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Kali Ram v. State of H.P. 1974 (1) SCR 722		
– relied on	876
Kamalapati Trivedi v. The State of West Bengal 1979 (2) SCR 717		
– relied on	605
Kamarunnissa v. Union of India & Anr., 1990 (1) Suppl. SCR 457	1175
Kapoor (S.P.) (Dr.) v. State of Himachal Pradesh and Others 1982 (1) SCR 1043		
– relied on	1033
Kartar Singh v. State of Punjab (1994) 3 SCC 569	3

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Kartik Malhar v. State of Bihar 1995 (5) Suppl. SCR 239		
– relied on	1133
Kasi Nath Roy v. State of Bihar AIR 1991 SC 3240		
– relied on	....	1158
Kasinka Trading and Anr. v. Union of India and Anr. 1994 (4) Suppl. SCR 448	....	585
Kasturi Lal Lakshmi Reddy v. State of J&K 1980 (3) SCR 1338	....	145
Kehar Singh v. Yash Pal and Ors. AIR 1990 SC 2212		
– relied on	....	584
Kerala SRTC v. Susamma Thomas (1994) 2 SCC 176	....	207
Kishan Lal v. State of Rajasthan 1999 (1) Suppl. SCR 517		
– relied on	....	45
Kishoresinh Ratansinh Jadeja v. Maruti Corporation & Ors. 2009 (5) SCR 527		
– relied on	....	838
Koli Lakhmanbhai Chanabhai v. State of Gujarat (1999) 8 SCC 624		
– relied on	....	48
Kondaskar (S.V.), Official Liquidator v. V.M. Deshpande, I.T.O. & Anr. 1972 (2) SCR 965		
– relied on	....	604
Kraipak (A.K.) and Others v. Union of India and Others 1970 (1) SCR 457		
– relied on	1033

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Kundula Bala Subrahmanyam & Anr. v. State of Andhra Pradesh 1993 (2) SCR 666		
– relied on	901
Kunhayammed & Ors. v. State of Kerala & Anr. 2000 (1) Suppl. SCR 538		
– distinguished	....	185
– relied on	....	587
Lakshmi Singh and Ors. v. State of Bihar 1976 (4) SCC 394:	....	665
Lakshmiratan Engineering Works Ltd. (M/s.) v. Asst. Commissioner (Judicial) I, Sales Tax, Kanpur Range, Kanpur & Anr. AIR 1968 SC 488		
– relied on	....	605
Lala Ram v. Hari Ram, AIR 1970 SC 1093		
– relied on	....	605
Lallu Manjhi and Anr. v. State of Jharkhand 2003 (1) SCR 1	....	73
Laxman Singh v. Poonam Singh 2003 (3) Suppl. SCR 528		
– relied on	....	1134
Laxmi (Smt.) v. Om Prakash & Ors. 2001 (3) SCR 777		
– relied on	....	45
Laxminarayan R. Bhattad & Ors. v. State of Maharashtra & Anr. 2003 (3) SCR 409		
– relied on	744
Leela Ram v. State of Haryana 1999 (3) Suppl. SCR 435		
– relied on	853

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LIC v. Consumer Education & Research Centre 1995 (1) Suppl. SCR 349	145
Machchi Singh & Ors. v. State of Punjab 1983 (3) SCR 413		
– relied on	....	701
Machhi Singh v. State of Punjab AIR 1983 SC 957		
– relied on	....	961
Madhav Rao Scindia Bahadur Etc. v. Union of India & Anr. 1971 (3) SCR 9		
– relied on	....	612
Madhavrao Narayanrao Patwardhan v. Ram Krishna Govind Bhanu & Ors. 1959 SC 564		
– relied on	....	612
Madhumilan Syntex Ltd. & Others v. Union of India and Another 2007 (4) SCR 378	....	509
Madhumita (Smt.) Das & Ors v. State of Orissa & Ors 2008 AIR SCW 4274	....	337
Maharashtra Tubes Ltd. v. State Industrial & Investment Corporation of Maharashtra Ltd. & Anr. 1993 (1) SCR 340		
– relied on	....	604
Mahendra Agarwal v. Gopi Ram Mahajan (RLW 2003 (1) Raj 673)	....	196
Mahendra Pratap Singh v. State of U.P. 2009 (2) SCR 1033		
– distinguished	....	854
Majumdar (S.V.) and Others v. Gujarat Fertilizers Co. Ltd and Anr. AIR 2005 SC 2436	506

