2006 dt. 9.5.2006, the courts should deal with cases relating to rape and sexual harassment on priority basis.

ROC No. 602/SO/2006 dt. 19.6.2006, the courts should deal with cases relating to women prisoners whose children are in prison with their Mothers, on priority basis.

Circular Memo No. 17967/Leg.I/A2/2006 dt. 24.6.2006, under trial prisoners should be handcuffed only with permission of the court, while in court, in sub-jail, or while in hospital, that too after recording the reasons of apprehensions either due to heinous nature crimes or character or behaviour, in the requisite registers maintained by them.

ROC No. 5550/OP CELL-E/2012 dt. 14.08.2012,Judicial officers are directed to insist upon **deposit of passport** as a condition for bail and inform the Immigration authorities in fit cases regarding the involvement of accused in criminal cases.

Detailed notification for destruction of NDPS –powers, proformas issued by G.S.R. 38(E) F.No. V/2/2004-NC.II issued by Ministry of Finance (Dept of Revenue), New Delhi.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

HM&FW Department – Food Safety Act – **Ban on manufacture / Sale of Gutkha /Pan Masala / If any food item containing Tobacco or Nicotine as ingredients,** by whatsoever which is available in the market – Permission accorded to Commissioner of Food Safety to impose the ban – Orders – Issued.

HEALTH, MEDICAL AND FAMILY WELFARE (L) DEPARTMENT

G.O.Ms.No. 6 Dated:09-01-2013

Letter from the Commissioner Food Safety, A.P. Hyderabad,
Lr.No.1508/F1/2012, Dated:05-10-2012 & 13-10-2012.

***

O R D E R:

The Commissioner Food Safety, A.P. Hyderabad, in his letter read above has requested the Government to permit him to impose prohibition (ban) on sale of Gutkha / Pan Masala and other chewable products containing Tobacco and Nicotine in the State of Andhra Pradesh under section 30 (2) (a) of Food Safety and Standards Act, 2006.

2. Under regulation 2.3.4 of the Food Safety and Standards (Prohibition and restriction on Sales) Regulations, 2011 made by the Food Safety and Standards Authority of India in exercise of the powers conferred by clause (1) of sub-section (2) of section 92 of the Food Safety and Standards Act, 2006 (Central Act 34 of 2006) with section 26 thereof, prohibits articles of food in which tobacco and/or nicotine are used as ingredients, as they are injurious to health.

3. AND WHEREAS, Gutkha, Paan masala containing tobacco and/or nicotine, other form of chewable products containing tobacco or nicotine (by whatsoever name) is an article of food in which tobacco and/or nicotine are widely used as ingredients.

4. AND WHEREAS, it is expedient to prohibit the manufacture, the storage, the sale, the transportation, the display or the distribution of Gutkha and Paan Masala containing tobacco and/or nicotine in the state of Andhra Pradesh.

5. The Government af ter careful examination hereby permit the Commissioner of Food Safety, A.P. Hyderabad to issue the following notification in the interest of the Public Health.

D R A F T N O T I F I C A T I O N

In pursuance of regulation 2.3. 4 of the Food Safety and Standards (Prohibition and Restriction on sales) Regulations, 2011 the manufacture, the storage, the sale, the transp ortation or the distribution of Gutkha by whatever name and Paan masala containing tobacco and/or nicotine as ingredients by whatsoever name it is available in the market, is hereby prohibited with immediate effect in the State of Andhra Pradesh in the interest of Public Health until further orders.

6. The assistance of following Departments shall be taken for effective enforcement of above prohibition orders;

a) HM&FW Department
b) Vigilance and Enforcement Department
c) Commercial Taxes, Department
d) Police Department
e) Transport Department
f) Labour department,
g) Municipal Administration Department
h) Panchayat Raj Department

7. The Information and Public Relations Department and Commissioner, Civil Supplies and Consumer affairs shall give wide publicity and create consumer awareness. The enforcement personnel of FSS Act., shall be placed on regular basis at the inter-state check posts, to have vigil on the illegal transportation of the Prohibited articles into the State from other States. The Commercial Tax Department shall check the banned items and inform the enforcement authorities of Food Safety for taking necessary action.

8. The Commissioner of Food Safety, A.P. Hyderabad shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

MINNIE MATHEW
CHIEF SECRETARY TO GOVERNMENT

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

WITHDRAWAL of criminal cases pending before the Criminal Courts in the State -Guidelines - Orders - Issued.

LAW (LA & J HOME -COURTS.B) DEPARTMENT

G.O.Ms.No. 54 **Dated: 30.3.2000**

Read the following:-

1. Police standing order 724.
2. D.O.Letter No. 6/DOP/2000, datead: 22.2.2000.
3. D.O.Letter No. 49/JD3/2000, dated: 7.3.2000.

O R D E R:

In the reference Ist read above, the procedure for withdrawal of criminal cases pending before the Criminal Courts in the State has been indicated with reference to the Government orders indicated therein.

2. In the reference 2ndand 3rd read above, the Director of Prosecutions had sought for appropriate instructions from the Government to all the District Collectors and Superintendents of Police setting forth the guidelines for withdrawal of criminal cases pending before the Criminal Courts as what are the cases of simple nature referred to in the reference Ist read above are not defined anywhere.

3. The Government after careful examination decided to issue the following **guidelines** regarding the procedure to be adopted in clarification and amplification of the procedure indicated by reference Ist read above.

(a) **Cases of simple nature where the Superintendent of Police can Initiate withdrawal** under the reference Ist read above shall mean **summons cases** as defined under section 2(w) of the Code of Criminal Procedure, 1973 and cases that can be tried summarily under Chapter XXI of the said Code:

(b) **In all other cases it is only the District Collector and District Magistrate** or the State Government that can initial withdrawal Of cases;

(c) in addition to those cases specified in paragraph 3 of the reference Ist read above, **The District Collector and the District Magistrate should obtain approval of the Government** before authorising or directing the Public Prosecutor or the Assistant Public Prosecutor concerned to withdraw from the prosecution of any case triable by a court of Session;

(d) the Superintendent of Police or the District Collector and the District Magistrate, as the case may be, **shall obtain legal opinion of the Public Prosecutor or the Assistant Public Prosecutor concerned** before authorising or directing any withdrawal from the prosecution

(e) **the Public Prosecutor or the Assistant Public Prosecutor in charge of a case has to consult the Superintendent of Police or the District Collector and the District Magistrate,** as the case may be before seeking permission of the court for withdrawal or prosecution of any person..

(f) the provision of **section 321 of the Code of Criminal Procedure, 1973 and the principles governing the same as laid down in binding judicial precedents shall be kept in view of the public Prosecutor or the Assistant Public Prosecutor** in advising withdrawal or withdrawing from the prosecution of any person

The above guidelines shall be followed scrupulously.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH).

G.BHAVANIPRASAD
SECRETARY TO GOVERNMENT,
LEGISLATIVE AFFAIRS & JUSTICE

TELANGANA VICTIM COMPENSATION SCHEME. G.O.MS No. 9 (LA & J, Home Courts-B) Dept dt. 7/3/2015

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 deaths)	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 to 80%)	a.	Age 40 years or below 40 years.	Rs. 1 lakh
		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/-

A.SANTHOSH REDDY
SECRETARY TO GOVERNMENT
LEGAL AFFAIRS, LEGISLATIVE AFFAIRS AND JUSTICE

Office of the
Directorate of Prosecutions,
Hyderabad.

C.No.35/JD-III/99 **C I R C U L A R** Dated:8-3-1999.

Sub:- PS--Prosecutions Department - Issuing guidelines with regard to the conduction of cases to Prosecuting Authorities - Regarding.

.....

It has been brought to the notice of the Director and Addl.Director of Prosecutions by the Joint Directors of Prosecutions while reviewing the Judgement about the conduction of trials before the Criminal Courts and this Directorate deems it necessary to issue the following guidelines for proper conduction of trials before the Criminal Courts.

The Prosecuting Officer shall have the discretion by taking the facts and circumstances of each case into consideration to give up the [illegible] Officer and the Investigating Officer and panchas if the victim and the eye witnesses turn hostile. Where the number of eye witnesses are cited, even if the victim turns hostile and some of the eye witnesses turn hostile, the rest of the eye witnesses shall be examined. When out of the two panch witnesses, one panch witness support the prosecution case, it shall be for the prosecutor either to examine the other panch or to give him up. In case of one panch witness [illegible] it shall be for the prosecutor either to examine the other panch or to give up the panch who is examined at first instance turns hostile the other panch witness shall not be given up.

Whenever the case depends on circumstantial evidence, the Medical Officer and the Investigating Officer shall not be given up by the prosecutor. The Prosecuting Officer shall abide strictly to the above guidelines in examining the witnesses and any violation would be viewed very seriously. However these guide lines are not exhaustive to cover all situations and circumstances. But the discretion to give up the witnesses in such hostile cases shall be exercised keeping the best interest of the prosecution in view.

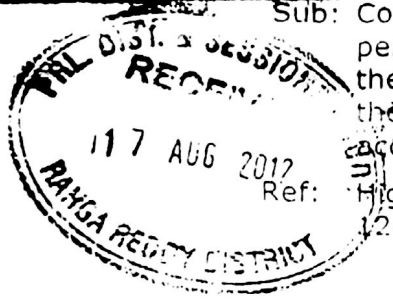
DIRECTOR OF PROSECUTIONS.

To
The Sr.APPs(Administration) in the State of A.P.
The APPs in the State of A.P. through Sr.APP(A).
The Addl.PP Gr-I & Gr-II in the State of A.P.through Sr.APP(A).
Copy to:
The Addl.DOP, JDs-I,II & III.
PA to DOP, Supdts. A & B Sections, A1, A2, B1, B2.

HIGH COURT OF ANDHRA PRADESH:HYDERABAD

R.O.C.NO.5550/OPCELL-E/2012 **DT:14-08-2012**

CIRCULAR



Sub: Courts – Criminal – Certain instructions with regard to the pending execution of the NBWs in which accused leaving the Country for employment – Informing the particulars of the accused to the Immigration Authorities to prevent the accused in the state of Andhra Pradesh - Issued.

Ref: High Court's Circular ROC No:1836/SO-3/2008 Dated: 12-12-2008.

******

It has come to the notice of the High Court that number of NBWs in the State of Andhra Pradesh are pending for execution and one of the reasons for such pendency is that the accused involved in the Criminal Cases are leaving for employment to other Countries. Therefore to avoid such situation and to see that the NBWs are executed without any hindrance the High Court felt that it is necessary to direct the Judicial Officers in the State that they shall inform the involvement of the accused in the Criminal Cases to the Immigration Authorities, immediately, so that the accused can be prevented from leaving the Country and also the Judicial Officers in the State at the time of granting bail to them shall insist the accused to deposit the Passport.

No.5402/12 23/8/12 In view of the above, the High Court hereby directs all the Judicial Officers in the State to inform the Immigration Authorities in a fit case and where it is necessary to mention with regard to the involvement of the accused in Criminal cases immediately, so that a red corner notice is issued to prevent the accused from leaving the Country. Further the Judicial Officers in the State are directed to insist upon deposit of the Passport (if having) by the accused at the time of granting bail.

Receipt of the Circular may be acknowledged.

ROC 9715/12 17/8/12

REGISTRAR (VIGILANCE) 16/8/12

To

1. All the Principal District and Sessions Judges/Unit Heads in the State of A.P.(with a request to communicate the same to all the Presiding Officers in the District.).
2. The P.S. to the Honourable the Acting Chief Justice. (with a request to place before the Honourable the Acting Chief Justice for His Lordship's kind perusal).
3. The Director, A.P., Judicial Academy, Secunderabad.
4. The Section Officer, Special Officer's Section, High Court of A.P., (for information and codification)

INVESTIGATION BY POLICE

L.H.Rajeshwer Rao
Sr.APP, IIACMM Court,
Hyderabad, Telangana

In the judgment in the case between State vs. Ram Singh and another (SC No. 114/2013 FIR No. 413/2012,the infamous Nirbhaya Case) at page 237, the honourable judges of the special court had appreciated the role of the police in the case thus

> *"Lastly I also feel it necessary to mention the professional acumen with which the Delhi Police investigated the case especially the way they made use of the scientific tools.*
> *I hope this would be replicated in all other cases."*

It would be the dream of every investigation officer that their role in each case would be appreciated in a similar fashion, but it is not emerging so. Let us introspect and find out where we are lacking behind. Some of the points which we discuss here may appear to be very trivial, but these issues have been highlighted by the honourable courts which is resulting in the low rate of conviction. Hence, Please go through this article completely. Let us critically appreciate the

FIRST INFORMATION REPORT

To begin with, let us start with the first stage of investigation, that is the registration of FIR. We all know that the offences are classified into cognizable and non-cognizable offences. The procedures for the same are mentioned in section 154 and 155 CR PC.

The honourable courts have taken serious note of not registering FIR in respect of a cognizable offence. Though there are umpteen precedents on this aspect, the most recent and famous judgement is that of **Lalita Kumari Vs State of UP**. This constitutional bench judgement envisaged that the police are duty bound to register a FIR in respect of all reports concerning cognizable offences. But, is it mandatory to register a FIR on a report, though superficially reveals a cognizable offence, but it may have been made for making even or for any other reason by the petitioner.

The said judgment between **Lalita Kumari vs State of UP (2014) 2 SCC 1** also answers this point. The police are empowered to conduct preliminary investigation regarding the revelation of cognizable offence mentioned in the report, within a time period of **15 days/6 Weeks** from the date of registration of report in the general diary.

CAN A FIR BE ISSUED IN RESPECT OF ALL OFFENCES

Some of the provisions in CRPC are independently facts which tend to initiate the investigation by the police. We have been observing that the FIR's are being

issued in respect of section 102 CRPC, 106 to 111 CRPC, 145 CRPC and 174 CRPC.

In the judgement reported between **Guruvaiah Vs. State of AP,(2011 CRLJ 64),** the honourable High Court has seriously condemned the action of the police in registering a FIR in respect of a offence under section 145 CR PC.

Similarly, in the case under section 174 CRPC, the honourable Supreme Court in the case between **Manoj Kumar Sharma Vs State of Chhattisgarh (2016(0) Supreme (SC) 652)** has condemned the registration of a FIR.

From the above, we can observe that the FIR can be issued in respect of substantial law like IPC, special and local laws but not in respect of procedural laws like CRPC.

LOCUS-STANDI AS TO COMPLAINANT

Contrary to the misconception that anybody can move the law into motion, there are some restrictions in respect of the person who can set the law into motion. These restrictions are found in sections 195 to 199 CRPC. Despite this fact, many cases for example for the offence under section 188 IPC are being registered investigated and charge-sheeted, without heeding to the bar under section 195 CRPC. This is resulting in letting the offender go scot-free.

The honourable court in the case between **Kottu Satyanarayana Vs State of A.P. (2015(1) ALD (Crl) 572)** has let the accused off, as the police filed charge sheet under sec 188 IPC.

LOCUS-STANDI AS TO THE POWERS OF INVESTIGATION

Usually, the statutes do not make any difference in the nature of the offences, except for the latest enactment titled Juvenile Justice Care and Protection act 2015. But the police assign the investigation powers on a particular rank of officers basing on the classification of the offences as grave and simple offences. The police follow police manual in this regard.

In addition to the above check on the power of investigation, some of the special enactments prescribe a particular rank of officers to investigate the offences, but due to the various reasons, the investigation is being entrusted to the un-prescribed subordinate officers, which is leading in letting the accused go scot-free.

For instance, **G.O.Rt.NO.475 Home (POL.D) Department dated 16.8.1991** by Govt. of A.P., prescribes that the offences under immoral traffic prevention act, 1956 should be investigated which includes the power of raid, by the officer of the rank of inspector of police or the Assistant Commissioner of police. But many cases have been filed by the sub inspector of police.

The honourable court has also found serious fault with the investigation done by the sub Inspector of police contrary to rule 7, in respect of an offence under the provisions of SC and ST (POA) act, 1989 and nullified the same by quashing

the case in **D.Ramalinga Reddy and D.Babu Vs State OF A.P (1999 2 ALD(Cri) 436; 1999 1 ALT(Cri) 287)**

Most recently, the offences under the provisions of POCSO act, 2013 are being investigated by the officers in grave ignorance of the powers of the investigation entrusted in particular officers in the circular issued by the office of the DGP, AP, Hyderabad vide **R.C.No.60/M3/2014 Dt.21-01-2014.**

In the case between **Jasbir Singh @ Javri @ Jabbar Singh Vs St ate of Haryana (2015) 2 SCC (Cri) 796 = (2015) 5 SCC 762,** the Apex court has laid down that "Complainant (PW- 6) has himself investigated the crime, as such, the credibility of the investigation is also doubtful in the present case".

So, before endeavouring on any investigation more particularly in respect of special enactments, the checks on investigation be verified.

161 CRPC

statements As envisaged in the judgment between **HARDEI Vs. STATE OF U.P. 2016 (2) Crimes 7 (SC),** the investigation officer should always remember that the FIR is not an encyclopaedia.

It is observed that in the imaginary chase of corroboration, the 161 CRPC statement of the complainant is being reproduced from the contents of the FIR and that of the other witnesses being copied from the 161 CRPC statement of the complainant.

The 161 CRPC statements of the witnesses are to be recorded in verbatim. There is also a provision for recording the 161 CRPC statement by AV methods, but the same is not being followed. If the same would have been followed, the hostility of the witnesses could be controlled in the larger way, as despite hostility the AV would be made admissible and could pave way in the part of Justice before the courts. There is a direct judgment of Gujarat High Court in **Shailendra Kamalkisho Pande** which permitted the use of Video CD not only to test veracity of the witness but to confront the witness with his previous statement for the purpose of Section 145 of the Act of 1872. In **Vinod Kumar @ Vinod Kumar Handa v. State (Govt. of NCT of Delhi) Crl.RP.577/2009** decided on 05.07.2012 relying on a judgment of the Punjab High Court in **Rup Chand v. Mahabir Prasad AIR 1956 Punj. 173;** and a judgment of the Supreme Court in **S. Pratap Singh v. State of Punjab AIR 1964 SC 72** this Court held that tape recorded version of a conversation was admissible in evidence to corroborate the evidence of a witness or to shake the credit of the witness. In N.Sri Rama Reddy the Supreme Court held that the previous statement made by a person recorded on tape could be used not only to corroborate the evidence given by the witness in Court but also to contradict his evidence given before the Court as well as to test veracity of the witness and also to impeach his impartiality. In **R.M. Malkani v. State of Maharashtra AIR 1973 SC 157** the Supreme Court observed that tape recorded version was admissible provided that the conversation was relevant to the matter in issue and its genuineness is proved by the person who seeks to rely on the same.

There is a check in respect of the officer recording the 161 CRPC statement in respect of particular offences. The 161 CRPC provision itself mentions, some of the offences for which the 161 CRPC statement as to be recorded by a woman police officer or a woman officer. A similar check is present in respect of the offences covered under POCSO act.

164 CRPC statements

Though 164 CRPC statements do not stand on a better footing than 161 CRPC statements, the recent amendments in the statutes have made it mandatory to record the 164 CRPC statements in respect of the sexual offences against women. It is really appreciable that in the cases involving sexual offences against women, the 164 CRPC statement can even be considered as Examination-in-Chief and can directly be produced for cross-examination.

The copy of the 164 Cr.P.C. statement should collected from the court, should not be disclosed to anybody till the filing of report under sec 173 Cr.P.C. especially in respect of sexual offences as stated by the Apex court in **2014 STPL(Web) 334 SC State of Karnataka by Nonavinakere Police Vs. Shivanna @ Tarkari Shivanna**

ADDING OR DELETING ACCUSED OR PROVISION OF LAW

Basing on the revelations of 161 or/and 164 CRPC statements, the provisions of law and the accused are being deleted. The honourable courts have found the said practice as illegal. It stated that the said power rests only in courts and the IO has to make necessary applications before the court for the same. The said judgment is reported as **(2013) 1 ALT (Cri) 170, Kotla Harihakrapani Reddy Vs State of A.P.**

However, if the role of a person not arrayed as accused is revealed during investigation, he can be charged with. **Kirender Sarkar & Others Vs. State of Assam reported as 2009 0 AIR(SC) 2513; 2009 0 CrLJ 3727.** Hence, the investigation officers are requested to file petitions for deletion or addition of accused or alteration of the provisions of law, before the honourable court and upon being allowed, proceed with the case accordingly.

PANCHANAMA

It has been quite a number of times raised by the IO's due to the confusion created by the defence counsel that the Panch witnesses/mediators for the scene observation Panch should have been from the local area of the scene of offence.

It is clarified that there is no such bar, as the said bar is mentioned only in respect of search proceedings and not in respect of panchanama. However, the Panch witnesses who are appearing before the honourable courts are deposing that their signatures were obtained on the panchanama, when they approached the police station for their personal grievances.

However, In **STATE OF U.P. vs. ARUN KUMAR GUPTA [(2003) 2 SCC 202],** the Apex Court has observed that no reasonable explanation for not summoning any independent witness residing in the locality, where from the recovery was made and where large number of people present at the time of recovery and the witness chosen by the prosecution, who was not a resident of that locality cannot be believed.

Another blaring defect visible on the face of record in a panchanama is that the confession panchanama contains the crime numbers of offences, which the accused has committed. Logically thinking, there is no way that the confessing accused will have knowledge of the crime numbers, provisions of law under which the said crimes are registered. This is one of the reason for not believing the voluntariness and genuineness of the panchanama or its contents. Hence if proper checks are observed, we can draft confessions which are admissible as per law, and bring the guilty to the gallows.

SCIENTIFIC EVIDENCE

In the case between **Prakash Vs. State of Karnataka, 2014 CrLJ 2503; 2014 6 SCC(Cri) 642,** the Supreme Court had held that " Though the murder was committed way back in 1990, scientific methods for investigation were available even at that time but not made use of. We must express our unhappiness on this state of affairs. At least from now onwards, the prosecution must lay stress on scientific collection and analysis of evidence, particularly since there are enough methods of arriving at clear conclusions based on evidence gathered."

Closed Circuit Cameras are guarding every nook and corner of the streets, but the same are not used in detection of the crimes, or that is what is evident from the charge sheets explicitly missing in referring to the same.

In another case between **Shaik Shamhuddin vs State of A.P. 2014(1) ALD (Crl) 971 (AP),** the Hon'ble High Court went ahead and gave directions to the DGP to circulate and direct the IO's to collect the call data records in the following terms "Call data will be preserved by the service providers for a limited period. In the instant case, failure of the Investigating Officer to act promptly in collecting the call data has resulted in failure to collect a possible and significant clue to the crime. The role played by the persons (suspected to have played a role in the crime by the petitioner) has been allowed to slip through the fingers. By collecting the call data, perhaps, may not be much helpful for the investigation on all occasions. But, however, the failure to collect it might prove to be harmful in certain cases."

This attains prominence being delivered subsequent to the Mr. Laxminaryana, J.D. Episode. Hence, the importance of the Scientific evidence and Scientific Methods of investigation may be given their due stand, in bringing the guilt of the accused.

ARREST:

The most confusing and misconceived stage in investigation, which situation has been further aggravated by misinterpretation of the Judgment **Arnesh Kumar Vs State of Bihar. 2014 0 AIR(SC) 2756; 2014 0 CrLJ 3707; 2014 3 SCC(Cri) 449.** The said judgment has also been misinterpreted by the Presiding Officers of the courts, resulting in the return of the remands, etc. What all was stated in the said judgment, was that arrest may not be mandatory in all cases punishable upto Seven years of imprisonment. Hence, IO may resort to 41A CrPC. That does not in any way curb the power of arrest vested in police, except for mentioning proper reasons for the arrest. A new rule which had been suggested by the said judgment came to be introduced, that is the filing the Check List along with the remand. On such remand, the magistrate if satisfied with the reasons mentioned in the checklist and material papers, may remand the accused as per Sec 167 Cr.P.C.

If the Magistrate is not satisfied with the reasons for remand, then, the magistrate may follow release the accused as mentioned in **Gulab Chand Upadhyaya Vs State Of U.P. And Ors {2002 CrlJ 2907}** Such release of the accused by court either on bond or bail should be treated to be followed under Sec 59 Cr.P.C.

The action of the Magistrate under Sec 59 Cr.P.C. does not preclude the I.O. from proceeding with further investigation in the case and filing of final reports as revealed by the investigation.

TIP

In cases of unknown offenders, the TIP lays credence to the Occular Evidence. But in these days of parallel Media Trial/investigation, the same is losing its probative value. In **Rajamoori Ram Reddy & Others vs The State Of Andhra Pradesh 2016(2) ALD (Crl) 91 = https://indiankanoon.org/doc/93072067/ = legalcrystal.com/ 1179830,** it was held that "It is no doubt true that it was further added that the accused were covered while showing them before the media, but, still the fact remains that if the accused persons were already presented before public media, the subsequent identification parade that is carried out on 19th April, 2008 loses much of its credibility. Hence, we are not willing to attach any significance to the identification parade carried out and the identity established during such a parade."

SAFE GUARD OF M.O.'S AND PROPERTIES.

It is common practise that the properties and M.O's that are granted safe custody of the Police are being dumped in a store room or open places in Police station, subjecting the same to damage. When the charge of a transferred officer is taken over, the said M.O.'s are not being handed over, resulting in non-production of the original M.O. or Property. In **General Insurance Council & Ors.Vs. State of Andhra Pradesh & Ors reported as 2010 CrLJ 2883; 2010 3 SCC(Cri) 226,** it was held that

"15. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/Commissioner of Police of the concerned cities/Superintendent of Police of the concerned district.

16. In case any non-compliance is reported either by the Petitioners or by any of the aggrieved party, then needless to say, we would be constrained to take a serious view of the matter against an erring officer who would be dealt with iron hands. With the aforesaid directions, this writ petition stands finally disposed of."

Conclusion :

The Hon'ble Apex Court in **Dayal Singh & Others Vs. State of Uttaranchal reported as 2012 0 AIR(SC) 3046; 2012 0 CrLJ 4323; 2012 3 SCC(Cri) 838;** stated that

"We hold, declare and direct that it shall be appropriate exercise of jurisdiction as well as ensuring just and fair investigation and trial that courts return a specific finding in such cases, upon recording of reasons as to deliberate dereliction of duty, designedly defective investigation, intentional acts of omission and commission prejudicial to the case of the prosecution, in breach of professional standards and investigative requirements of law, during the course of the investigation by the investigating agency, expert witnesses and even the witnesses cited by the prosecution. Further, the Courts would be fully justified in directing the disciplinary authorities to take appropriate disciplinary or other action in accordance with law, whether such officer, expert or employee witness, is in service or has since retired."

So, meticulous investigation is the order of the day. Gone are the days when it was said that ignorance is Bliss. Trite is to say that those who forget History are bound to repeat it. Hence Friends, Arise, Awake and let us all strive to instil a fear in the offender refraining him from committing any offence. This article is not exhaustive and is only illustrative covering the superficial aspects only. Further deep analysis basing on the ratio decendi laid by the courts could be imbibed in our daily duties to pave way for a crime free society rather than a feel good experience.

Some Precedents

WITHDRAWAL

In **Rajendra Kumar Jain v. State(AIR 1980 SC 1510)** the Scope of the Section was best interpreted by the Supreme Court.

1. Prosecution of an offender is the responsibility of Executive.
2. Withdrawal from prosecution is an executive function of the public Prosecutor.
3. Only public Prosecutor is having discretion to withdraw from Prosecution.
4. The Govt. may suggest him that he may withdraw but no one can compel him to do so.
5. Public Prosecutor cannot merely withdraw on the ground of paucity of evidence but on other relevant grounds i.e. for furtherance of public justice.
6. He is an officer of court and responsible to court.
7. Public Prosecutor must apply his mind independently as a free agent and should not be influenced by any extraneous considerations.

In **State of Orissa v. Chandrika Mahapatra (AIR 1977 SC 903)**,court held two cases arising out of same incident against different accused ,if one withdrawn ,the other should also be withdrawn.

In **Sheonandan Paswan v. State of Bihar , (1983 0 AIR(SC) 194; 1983 0 CrLJ 348; 1983 1 SCC 438; 1983 0 SCC(Cri) 224)** Supreme Court held, PP is not an independent officer like a Judge and is appointed by Government , thus he can only file a withdrawal application with prior approval of the Government.

In **Subash Chandra v. State,(AIR 1980 SC 423)** the private complainant had opposed such withdrawal but his application was rejected both by the High Court as well as the Supreme Court.

In **Rajendra Jain Vs. State (1980)3 SCC 434** the Supreme Court has held that notwithstanding the fact that offence is exclusively triable by the Court of Session, the Court of Committing Magistrate is competent to give consent to the Public Prosecutor to withdraw from the prosecution.

NON EXAMINATION OF COMPLAINANT

2014 0 Supreme(SC) 677; Edmund S Lyngdoh vs State Of Meghalaya; When the case is based on documents, the non-examination of complainant is not fatal to prosecution.

2002 Supp1 ALD 600; 2002 1 AndhWR 475; 2002 1 LS 45; 2001 0 Supreme(AP) 1489; Somagutta Sivasankara Reddy (Somagutta Erapa Reddy (died) per LRs) vs Palapandla Chinna Gangappa; the evidence of a person who has died after examination in chief and as **by reason of his death,** he could not be produced for cross-examination, although his evidence is admissible in evidence, the weight or probative value thereto would vary from case to case and in a given case may also be disregarded.

1993 0 CrLJ 1291; Assistant Conservator of Forest Logging (Vigilance) in Charge Flying Vs Fathimunnisa Begum; There was no obligation on the part of the authorities to examine the complainant and by non-examination of the said complainant, neither the provisions contained under S. 44 of the **A. P. Forest Act 1967** are violated nor any infraction of principles of natural justice is committed.

Hakirat Singh vs. State of Punjab, AIR 1997 SC 323 *Non-examination of the complainant on account of his death could not be fatal on its own to the prosecution case, and it will depend on the facts of each case. If the prosecution story as revealed by the witnesses in the court is directly contradictory to the contents of FIR, it may have one effect and on the other hand, if the contents of FIR are in conformity with the evidence during the trial, it may have altogether a different effect.*

NON EXAMINATION OF VICTIM & INDEPENDENT WITNESS.

Sadhu Saran Singh V/s State of Uttar pradesh; 2016 (2) ALT (Crl) 14 (SC) Non-Examination of injured witness – is not fatal to the case of prosecution –cannot be doubted on the ground of Non-Examination of any independent witness

NON EXAMINATION OF I.O.

2000 0 AIR(SC) 718; 2000 2 Crimes(SC) 63; 2000 0 CrLJ 810; 2000 2 SCC 646; 2000 0 SCC(Cri) 522; Ambika Prasad and another Vs State Delhi Administration; Police officers resiled from their own statements-Investigation officer had not stepped into witness box-Whether above conduct of police officer would vitiate prosecution case?-Held: conduct of investigating officer or other hostile witnesses cannot be ground for discarding evidence of eyewitnesses.

2003 0 AIR(SC) 2325; 2003 2 Crimes(SC) 516; 2003 0 CrLJ 2340; 2003 5 SCC 488; Narendra Nath Khaware vs Parasnath Khaware; Non-examination of I.O. was not fatal to prosecution case.

2001 0 AIR(SC) 2842; 2001 4 Crimes(SC) 16; 2001 0 CrLJ 4632; 2001 8 SCC 311; 2001 0 SCC(Cri) 1546; 2001 7 Supreme 206; Ram Gulam Choudhury & Ors.Vs State of Bihar; It was held that non-examination of the Investigation Officer could not be a ground for disbelieving eye witnesses.

NON EXAMINATION OF DOCTOR.

State of M.P. Vs. Dayal Sahu (2005 4 Crimes(SC) 92); Non-examination of doctor and non-production of doctor's report would not be fatal to prosecution case where statement of prosecutrix and other prosecution witnesses inspired confidence.

NON EXAMINATION OF MVI

Keshavamurthy vs State; 2002 CriLJ 103; It would not be open to an accused to take such exception to non-examination of Motor Vehicle Inspector after allowing the Motor Vehicle Inspector's report to be brought on record as an exhibit by consent, or at any rate, without objection. The said Motor Vehicle Inspector's report therefore, in such circumstances, without the examination of the Motor Vehicle Inspector as a witness, would be available as a piece of evidence.

State By Bidadi Police Station vs S.B. Marigowda : 1999 CriLJ 2171; Non-examination of the Motor Vehicle Inspector is one thing and not disputing of the Vehicle Inspector's report is another thing. Unless there is something on the record that in spite of the protest by the defence, if the Inspector's report is marked and then if it is relied upon, it would tell a different story. Hence I am of the opinion the contention that non-examination of the Motor Vehicle Inspector is fatal, cannot be accepted.

P.Rajan vs State; 2010 0 Supreme(Mad) 4799; there is not even any suggestion during cross examination or any statement made under Section 313 of the Code of Criminal Procedure to the effect that the accident occurred due to the mechanical defect in the bus. Hence, non-examination of the Motor Vehicle Inspector in this case is not fatal to the case of the prosecution.

Non examination of Expert.

Merely because no expert opinion was obtained to prove as to whether bones recovered were human or animal bones, in our view, would not weaken the case of prosecution in the light of overwhelming evidence available on record to prove the complicity of the appellants.**2017 (2) ALD (Crl) 285(SC); 2017 0 AIR(SC) 568; 2017 1 Crimes(SC) 12; 2017 2 SCC**

321; 2017 1 Supreme 257; 2017 0 Supreme(SC) 9; Ram Chander and others Vs State of Haryana.

NON EXAMINATION OF PANCH WITNESS.

Two panch witnesses on the fact of recovery turned hostileTestimony of police official was however supported by fact that lethal weapons were produced before the Court after recovery. No reason to reject the testimony of police witness and conviction called for no interference. (Para 7) **2000 4 Crimes(SC) 290; 2000 8 JT 104; 2001 9 SCC 362; 2000 7 Supreme 687; 2000 0 Supreme(SC) 881;Mohd Aslam Vs State of Maharasthra.**

Non-examination of panch witness is not fatal; **996 0 AIR(SC) 2943; 1996 3 CCR(SC) 100; 1996 1 Crimes(SC) 103; 1996 0 CrLJ 1698; 1996 3 JT 120; 1996 2 Scale 264; 1996 2 SCC 589; 1996 1 SCC(Cri) 356; 1996 2 Supreme 213; 1996 0 Supreme(SC) 421; Anil @ Andya Sadashiv Vs State of Maharasthra.**

the use of word fact discovered is not confined to object produced as it is not the object, but from it what is discovered of the exclusive knowledge of accused and the disclosure of it and the discovery of the fact leading from the disclosure. In fact, for a disclosure statement by accused while in police custody to the extent leading to discovery of any fact within the meaning of Section 27 of Evidence Act, no mediators panchanama is even required, as such, any mediators panchanama drafted of what is disclosed in their presence and what is discovered pursuant thereto the disclosure, there is no incumbent duty on the prosecution to examine the so called mediators. The Public Prosecutor is having absolute discretion to examine which witness among the prosecution witnesses cited to prove the case and if he gets any doubt that any of the witnesses not supporting the truth or exhibiting hostility to the truth, there is no compulsion to examine even such witness and seek permission for cross-examination under Section 154 of the Evidence Act invariably as it is one of the choices with prosecution to give up. Thus, the non-examination of the mediators cannot be a ground to say that P.W.9 I.O cannot be recalled that too when it is the disclosure made before him during investigation of the case as a Police Officer and leading to discovery of fact from the disclosure to exhibit this statement to the admissible portion under Section 27 of the Act by shunning from exhibiting non-admissible portion hit by Section 25 of the Act. In fact, the accused are not helpless if at all they choose to examine the mediators, to call as defence witnesses, apart from any request to court by showing such

necessity to call for as court witness with right of cross-examination to both sides. **2017(2) ALD (Crl) 117; 2017 0 Supreme(AP) 49; V. Naveen Goud, S/o V. Narsaiah Vs. The State of Telanagana**

PANCH WITNESS SIGNATURE NOT NECESSARY.

State, Govt. of NCT of Delhi Vs.Sunil and Another; 2001(1)ALD(Cri)54, 2001CriLJ 504, There is no requirement either under Section 27 of the Evidence Act or under Section 161 of the Code of Criminal Procedure, to obtain signature of independent witnesses on the record in which statement of an accused is written. The legal obligation to call independent and respectable inhabitants of the locality to attend and witness the exercise made by the police is cast on the police officer when searches are made under Chapter VII of the Code. Section 100 (5) of the Code requires that such search shall be made in their presence and a list of all things seizedin the course of such search and of the places in which they are respectively found, shall be prepared by such officer or other person "and signed by such witnesses". It must be remembered that search is made to find out a thing or document which the searching officer has no prior idea where the thing or document is kept.

TIP

Sheikh Sintha Madhar @ Jaffer @ ... vs State Rep.By Inspector Of Police https://indiankanoon.org/doc/98343207= (2016)4 PLRSC 68 The purpose of a TIP is to ensure that the investigation is going on the right track and it is merely a corroborative evidence. The actual identification must be done in the Court and that is the substantive evidence. If the accused is already known to the witness, the TIP does not hold much value and it is the identification in the Court which is of utmost importance.

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. **State of Rajasthan Vs Daud Khan. 2016(1) ALD (Crl) 241 (SC)**

in the case of **Shyamal Ghosh v. State of West Bengal [2012 (6) SCALE 381]** wherein this Court has held that the Code of Criminal Procedure, 1973 (for short “Cr.P.C.) does not oblige the investigating agency to necessarily hold the test identification parade without exception.

Ashrafi Vs State; AIR 1961 All 153, 1961 CriLJ 340; TIP can be conducted even if the accused is on bail.

BRIEFING THE WITNESS

2012 1 ALD(Cri) 75; 2011 0 Supreme(AP) 656; Naika Venkati Vs State of Andhra Pradesh; It is pointed out by the appellant's Counsel that in cross-examination PW3 stated that her parents asked her to state in the same manner in which she stated in her examination in chief and that she was stating in Court as stated to her by the police. Therefore, it is contended that parents and the police tutored PW3. When trial of the case was taken up after three years of the offence, there was nothing wrong in parents and the police reminding the events to PW3 before giving evidence in Court. At any rate, PW3 did not state in the cross-examination that she was tutored to give false evidence in Court. She totally denied the suggestions of the defence Counsel in her cross-examination.

COMPLAINANT TURNING HOSTILE.

2010 0 AIR(SC) 3178; 2010 9 SCC 567; 2010 3 SCC(Cri) 1402; 2010 6 SCJ 822; 2010 0 Supreme(SC) 796; C. Muniappan & Others Vs. State of Tamil Nadu Hostile witness – Evidence of a hostile witness cannot be discarded as a whole – Relevant parts thereof, admissible in law, can be used by the prosecution or the defence.

Vinod Kumar v. State of Punjab [AIR 2015 SC 1206], the Hon'ble Supreme Court held that the mere fact that the **complainant turned hostile** during trial would not result in collapse of the whole prosecution case.

HOSTILE DURING CROSS EXAMINATION

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**

SIGNATURE OF ACCUSED

Signature of accused on recovery Panchnama is not required under any provision of law. **2017 0 AIR(SC) 279; 2017 3 SCC 760; 2017 1 Supreme 303; 2017 0 Supreme(SC) 15; 2017 2 SCC Cri 262; 2017 1 ALD Crl 990; KISHORE BHADKE VS STATE OF MAHARASHTRA**

STOCK PANCH

The panch witness Mohamed Ayub Mohamed Umar (PW- 72) could not be held to be a tutored witness or acting at the behest of the prosecution only on the ground that he had also been the witness in another case. It does not give a reason to draw inference that he was a stock panch witness unless it is shown that he had acted in such capacity in a very large number of cases. **Ahmed Shah Khan Durrani @ A.S. Mubarak S Vs. State of Maharashtra 2013 7 JT 477; 2013 0 Supreme(SC) 268;**

NON RECOVERY OF MATERIAL OBJECT.

YOGESH SINGH Vs MAHABEER SINGH & OTHERS; 2016 0 Supreme(SC) 853; 2016(4) Crimes 121 (SC) Criminal trial – Recovery of weapon – Mere non-recovery of weapon – Not fatal where there is ample unimpeachable ocular evidence.

L & O Police cannot investigate

182 IPC

For prosecution under section 182 IPC, it is mandatory to follow procedure u/s 195 CrPC **2017 0 Supreme(SC) 36; Saloni Arora Vs. State of NCT of Delhi**

188 IPC

2010 0 AIR(SC) 3178; 2010 9 SCC 567; 2010 3 SCC(Cri) 1402; 2010 0 Supreme(SC) 796; C. Muniappan & Others Vs. State of Tamil Nadu Code of Criminal procedure, 1973 – Section 195(a)(i) – Exception to section 190 – Bars cognizance of any offence punishable under section 188 IPC or abetment or attempt to commit the same, unless, there is a written complaint by the public servant concerned for contempt of his lawful order – Similarly sections 196 and 198 also bar cognizance unless some requirements are complied with.

145 CrPC

In the judgement reported between **Guruvaiah Vs. State of AP,(2011 CRLJ 64),** the honourable High Court has seriously condemned the action

of the police in registering a FIR in respect of a offence under section 145 CR PC.

Immigration Act cases

B.T. Deva Varma Vs State. 2002 2 ALD(Cri) 371; 2002 2 ALT(Cri) 500; 2003 0 CrLJ 776; 2002 0 Supreme(AP) 849; Suo moto cases cannot be registered or investigated in Emigration act cases.

MMDR Act

Sanjay Vs State of NCT of Delhi. 2015 0 AIR(SC) 75; 2014 9 SCC 772; 2014 5 SCC(Cri) 437; 2014 6 Supreme 209; 2014 0 Supreme(SC) 637; Ingredients constituting the offence u/s 21 MMRD Act and u/s 378 IPC are different – Contravention of terms and conditions of mining lease or doing mining activity in violation of Section 4 of the Act is an offence punishable under Section 21 of the Act – On the other hand dishonestly removing sand, gravels and other minerals from the river, without consent of State constitute an offence u/s 378 IPC – Cognizance of offence under the Act can only be taken on complaint by authorized officer – Cognizance of offence u/s 378 can be taken on police report.

Cancellation of Bail.

the allegations of corruption and misappropriation of public funds released for rural development, and further considering the conduct of the appellants and the fact that the investigation is held up as the custodial interrogation of the appellants could not be done due to the anticipatory bail, we are of the opinion that the High Court has rightly cancelled the anticipatory bail granted to the appellants by the Additional Sessions Judge, Jalgaon. **Sudhir Vs The State of Maharashtra and another (2016) 1 SCC (Cri) 234 = (2016) 1 SCC 146**

Bail for repeat offenders

M.Viswanathan Vs The State of Andhra Pradesh & others 2016 (1) ALD (Crl) 458 - We have also been observing that the Courts below unknowingly or without looking into the law laid down by the Supreme Court in case of repeat offenders grant orders of bail on merits. We observe that the Courts below while dealing with the applications for bail on merits of such offenders should look into the law laid down by the Supreme Court and also the judgments of this Court in G.Archana (2015 (2) ALD (Crl) 325 (FB) and B.Hima Bindu (W.P. No. 14706/2015 dt 14.10.2015). We further direct the Registrar (Judicial) to forward copies of this judgment along with the judgments in G.Archana and B.Hima Bindu to all Principal District

Judges with direction to circulate it to all judges in their District dealing with Bail applications.

41A Crpc

(3) Y.S.JaganMohan Reddy Case

(4) Akbaruddin Owaisi Case.

After the accused fails to comply with the conditions of the 41 A CrPC notice, the police have to approach the Magistrate for Warrant. **KALKI RAMU Vs STATE of TELANGANA**

Receive documents

The word Shall used in Sec 207 and 172(5) CrPC are only directory and not mandatory

[2015] 1 ALD(Cri) 447 between Dilawar Hussain Vs. State of Andhra Pradesh
G. Saroja v. State of Andhra Pradesh and another, 2011 (1) ALD (Crl.) 822 (AP)
CBI Vs R.S.Pai, AIR2002SC1644; 2002(1)ALD(Cri)725; 2002CriLJ2029;

Return of Property

Sunderbhai Ambalal Desai Vs State of Gujarat; 2002 9 SCC 290; 2002 8 Supreme 261; 2002 0 Supreme(SC) 1123; Criminal Trial-Identity of vehicle-There may not be any necessity of producing the vehicle before the Court-Seizure Report may be sufficient.

Sunderbhai Ambalal Desai Vs State of Gujarat; 2003 0 AIR(SC) 638; 2002 9 SCC 283; 2002 8 Supreme 525; 2002 0 Supreme(SC) 982; Section 451-Order for custody and disposal of property pending trial in certain cases-Scope-Implementation with regard to valuable articles and currency notes, vehicles, liquors and Narcotic drugs to avoid State s vicarious liability-Powers to be exercised by concerned magistrates promptly and judiciously-Articles are not kept in police stations for more than 15 days to one month-Registry of High Court should see rules framed by High Court in this regard are implemented properly

General Insurance Council & Ors. Vs. State of A.P. & Ors; 2010 0 CrLJ 2883; 2010 3 JCC 1734; 2010 3 JCR(SC) 92; 2010 3 RCR(Cri) 589; 2010 6 SCC 768; 2010 3 SCC(Cri) 226; 2010 3 Supreme 317; 2010 0 Supreme(SC) 331;It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from

the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. To avoid all this, apart from the aforesaid directions issued hereinabove, we direct that all the State Governments/ Union Territories/Director Generals of Police shall ensure macro implementation of the statutory provisions and further direct that the activities of each and every police stations, especially with regard to disposal of the seized vehicles be taken care of by the Inspector General of Police of the concerned Division/ Commissioner of Police of the concerned cities/Superintendent of Police of the concerned district. 16. In case any non-compliance is reported either by the Petitioners or by any of the aggrieved party, then needless to say, we would be constrained to take a serious view of the matter against an erring officer who would be dealt with iron hands.

Forest Act Cases

2017 0 Supreme(SC) 550; THE STATE OF MADHYA PRADESH Vs SMT. KALLO BAI Forest Act" confiscatory proceedings are independent of the main criminal proceedings. In view of our detailed discussion in the preceding paragraph we are of opinion that High Court as well as the revisional court erred in coming to a conclusion that the confiscation under the law was not permissible unless the guilt of the accused is completely established.

Court is the competent authority to decide forfeiture or seizure of property u/sec. 50 (4) of Wild Life(Protection) Act 1972. Forest Officer does not have power of ordering forfeiture. **Bhola Kundu Vs Prl. Secy to Govt, Forest Department, Govt. Of A.P. 2014(1) ALD (Crl) 1009 (AP)**

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.

Excise cases

Akbar Vs State of Telangana indiankanoon.org/doc/86643783; 2015 0 Supreme(AP) 22; Magistrate cannot order interim custody of the vehicles involved in Excise cases- DC has to be approached and relief exhausted then approach the Court.

the judgments relied upon by the petitioners in the cases of Bhukya Laxman and Jangam Janaiah (1 and 2 supra) can be ignored for the reason that in those decisions the effect of Section 46 of Excise Act

conferring power exclusively on the Deputy Commissioner of Prohibition and Excise was not considered.

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.

Cow Slaughter act

Ramavath Hanuma @ Hanumanthu vs State Of Telangana ; https://indiankanoon.org/doc/55504842/;
accused respondents are not entitled to the interim custody of seized cattle".

Gaming Act

Pandem Narender Vs State

Prevention of Corruption Act, 1988 – Section 19(1) – Previous sanction of the Government mandatory for cognizance against a public servant – The provision bars taking of cognizance of an offence – Whether covers an order passed u/s 156(3) – Held, order directing further investigation under Section 156(3) cannot be passed in the absence of valid sanction. (Para 12)
(b) Prevention of Corruption Act, 1988 – Section 19 – Appellants-Government servants abused entirely different office or offices than the one which they were holding on the date on which cognizance was taken – Previous sanction of Government not required for taking cognizance against them.
(2016) 3 SCC (Cri) 696; (2016) 9 SCC 598; 2016 0 Supreme(SC) 681; L. NARAYANA SWAMY VS STATE OF KARNATAKA & ORS

Constitution of India – Article 213(2)(a) – Effect of not laying an Ordinance before state legislature – Ordinance will cease to operate on expiry of six weeks after reassembly of the legislature – It is not mandatory to lay an Ordinance before the legislature – Ordinance does not become null and void by not laying it before the legislature – Article 213(2) cannot be construed to mean that if the Ordinance is not so laid, it will not have the force and effect of a law
2017 0 Supreme(SC) 10; (7 JUDGE BENCH) Krishna Kumar Singh & Anr. Vs State of Bihar & Ors.

Yoginder Garg & others V/s Govt. Of AP Rep. By Prl. Secretary, Home and others ; 2016 (2) ALT (Crl) 12 (AP) Criminal Procedure Code – Sec. 173 (1) and 173 (8) – Police are empowered to further investigate a crime if fresh

information comes to light – Decision to initiate further investigation lies within the discretion of police.

Further, in the opinion of this court, a narrow and pedantic view curtailing the power of the Magistrate to direct further investigation, even if he / she is of the opinion that the same is necessary to further the ends of justice, would be retrograde and counterproductive. It would indeed be anomalous to say that the police have such power but despite having supervisory authority over the police under Sec.156 (3) Cr.P.C. the magistrate has no such discretion to direct further investigation in a fitting case! Taking it a step further, once the Magistrate is vested with such power, there is no embargo envisaged in law that prevents the *defacto complainant* from invoking that power by filing an appropriate petition. Trite to state, the *suo motu* power vesting in a court or authority can always be set in motion upon a complaint or petition by an affected party.

R.RACHAIAH Vs. HOME SECRETARY, BANGALORE, 2016 (2) ALD (Crl) 30 (SC) = 2016 (2) Crimes 264 (SC) In a case like this, with the framing of alternative charge on 30.09.2006, testimony of those witnesses recorded prior to that date could even be taken into consideration. It hardly needs to be demonstrated that the provisions of Sections 216 and 217 are mandatory in nature as they not only sub-serve the requirement of principles of natural justice but guarantee an important right which is given to the accused persons to defend themselves appropriately by giving them full opportunity.

Cross-examination of the witnesses, in the process, is an important facet of this right.

Credibility of any witness can be established only after the said witness is put to cross examination by the accused person.

NDPS

Provisions of section 42, NDPS Act are mandatory.

In a case falling under section 42(1), section 43 will not be attracted.

2016 (2) ALD (Crl) 376 (SC); 2016 0 Supreme(SC) 487; State of Rajasthan Vs.Jag Raj Singh @ Hansa

Narcotic Drugs and Psychotropic Substances Act, 1985 – Section 42 and 50 – Search officer himself a gazette officer – Not necessary to ensure compliance of section 42 – Offer to search given to appellant in writing – Appellant searched only after his consent – Section 50 complied with – No error in conviction **2016 0 Supreme(SC) 496; 2016(2) ALD (Crl) 388(SC); Sekhar Suman Verma Vs. The Superintendent of N.C.B. & Anr**

65 B IEA Certificate

At any stage TMS Prakash Rao Vs State.

naturally not only the audio but also audio and video within the meaning of statement in writing, however, it is necessary to mention that mere filing of the C.D. and supply of copy to the opposite party is not enough but the photographs of the videographed material of the C.D. as well as audio conversation by exact words got written to be filed before the Court for its verification and its authenticity by duly certifying before its use. **S.Krishnaiah Vs M/s Guru Raghavendra Traders 2015(3) ALT (Crl) 398 (A.P.)**

Qua the words 'soon before' appearing in Sec. 113-B IPC, it is no longer res integra that the same is laden with the notion of proximity test, but not synonymous with the term 'immediately before'. **M.NARAYAN Vs. STATE OF KARNATAKA 2015 (2) ALD (Crl) 949 (SC)**

Mandatory requirement prescribed under Section 50 will have to be complied with only when a search is carried out on the body of a person and the same cannot have any effect when it comes to the question of effecting a search on any premises for which the compliance required to be carried out is as has been set out in Section 42 of the said Act itself. Supreme Court of India in **GULSHER MOHD. Vs.STATE OF HIMACHAL PRADESH 2015(12) Scale 1**

There can be no second FIR in event of any further information being received by investigating agency in respect of same occurrence. Supreme Court of India in **Awadesh Kumar Jha @ Akhilesh Kumar Jha & Anr Vs State of Bihar 2016 (1) Crimes 38 SC**

The economic offence of defrauding bank by forgery is fraud against society, merely paying back loan amount is not a ground to quash criminal proceedings. **CBI Vs. Maninder Singh 2015 (4) Crimes Sc 338**

It is settled principle that a conviction can well be founded on the testimony of a single witness if the court finds his version to be trustworthy and corroborated by record on material particulars. **KAMALA KANT DUBEY Vs STATE OF UP; 2016 (1) ALT (Crl) 59 SC**

Testimony of witness U/Sec.161 Cr.P.C. does not become unreliable, merely because there is a delay in examination of that witness by the police. Investigation Officer is not obliged to anticipate all possible defenses and

investigate in that line. **VK MISHRA & ANOTHER Vs STATE OF UTHARAKHAND; 2016 (1) ALT (Crl) 107 SC**

The identification for the first time in court is good enough and can be relied upon if the witness is otherwise trustworthy and reliable. **ASHOK DEBBARAMA @ ACHAK DEBBARAMA Vs STATE OF TRIPURA; 2014 (2) ALT (Crl) 400 SC**

I do not know the contents of Ex.P1 report – statement by illiterate complainant. It is clear to us Pw1's deposition can't be discredited basing on this stray statement. **PAYAM RAJULU Vs STATE OF AP; 2016 (1) ALT (Crl) 1 AP**

When the victim has not complained about the procedure of non recording of the victim's 154 (1) and 161(3) Cr.P.C. statement by a women officer, the accused cannot take advantage of the same. **Pasupalleti Srinivasa Rao Vs The State of A.P. rep by its Public Prosecutor and another 2016(1) ALD (Crl) 207.(A.P)**

Charge sheet cannot be kept pending from being numbered on the ground that the absconding accused are not produced.(Charge Sheet can be filed against absconding accused). **State of U.P. & others Vs Anil Kumar Sharma and another. 2016(1) ALD (Crl) 267(SC)(FB)**

Sexual Offence against a minor belonging to Schedule Caste. POCSO act and SC & ST POA Act, both having non-obstinate clauses for exclusive trial- Trial to be held by Spl Court for POCSO offences, in view of the special procedures and safeguards of trial under the act. **State of A.P. Vs. Mangali Yadagiri 2016 (1) ALD (Crl) 314 (A.P)**

In these days, civilized people are generally insensitive to come forward to give any statement in respect of any criminal offence. Unless it is inevitable, people normally keep away from the Court as they feel it distressing and stressful. Though this kind of human behaviour is indeed unfortunate, but it is a normal phenomena. We cannot ignore this handicap of the investigating agency in discharging their duty. We cannot derail the entire case on the mere ground of absence of independent witness as long as the evidence of the eyewitness, though interested, is trustworthy. ***It is only when the contradiction between the two is so extreme that the medical evidence completely rules out all possibilities of the ocular evidence being true at all, that the ocular evidence is liable to be disbelieved.*" (2016) 43 SCD 447 - Sadhu Saran Singh Vs. State of U.P**

CONTRADICTION

Krishan Chander vs State Of Delhi (2016) 1 SCC (Crl) 725 = (2016) 3 SCC 108 = https://indiankanoon.org/doc/199582897/= 2016 STPL(Web) 11 SC -Under Section 145 of the Evidence Act when it is intended to contradict the witness by his previous statement reduced into writing, the attention of such witness must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of a witness, it becomes the duty of the trial court to ensure that the part of the police statement with which it is intended to contradict the witness is brought to the notice of the witness in his cross-examination. The attention of witness is drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need to further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process the contradiction is merely brought on record, but it is yet to be proved. Thereafter when investigating officer is examined in the court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the investigating officer who again by referring to the police statement will depose about the witness having made that statement. The process again involves referring to the police statement and culling out that part with which the maker of the statement was intended to be contradicted. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the court cannot suo motu make use of statements to police not proved in compliance with Section 145 of the Evidence Act that is, by drawing attention to the parts intended for contradiction.

Nankaunoo Vs State of U.P. (2016) 1 SCC (Crl) 857 (FB) = (2016) 3 SCC 317 (FB) = (2016) 43 SCD 251 Intention is different from motive. It is the intention with which the act is done that makes adifference in arriving at a conclusion whether the offence is culpable homicide or murder. The third clause of Section 300 IPC consists of two parts. Under the first part it must be proved that there was an intention to inflict the injury that is present and under the second part it must be proved that the injury was sufficient in the ordinary course of nature to cause death.

The 'intention' and 'knowledge' of the accused are subjective and invisible states of mind and their existence has to be gathered from the circumstances, such as the weapon used, the ferocity of attack, multiplicity of injuries and all other surrounding circumstances. The framers of the Code designedly used the words 'intention' and 'knowledge' and it is accepted that the knowledge of the

consequences which may result in doing an act is not the same thing as the intention that such consequences should ensue. Firstly, when an act is done by a person, it is presumed that he must have been aware that certain specified harmful consequences would or could follow. But that knowledge is bare awareness and not the same thing as intention that such consequences should ensue. As compared to 'knowledge', 'intention' requires something more than the mere foresight of the consequences, namely the purposeful doing of a thing to achieve a particular end. In the light of unimpeachable oral evidence which is amply corroborated by the medical evidence, non-recovery of 'countrymade pistol' does not materially affect the case of the prosecution. In a case of this nature, any omission on the part of the investigating officer cannot go against the prosecution case. Story of the prosecution is to be examined dehors such omission by the investigating agency. Otherwise, it would shake the confidence of the people not merely in the law enforcing agency but also in the administration of justice.

Disciplinary proceedings and criminal proceedings operate in two different fields---Disciplinary action relates to employer losing trust and confidence on employee on account of alleged misconduct affecting image and reputation of employer---Criminal proceedings relate to committing of crime by a person who is in public employment, during course of his employment and in gross abuse of his position in the service---If employee indulges in acts of misconduct which also attract criminal prosecution, ordinarily employer not only initiates departmental action but also lodges complaint with police. Disciplinary proceedings and criminal proceedings operate in two different fields---Disciplinary action relates to employer losing trust and confidence on employee on account of alleged misconduct affecting image and reputation of employer---Criminal proceedings relate to committing of crime by a person who is in public employment, during course of his employment and in gross abuse of his position in the service---If employee indulges in acts of misconduct which also attract criminal prosecution, ordinarily employer not only initiates departmental action but also lodges complaint with police. **A.X. Edwin Vs. State Bank of Hyderabad, rep. by its Managing Director & Others 2016 0 Supreme(AP) 29**

the de facto complainant is not entitled to the concession of claiming as still a member of the Scheduled Caste for the benefit of Act 33 of 1989 as Section 3 sub-section (1) on wording is whoever not being a member of Scheduled Caste or Scheduled Tribe, particularly sub sections 9 and 10 uses the word a member of Scheduled Castes or a Scheduled Tribe, to mean he must continue as on the date of alleged occurrence as a member of the Scheduled Caste or Scheduled Tribe. Once he is ceased to be a member of Scheduled Caste or Scheduled Tribe by conversion into Christianity from the words discussed particularly from the

Order, 1950 amended by Act 63 of 1956 and later by Act 15 of 1990 and covered by the Three-Judge Benchs well considered expression in Soosais case that was not even referred to the conclusion in another Three-Judge Bench expression in Chandra Mohanans case, the de facto complainant for no longer continues as a member of Scheduled Caste from the facts supra and when not entitled to the benefit of Section 3 of the Act, the prosecution invoking Section 3(1)(x) of the Act is unsustainable and the cognizance taken as PR.C. is unsustainable and liable to be quashed. **Chinni Appa Rao S/o.Simhachalam, Vs. State of A.P. 2016 (1) ALD (Crl) 545 = LAWS(APH)-2015-12-22 =**

2016] 0 SUPREME(SC) 351 MUDDASANI VENKATA NARSAIAH (D) TH. LRS. VS MUDDASANI SAROJANA Practice and Procedure – Cross examination – Not only a matter of procedure but that of substance – Non cross-examination of a witness – Effect – Not disputing statement of the witness – If a witness is not cross-examined his statement will be deemed to have been accepted. (Para 16) AIR 1963 SC 1906 – Relied upon

[2016] 0 SUPREME(SC) 300 CHAMAN VS STATE OF UTTRAKHAND (d) Criminal trial – Standard of proof – Beyond reasonable doubt – Only a guideline, not a fetish – Guilty cannot get away only because offence not established beyond reasonable doubt – Caution against exaggerated devotion to the rule of benefit of doubt – Reasonableness of doubt must be commensurate to the nature of the offence to be investigated. (Para 31) (1978) 4 SCC 161; (1990) 1 SCC 445 – Relied upon

2016(1) ALD (Crl) 810 (SC) Anant Prakash Sinha @ Anant Sinha Vs State of Haryana
Defacto complainant can file an application for alteration of charges

2016(1) ALD (Crl) 822 (SC) = (2016) 4 SCC 357 **Sadhu Saran Singh Vs State of U.P. and others** As far as the non-examination of any other independent witness is concerned, there is no doubt that the prosecution has not been able to produce any independent witness. But, the prosecution case cannot be doubted on this ground alone. In these days, civilized people are generally insensitive to come forward to give any statement in respect of any criminal offence. Unless it is inevitable, people normally keep away from the Court as they feel it distressing and stressful. Though this kind of human behaviour is indeed unfortunate, but it is a normal phenomena. We cannot ignore this handicap of the investigating agency in discharging their duty. We cannot derail the entire case on the mere ground of absence of independent witness as long as the evidence of the eyewitness, though interested, is trustworthy

DYING DECLARATION

In the case of Mohan Lal & others v. State of Haryana(2007 AILD 55 (SC) , the Supreme Court has quoted several judgments on the principles governing dying declaration, which could be summed up as indicated in Smt.Paniben v. State of Gujarat(AIR 1992 SC 1817) as under :

1. There is neither rule of law nor of prudence that dying declaration cannot be acted upon withoutcorroboration [See Munnu Raja and another vs. State of Madhya Pradesh (1976) 2 SCR 746].

2. If the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. [See State of Uttar Pradesh Vs. Ram Sagar Yadav and others, AIR 1985 SC 416 and Rama Devi Vs. State of Bihar, AIR 1983 SC 164].

3. The Court has to scrutinize the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had an opportunity to observe and identify the assailants and was in a fit state to make the declaration. [See K.Ramachandra Reddy and another Vs. Public Prosecutor, AIR 1976 SC 1994].

4. Whether the dying declaration is suspicious, it should not be acted upon without corroborative evidence. [See Rasheed Beg Vs. State of Madhya Pradesh, 1974 (4) SCC 264].

5. Whether the deceased was unconscious and could never make any dying declaration, the evidence with regard to it is to be rejected. [See Kaka Singh Vs. State of M.P., AIR 1982 SC 1021].

6. A dying declaration which suffers from infirmity cannot form the basis of conviction. [See Ram Manorath and others Vs. State of U.P., 1981 (2) SCC 654].

7. Merely because a dying declaration does contain the details as to the occurrence, it is not be rejected. [See State of Maharashtra Vs. Krishnamurthi Laxmipathi Naidu, AIR 1981 SC 617].

8. Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth. [See Surajdeo Oza and others Vs. State of Bihar, AIR 1979 SC 1505].

9. Normally the Court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to the medical opinion. But where the eye-witness said that the deceased was in a fit and conscious state to make the dying declaration, the medical opinion cannot prevail. [See Nanahau Ram and another Vs. State of Madhya Pradesh, AIR 1988 SC 912].

10. Where the prosecution version differs from the version as given in the dying declaration that said declaration cannot be acted upon. [See State of U.P. Vs. Madam Mohan and others, AIR 1989 SC 1519].

11. Where there is more than one statement in the nature of dying declaration, one first in point of time must be preferred. Of course, if the plurality of dying

declarations could be held to be trustworthy and reliable, it has to be accepted. [See Mohanlal Gangaram Gehani Vs. State of Maharashtra, AIR 1982 SC 839]."

12. In addition to above, in the case of Nallapati Sivaiah V. Sub-Divisional Officer, Guntur , the Hon'ble Supreme Court held that nobody would wish to die with a lie on his lips. A dying declaration has got sanctity and a person giving the dying declaration would be the last to give untruth as he stands before his creator. There is a legal maxim nemo moriturus praesumitur mentire, meaning that a man will not meet his maker with a lie in his mouth

Without Medical Certificate

Gulzari Lal v/s State of Haryana; 2016 (2) ALT (Crl) 1 (SC) Validity of Dying declaration – without obtaining certificate of fitness of the declarant by a medical officer –can be recorded

Baldev V/s State of Haryana ; 2016 (2) ALT (Crl) 54 (SC) NDPS Act Sec. 15 and 35 – only witness examined for the prosecution is ASI (Police however not IO) – No mandatory rule that IO should be examined – search held in midnight – conviction can be based on sole testimony of ASI – No proposition of law that evidence of police official, unless supported by independent evidence is untrustworthy of acceptance.

N. Aravind Kumar V/s State of AP: 2016 (2) ALT (Crl) 53 (AP) The Magistrate is now in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted.

Thus, within the prerogative when the investigating officer want to investigate further either to array the entity which was not originally needless to say while taking cognizance by the time the accused entity arrayed in the offence by subsequent and further investigation if there is a bar of limitation for not to take cognizance that is a different thing within the prerogative of the court with reference to factual matrix not to take cognizance or the like. But premature to decide or to control when the investigating agency want to investigate further against the entity or even to show the entity by whom to represent within the area of limited further investigation by intimating the fact to the court practically though it is the application filed in the form of leave, **no leave is contemplated for the right of the police to further investigate but for at best to treat the same as an intimation.** The learned Magistrate failed to consider the scope in dismissing the petition that was rightly interfered by the lower Revisional court by setting aside and there is nothing to interfere.

Kukkala Siva Krishna @ Siva V/s Kukkala Kalyani and another; 2016 (2) ALT (Crl) 68 (AP) Inherent powers – compounding of offences – Inherent powers under Sec. 482 Cr.P.C. or 151 CPC can be invoked only when there is no provision contrary to the order that the court proposes to pass – If there is a specific prohibition regarding a particular procedure, Sec.482 Cr.P.C. may not be invoked.

When there is a specific prohibition to compound the offences other than those mentioned in Sec. 320(1) and 320(2) of Cr.P.C. such offences cannot be compounded

RTI Documents

K. Bhaskar Rao Vs K.A.Rama Rao. 2010 5 ALD 339; 2010 6 ALT 109; 2010 0 Supreme(AP) 352; none of the said documents are certified copies and only the Xerox copies of the documents are certified as true copies under the Right to Information Act. True copies cannot, therefore, be equated to certified copies under the Evidence Act.

PT WARRANT.

State By Inspector Of Police vs K.N.Nehru; https://indiankanoon.org/doc/32316133/; If the police officer decides not to effect formal arrest, it will be lawful for him to straightaway make an application to the Jurisdictional Magistrate for issuance of P.T.Warrant for transmitting the accused from prison before him for the purpose of remand. On such request, if the Magistrate finds that the requirements of Section 267 of the Code of Criminal Procedure are satisfied, he shall issue P.T.Warrant for the production of the accused on or before a specified date.

DEFECTIVE INVESTIGATION

As regards the other lacunae argued by the learned Counsel, as referred to above, howsoever defective the investigation may be, so long as it does not affect the case of prosecution, and if the evidence on record is strong enough, the real culprit cannot be allowed to escape punishment (State of U.P. v. Jagdeo, (2003) 1 SCC 456). In Karnel Singh v. State of M.P., (1995) 5 SCC 518) the Supreme Court held that in cases of defective investigation the Court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the Investigating Officer if the investigation is designedly defective. In that case, though the Investigating Officer has failed to record the statements of two important witnesses to the incident of rape and also draw up a proper seizure memo with regard to the 'chaddi' (underwear), while holding the

investigation as slipshod and defective, the Court has nevertheless confirmed the conviction of the accused.

In State of U.P. v. Ram Veer Singh, (2007 (6) Supreme 164), the Supreme Court held that miscarriage of justice which may arise out of acquittal of the guilty is no less than that results from the conviction of an innocent. Therefore, on the facts and circumstances of the case, we feel that it would be a grave miscarriage of justice, if the appellant is acquitted based on the loose ends of investigation. In the case on hand, the evidence of PW-1 was amply corroborated by the other evidence as discussed hereinbefore. Therefore, though the investigation was faulty and defective and was left a lot to be desired, we are not prepared to let off the appellant whose guilt is proved beyond reasonable doubt.

Compoundable Offences (as per the judgments of Courts)

Sec 354	Nallajerla Muralikrishna Vs State of Telangana.
Sec 120B IPC	Jitender Rana & ors Vs State NCT of Delhi- 2007 Crlj 1641; Rajinder Singh Vs State of Punjab- (2016) Supreme (P& H) 271.
Sec 147 & 148 IPC	Lakshman Vishwakarma Vs State of Jharkhand (2004) 0 Supreme(JHK)1049
Sec 326 IPC	Y.Suresh Babu Vs State of A.P. & anr. (1987) 2 SC 361.
Sec 307 IPC (basing on compromise)	Mahesh Chand Vs State of Rajasthan- AIR 1998 SC 2111;
Sec 3 & 4 D.P.Act (Being personal nature.)	Madan Mohan Abbot Vs State of Punjab (2008) 4 SC 582.
Sec 420, 468, 471 IPC (In Bank Cases where the amounts are paid).	Nikhil Merchant Vs CBI & Anr. (2008) 3 Crimes (SC) 377.

304 A IPC

In the case of Nageshwar Shri Krishna Ghobe v. State of Maharasthra [(1973) 4 SCC 23], the Court observed that "6. In cases of road accidents by fast moving vehicles it is ordinarily difficult to find witnesses who would be in a position to affirm positively the sequence of vital events during the few moments immediately preceding the actual

accident, from which its true cause can be ascertained. When accidents take place on the road, people using the road or who may happen to be in close vicinity would normally be busy in their own pre-occupations and in the normal course their attention would be attracted only by the noise or the disturbance caused by the actual impact resulting from the accident itself. It is only then that they would look towards the direction of the noise and see what had happened. It is seldom — and it is only a matter of coincidence — that a person may already be looking in the direction of the accident and may for that reason be in a position to see and later describe the sequence of events in which the accident occurred. At times it may also happen that after casually witnessing the occurrence those persons may feel disinclined to take any further interest in the matter, whatever be the reason for this disinclination.

Giving Up Witness

The Public Prosecutor is having absolute discretion to examine which witness among the prosecution witnesses cited to prove the case and if he gets any doubt that any of the witnesses not supporting the truth or exhibiting hostility to the truth, there is no compulsion to examine even such witness and seek permission for cross-examination under Section 154 of the Evidence Act invariably as it is one of the choices with prosecution to give up. **2017(2) ALD (Crl) 117; 2017 0 Supreme(AP) 49; V. Naveen Goud, S/o V. Narsaiah Vs. The State of Telanagana**

120B IPC

Selvi.J.Jayalalitha Vs State of Karnataka ; 2017 2 Crimes(SC) 346; 2017 6 SCC 263; 2017 4 Supreme 6; 2017 0 Supreme(SC) 160; Section 120B – Essential elements – Agreement, common design, common intention, collaboration, connivance, jointness in severalty and coordination – Each conspirator playing his separate part in one integrated and united effort to achieve common purpose – Conspiracy may evelop in successive stages – Separate conspiracy may constitute a general conspiracy – Conspiracy can be proved by circumstantial evidence – Hatched in private and in secrecy – No direct evidence would be readily available

Sheikh Sintha Madhar @ Jaffer @ ... vs State Rep.By Inspector Of Police https://indiankanoon.org/doc/98343207= (2016)4 PLRSC 68

A conspiracy is always hatched in secrecy and it is very difficult to gather direct evidence for the proof of the same.

SOME MORE PRECEDENTS OF INTEREST

MEDICAL NEGLIGENCE: [2005] 0 AIR(SC) 3180 / [2005] 6 SCC 1 / [2005] 3 Crimes(SC)/ [2005] 0 CrLJ 3710 - Jacob Mathew Vs. State Of Punjab **-** we propose to lay down certain guidelines for the future which should govern the prosecution of doctors for offences of which criminal rashness or criminal negligence is an ingredient. A private complaint may not be entertained unless the complainant has produced prima facie evidence before the Court in the form of a credible opinion given by another competent doctor to support the charge of rashness or negligence on the part of the accused doctor. The investigating officer should, before proceeding against the doctor accused of rash or negligent act or omission, obtain an independent and competent medical opinion preferably from a doctor in government service qualified in that branch of medical practice who can normally be expected to give an impartial and unbiased opinion applying Bolam's test to the facts collected in the investigation. A doctor accused of rashness or negligence, may not be arrested in a routine manner (simply because a charge has been levelled against him). Unless his arrest is necessary for furthering the investigation or for collecting evidence or unless the investigation officer feels satisfied that the doctor proceeded against would not make himself available to face the prosecution unless arrested, the arrest may be withheld.

Examination through internet- [2015] 0 Supreme(AP) 263 Dasam Vijay Rama Rao Vs. M. Sai Sri- in order to curb unnecessary delay in proceedings for the presence of a person abroad- latest technology like SKYPE can be used to examine a person.

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]

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

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

Multiple dying Declarations: 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)

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

2015 STPL(Web) 14 SC= 2015(1) ALT 431 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.

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.

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) 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 Mensrea is the essential ingredient.** 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) 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 STPL(Web) 1599 AP [2014 (4) Crimes 34 (A.P.)] =2015(1) ALD (Crl) 590. 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.

2015 STPL(Web) 98 (SC) RAJINDER KUMAR Vs. STATE OF HARYANA Penal Code, 1860, Section 304B – Dowry death – Relation witness – Testimony of – Appreciation of evidence – **In normal circumstances, in the Indian Society demand for dowry or harassment for the same takes place within four corners of the house** – 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 – 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. – Seldom, the villagers- neighbours may come to know of the same – 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.

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

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,

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

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

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).**

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.**

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.**

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.**

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.

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

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 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.

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-2015 STPL(Web) 302 SC Satwantin Bai Vs. Sunil Kumar & Anr

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.

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.

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.

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

the word "shall" used in sub - Section 173 (5) cannot be interpreted as mandatory, but directory. Documents can be filed subsequently with the permission of the court. 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

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

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. 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.

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 – 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, DEEPAK Vs. STATE OF HARYANA 2015 STPL(Web) 186 SC = 2015 CRI. L. J. 2049 = (2015) 4 SCC 762= (2015) 2 SCC (Cri) 744 = 2015 (2) ALT (Cri) 441 (SC)

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.

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 witness' – By giving voice sample, accused does not convey any information based upon his personal knowledge which can incriminate him

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/

PAWAN KUMAR @ MONU MITTAL Vs. STATE OF U.P. & ANR. (2015) 3 SCC (Cri) 27 = (2015) 7 SCC 148= **The "fact discovered" 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.**

[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:

"39……. **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.**

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.

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.

S.258 Cr.P.C. applies only to those cases which are instituted on po lice 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).

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 a nd another Vs State of Uttarakhand and another. 2015(2) ALD (Crl) 533 (SC) (THREE JUDGE BENCH)

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 SH ARMA AND ANR. (2015) 3 SCC (CRI) 368= (2015) 6 SCC 716.

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 against the accused by invoking due process of law. Dr.Raman Srikanth Vs State of Telangana. 2015 (3) ALT (Cri) 189 (A.P)

Mere non- examination of investigating officer does not in every case ca use 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

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(We b) 827 SC = (2015) 3 SCC (Cri) 539 = (2014) 16 SCC 560.

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. BACHPAN BACHAO ANDOLAN Vs UNION OF INDIA & ORS. (3 JUDGE BENCH) (2015) 3 SCC (Cri) 552 = (2014) 16 SCC 616

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 = (20 15) 3 SCC (Cri) 653 = (2015) 8 SCC 494.

DNA PROFILING – 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 – 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)

COUNTER TO BAIL APPLICATION

IN THE COURT OF THE HON'BLE MAGISTRATE, DISTRICT: AT

Crl. M.P. No. Of 2018

In

Cr. No. Of 2018

Between:

----- Petitioner/Accused

And

The State
Thru P.S. ----- Respondent/Complainant

COUNTER FILED ON BEHALF OF THE RESPONDENT/COMPLAINANT

May it please your honour,

1. It is submitted that the petition for bail filed by the petitioner/accused is neither maintainable under law or on facts and the same is liable to be dismissed in limini.
2. It is submitted that this respondent denies all the adverse allegations contained in the petition under reply and nothing contained therein should be deemed to have been admitted by this respondent, unless done so specifically herein.
3. This respondent craves leave of this Hon'ble Court to read the RCD in this case as part and parcel of this counter. In addition to the grounds mentioned in the Remand Case diary, it is further submitted that the petitioner is not entitled for grant of bail on the following grounds.
   a. As per the investigation done so far by the investigation agency, there is prima facie and reasonable ground to believe that the accused had committed the offence;
   b. It is submitted that the nature and gravity of the offence committed by the petitioner disentitles him for the relief of bail.
   c. It is submitted that the severity of the punishment in the event of conviction also does not approve the enlarging the petitioner/accused on bail.
   d. It is submitted that the danger of the accused absconding or fleeing, if released on bail would make the situation rampant;
   e. It is submitted that the previous character, behaviour, means, position and standing of the accused also goes against the Petitioner/accused from being set free on bail;
   f. It is submitted that the likelihood of the offence being repeated by the accused is also apprehended and hence the petitioner/accused cannot be enlarged on bail.
   g. It is submitted that there is also a reasonable apprehension of the witnesses being influenced by the accused if enlarged on bail.
   h. It is submitted that the accused may also tamper the investigation and hamper the investigation.
   i. It is submitted that there is danger to justice being thwarted by grant of bail.
   j. Other grounds will be urged at the time of hearing of the bail petition.
   k.

4. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm to the society. The victim may be an individual, but in the ultimate eventuate, it is the society which is the victim. A crime, as is understood, creates a dent in the law and order situation. In a civilized society, a crime disturbs orderliness. It affects the peaceful life of the society. Hence the petitioner/accused cannot be dealt with leniently.

It is therefore prayed that this Hon'ble Court be pleased to dismiss the petition under reply as devoid of merits, in the interests of justice.

Be pleased to Consider,

Place
Dt. APP

PROFORMA COUNTER TO DISCHARGE PETITION

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE
DISTRICT : At

Crl. M.P. No: of 2018
In
C.C. No: of 20

Between:

----- Petitioner/Accused

And

State
Thru P.S- ----- Respt/Complainant

COUNTER FILED ON BEHALF OF THE RESPONDENT/COMPLAINANT

May it please your honour,

1. The petition filed U/Sec 239 Cr.P.C. by the petitioner/Accused, is neither maintainable under law or on facts and the same is liable to be dismissed in limini.
2. It is submitted that this respondent denies all the adverse allegations contained in the petition under reply and nothing contained therein should be deemed to have been admitted by this respondent, though the same is not specifically denied herein.
3. It is submitted that the investigation revealed that on < Contents of the Charge sheet last para which states that investigation revealed >.
4. The evidence collected by the I.O. supports the above facts pinning the offence U/Sec IPC, against the petitioner herein, hence the petitioner is not eligible to be discharged.
5. It is submitted that the petitioner has failed to produce any evidence to substantiate his claim and though hypothetical, even if he has any such evidence, this is not the stage for production of the same and the same can be produced only at the time of trial. Hence even the petitioner requires a trial to be conducted.
6. It is submitted that as seen from the above, there is prima facie case against the accused as revealed by the witnesses and also in the investigation.
7. It is submitted that the allegations made by the petitioner against the witnesses and the charge sheet are baseless and concocted and a full fledged trial alone would bring the facts to the fore. Even the petitioner herein would require a full fledged trial to substantiate his pleas. Hence this petition is liable to be dismissed on this ground alone.
8. It is further submitted that there is ample evidence both oral and documentary, to bring home the guilt of the accused, which would be produced at the relevant stages. Hence the petitioner is not entitled to be discharged of the offence.

Date: Asst. Public Prosecutor

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE
District: at

CRL.M.P. NO: OF 2018
IN
C.C. NO. of 20

Between:
State
Thru P.S ----- Petitioner/Complainant

And

---- Respondent/accused.

PETITION FILED UNDER SEC 105(B) of Cr.P.C.

May it please your honour,

1. The above case is split-up case against the respondent/Accused for the offence under Sec , and the same is coming up for the appearance of the accused, who is abroad in _____ country.
2. It is submitted that the respondent/accused despite the knowledge of the issuance of NBW by this Hon'ble court, was evading the same and thus creating a hindrance in the progress of the case.
3. It is submitted that the respondent is wantonly and deliberately evading from presenting himself in this court, with an intention to further subject the defacto complainant to further harassment and hardship. Hence, it is just and necessary that in order to secure his presence before this Hon'ble court for progress of the case and for delivery of justice, the NBW be served against the Accused in _____ country. .
4. It is submitted that Our Country has entered into a MLAT (Mutual Legal Assistance Treaty) with the _____ Country and hence the _____ country be requested to serve the NBW on the respondent/accused, for the purpose of progress in the case.

It is therefore prayed that this Hon'ble court be pleased to send the NBW to

The Under Secretary (Legal),
IS II Division,
Govt of India,
Ministry of Home affairs,
9th floor, Lok Nayak Bhawan,
New Delhi-110003

Through proper Channel (State Government), for the purpose of execution on the respondent/accused, in the interests of justice.

Date: A.P.P.

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE DISTRICT

Crl. M.P. No: of 2018

In

C.C. No: of 20

Between:

State
Thru P.S. -----Petitioner/Complainant

And

-----Respondents/Accused

PETITION FILED U/Sec 242 Cr.P.C. FOR RECEIVING DOCUMENTS

May it please your honour,

The above case is pending trial against the respondents/accused for the offences under sec. and the same is coming up for evidence on behalf of the prosecution.

It is submitted that the originals germane and pertaining to the facts of the case were kept in the safe custody by the defacto complainant. The originals of the same are now being filed now.

It is submitted that the above documents are very much necessary for proper adjudication of the case. The non-filing of the same earlier are neither willful nor wanton but for the fact mentioned above.

It is submitted that no prejudice will be caused to the other side if the enlisted documents are received onto file, as the respondents have the valuable right of cross-examining the witness, to put forth their case. On the other hand, the defacto complainant will be put to much hardship and irreparable loss, if the enlisted documents are not received onto file.

It is submitted that this Hon'ble Court has ample powers under the following precedents to allow this application.

1. **[2015] 1 ALD(Cri) 447 between Dilawar Hussain Vs. State of Andhra Pradesh**
2. **G. Saroja v. State of Andhra Pradesh and another, 2011 (1) ALD (Crl.) 822 (AP)**
3. **CBI Vs R.S.Pai, AIR2002SC1644; 2002(1)ALD(Cri)725; 2002CriLJ2029;**

It is therefore prayed that this Hon'ble court be pleased to receive the enlisted documents onto file for the purpose of marking the same as exhibits in the above case, in the interests of justice.

Be pleased to consider.

Place:
Date: APP

ADDITIONAL WITNESS PETITION

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE
DISTRICT: At

Crl. M.P. No: OF 2018
IN
C.C. No: OF

Between:
State of A.P.
Thru P.S- ---- Petitioner/Complainant

And

---- Respondents/Accused

PETITION FILED U/SEC 311 Cr.P.C.

May it please your honour,

1. The above case is pending trial before this Hon'ble court against the respondents/accused for the offence U/Sec
2. It is submitted that there are other witnesses who can speak about the said offences, but they were not examined by the Police. The PW-- had during his/her chief evidence has mentioned the presence of the said witnesses and their acquaintance of the facts of the case.
3. It is submitted that these witnesses are crucial not only to bring home the guilt of the accused but also for the better adjudication of the case.
4. It is submitted that the summoning and examination of the said witnesses would not cause any prejudice to the accused, as the valuable right of cross examination would be available to them/him.
5. It is submitted that the following witnesses are essential to depose for correct adjudication of the case. This Hon'ble court may kindly issue the summons to these witnesses.
6. It is submitted that if an opportunity to examine the said witnesses is not granted then the de-facto complainant would suffer irreparable loss and hardship, which cannot be compensated in any terms.

It is therefore prayed that this Hon'ble court be pleased to summon the said witnesses,

1. Sri--------- S/o.---------, aged----- years, Occ:---------, R/o. ----------.
2. Sri--------- S/o.---------, aged----- years, Occ:---------, R/o. ----------.

in the interests of justice.

Be pleased to consider.

Complainant

Date:

APP

Counter to 311 CrPC Petition.

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE DISTRICT AT

Crl.M.P. No. of 2018

In

C.C. No. of 201

Between:

----- Petitioner/Accused

And

State through P.S.

----Respondent/Complainant

COUNTER FILED ON BEHALF OF RESPONDENT/COMPLAINANT

May it please your honour,

1. The petition filed by the petitioner/accused for recall of the witness is neither maintainable under law or on facts and the same is liable to be dismissed inlimini.

2. This respondent denied all the adverse allegations contained in the petition under reply and submit that the petitioner be put to strict proof of the same.

3. It is submitted that the petitioner has not given any cogent admissible reasons for recalling the witness. This respondent apprehends that the present petition is
    a. directed to prolong the case and
    b. harass the witnesses and
    c. also to arm-twist the witnesses into succumbing to their intention of becoming hostile and
    d. also to nullify the evidence that came on record, by keeping the witness away from appearing in the court again after recall.

4.

It is therefore prayed that this Hon'ble Court be pleased to dismiss the petition under reply as devoid of merits, in the interests of justice.

Be pleased to consider.

Dt. APP

ADDITIONAL ACCUSED PETITION

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE

DISTRICT: At

Crl. M.P. No: OF 2018

IN

C.C. No: OF

Between:

State of A.P.

Thru P.S- ---- Petitioner/Complainant

And

---- Respondents/Accused

---- Proposed Respondent/Accused

(The Respondents/Accused no. are not necessary parties to this petition as No relief is claimed against them)

PETITION FILED UNDER SECTION 319 Cr.P.C.

May it please your Honour,

1. The above C.C. is pending against the respondents/accused for the offence U/Sec and the same is coming up for further evidence.

2. It is submitted that the de-facto complainant had preferred the complaint against all the accused herein, but during the filing of the charge sheet, the names of the respondents/accused no. herein were deleted.

3. It is submitted that during the chief examination of the de-facto complainant as PW1, it has come on record that the above said persons were also instrumental in the commission of the offence, hence it is just and necessary to try the above case against the above said persons also.

4. It is submitted that the non-filing of this application earlier is neither willful nor wanton but for the fact of the deletion of the names of the respondents/accused has come to the knowledge of the de-facto complainant, only now, hence this application is being preferred now.

5. It is submitted that no prejudice will be caused to the respondents/accused, but on the other hand, it will pave way for adjudication of the case against all the accused, thus avoiding multiple litigations and unnecessary delay.

6. It is submitted that this Hon'ble Court has ample powers as held by the constitution bench of Apex court in Hardeep Singh Vs State of Haryana, reported as , (2014) 1 SCC (Cri) 236, to allow this application.

It is therefore prayed that this Hon'ble court be pleased to summon the proposed respondents/Accused and try the above case against them also, in the interest of justice.

Date: Petitioner

APP

MEMO FOR COPY OF JUDGMENT

IN THE COURT OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE DISTRICT AT

C.C. No. of

Between:

State through P.S.

----- Complainant

And

------ Accused

MEMO FILED U/RULE 72 OF CRIMINAL RULES OF PRACTICE

May it please your honour,

It is submitted that as per rule 72 of Criminal rules of Practice, a copy of the judgment is to be furnished to the prosecution. The said rule is hereby reproduced for the court's kind convenience and perusal.

> 72. Copies to the Prosecution and the Accused:- **Copies of judgments shall be given to the accused and the prosecution.** When a person who has been convicted of an office, applies for another copy of judgment in addition to the one required to be furnished to him U/s. 363 of the code, with a view to memorializing Government, he shall be furnished with another copy in all cases free of cost except in summons cases.

It is therefore prayed that this Hon'ble Court be pleased to furnish a free copy of the judgment delivered in the present case, in the interests of justice.

Be pleased to consider.

Dt: APP.

APPEAL OPINION & GROUNDS PROFORMA

To, Date:
The Station House Officer,
P.S-
District.

Sir,

Sub: Preferring appeal against the judgment dated in C.C. No. of , on the file of the _____ Magistrate, - regd.

*****

With reference to the subject cited above, the Hon'ble Trial Court Magistrate, , delivered a judgment dated in C.C. No. of , acquitting the accused of the offence U/Sec IPC.

I am of the opinion that the said judgment is erroneous and there is every chance of success if we prefer an appeal, against the said judgment. I am enclosing the certified copies of the impugned judgment; evidence produced on behalf of the prosecution for your kind perusal.

I am also enclosing the draft of grounds of appeal for your kind perusal.

I therefore please take steps, to file an appeal, against the said judgment.

Thanking you,

Yours faithfully,

A.P.P., Court.

Enclosed:

1. The certified copies of the impugned judgment.
2. The depositions

PAGE -2

Draft GROUNDS of Appeal

1. The judgment of the court below is contrary to Law, weight of evidence and probabilities of the case.
2. The judgment of the lower court is based on only presumptions, surmises and conjectures, which are not relevant to the circumstances of the case.
3. The learned judge should have held that the circumstances relied upon by the accused are insufficient and not proved, to throw away the case of the prosecution.
4. The learned judge ought to have appreciated the evidence produced on behalf of the prosecution and convicted the accused.
5.
6.
7.
8.
9.
10. The learned judge ought to have observed that the accused has not brought out any defence to term them as reasonable doubts, except for blanket denials.

For these and other grounds that may be urged at the time of hearing the appeal, the appellant prays that the Hon'ble court be pleased to set aside the judgment dated in C.C. No. , on the file of the Magistrate, in the interests of justice.

Date: Public Prosecutor

Welcoming the Dignitaries onto the dais.

Cheif Guests: Shri V.Niranjan Rao Garu, Hon'ble Prl Secretary for Law, Telangana.
Shri Ch.Vidya Sagar Garu, Hon'ble Member, T.S.P.S.C and Ex DOP, Telangana.
And
Shri P.Ravinder Reddy, Founder member, Editorial Board of Prosecution Replenish and President, Telangana Public Prosecutors Cadre Association.


PROSECUTION REPLENISH
Welcomes you all to its
5th Anniversary Celebrations


PROSECUTION REPLENISH
Welcomes you all to its
5th Anniversary Celebrations


PROSECUTION REP
Welcomes you all to
5th A ersary Celebra

Tamasoma Jyotirgamaya.

Lead from darkness to light.

Welcome address by Shri P.Ravinder Reddy, Founder member, Editorial Board of Prosecution Replenish and President, Telangana Public Prosecutors Cadre Association.
Report by L.H.Rajeshwer Rao, Founder member, Editorial Board of Prosecution Replenish.

Honouring the guiding (Retired) Prosecutor Shri Ch.Vidya Sagar Garu, Retd. DOP for united state of A.P. and Telangana

Honouring the guiding (Retired) Prosecutor Shri S.Anant Ram Garu, who joined service in 1972 and retired in 1998, and has the credit of conducting prosecution in Vyas Murder Case NHRC Delhi.

Honouring the guiding (Retired) Prosecutor Shri P.Sudarshan Reddy Garu, who joined service in 1972 and retired in 2000.

Honouring the guiding (Retired) Prosecutor Shri R.Bhoomi Reddy Garu, who joined service in 1972 and retired in 2002, and has the credit of conducting prosecution in famous Bank Fraud case.

Honouring the guiding (Retired) Prosecutor Shri M.A.Ravoof Garu, who joined service in 1985 and retired in 2015, and has the credit of serving for 10 years in ACB dept. Sir also served as Joint Director of Prosecutions, Telangana.

Honouring the guiding (Retired) Prosecutor Shri S.K.M.Quadri Garu, who joined service in 1988 and retired in 2015, and has the credit of conducting prosecution in Moddu Srinu case.

Honouring the guiding (Retired) Prosecutor Shri K.Raji Reddy Garu, who joined service in 1972 and retired in 1998.

Honouring the guiding (Retired) Prosecutor Shri B.Yugander Rao Garu, who joined service in 1992 and retired in 2015.

Honouring the guiding (Retired) Prosecutor Shri Krishna Mohan Garu, who joined service in 1992 and retired in 2015.

Honouring the guiding (Retired) Prosecutor Shri Chinaiah Garu, who joined service in 1992 and retired in 2015.

Shri S.Anant Ram Garu giving his valuable response and guiding speech.

Shri Niranjan Rao garu, Hon'ble Principal Secretary for Law, Telangana State addressing the gathering and Sir had expressed his continued co-operation within his might for the department.

Shri Ch.Vidya Sagar garu, addressing the gathering.
Both the Chief Guests have seen Replenish from its begenning to this day and have always supported its endeavours.


PROSECUTION REPLENISH
you all to its
Celebrations


PROSECUTION

Inauguration of the commemorative Diary and the glimpse of some of the Patrons who always stand by Replenish and are reason for the success of Replenish.

Shri M.Nagaraj, Asst. Public Prosecutor, AJFCM Court, Jangaon, speaking about the salient features of the contents of the diary.

Honouring Ms. Rita Lalchand, JCJ, Warangal, Telangana who worked as APP in Telangana State.

Honouring Shri S/Srikanth, JCJ, Vuyyur,A.P. who worked as APP in Telangana State.

Presentation of a Momento as a humble sign of our gratitude towards the support exended to Replenish.

Presentation of a Momento as a humble sign of our gratitude towards the support exended to Replenish.

Presentation of a Momento as a humble sign of our gratitude towards the support exended to Replenish.

Vote of Thanks by Shri Sandeep Pabba, APP.

Group photo of prosecutors of 1992 batch with the honorees.

Group photo of prosecutors of 1998 & 2008 batch with the honorees.

Group photo of prosecutors of 2011 & 2012 batch with the honorees.

Group photo of prosecutors of 2015 batch with the honorees.

Aano Bhadra Karatvo Yantu Vishwatah
Let Noble thoughts come to us from all directions.