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Manak Lal v. Dr. Prem Chand 1957 SCR 575	
– relied on 1033
Manik Das and Others v. State of Assam 2007 (7) SCR 863	
– relied on	.... 1135
Mano Dutt & Anr. v. State of U.P. (2012) 4 SCC 79	
– relied on	.... 281
Manohar S/o Shankar Nale and Ors. v. Jaipalsing S/o Shivalalsing Rajput 2007 (12) SCR 364	
– relied on	.... 586
Manu Sao v. State of Bihar 2010 (8) SCR 811	
– relied on	.... 879 & 699
Martin and Harris Ltd. v. VIth Additional District Judge & Ors. AIR 1998 SC 492	
– relied on	.... 605
Masalti v. State of U.P. 1964 SCR 133	
– relied on	.... 1133
Masood Alam v. Union of India, 1973 (3) SCR 268	.... 1174
Masuman v. State of U.P. and Anr. 2007 AIJ (1) 221	.... 1156
Matajog Dobey v. H.C. Bhari 1955 SCR 925	
– relied on 608
Mathur (A. M.) v. Pramod Kumar Gupta 1990 (2) SCR 110	
– relied on 1158

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Mazumdar (S.V.) and Others v. Gujarat State Fertilizer Co. Ltd. and Another 2005 (3) SCR 857 509
Medical Council of India v. Madhu Singh & Ors. 2002 (2) Suppl. SCR 228	
– relied on	.... 775
Medical Council of India v. Rajiv Gandhi University of Health Sciences 2004 (3) SCR 1119	.... 794
Meera (N.) Rani v. Govt. of Tamil Nadu, 1989 (3) SCR 901	.... 1175
Meghmala & Ors. v. G. Narasimha Reddy & Ors. 2010 (10) SCR 47	
– distinguished	.... 185
Mehta (M.C.) v. Union of India (2009) 6 SCC 142	.... 1078
Meka Ramaswamy v. Dasari Mohan & Ors. AIR 1998 SC 774	
– cited	.... 898
Modi Cement Ltd. (M/s.) v. Shri Kuchil Kumar Nandi AIR 1998 SC 1057	.... 505
Mohinder Pal Jolly v. State of Punjab AIR (1979) SC 577	
– relied on	.... 663
Mona Panwar v. High Court of Judicature of Allahabad Through its Registrar & Ors. 2011 (2) SCR 413	.... 1078
Motilal Padampat Sugar Mills Co. Ltd. (M/s) v. State of Uttar Pradesh and Ors. 1979 (2) SCR 641 585

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Mousam Singha Roy & Ors. v. State of W.B. (2003) 12 SCC 377		
– relied on	879
Mridul Dhar (Minor) & Anr. v. Union of India & Ors. 2005 (1) SCR 380		
– relied on	....	775
Munnu Raja and Another v. The State of Madhya Pradesh 1976 (2) SCR 764	....	45
Munshi Prasad & Ors. v. State of Bihar 2001 (4) Suppl. SCR 25	....	284
Munshi Ram and Ors. v. Delhi Administration AIR (1968) SC 702		
– relied on	....	663
Muskan Dogra & Ors. v. State of Punjab & Ors. (2005) 9 SCC 186		
– relied on	....	778
Muthu Kutty and Another v. State by Inspector of Police, T.N. 2004 (6) Suppl. SCR 222		
– relied on	....	45
Naga People's Movement of Human Rights v. Union of India 1997 (5) Suppl. SCR 469		
– relied on	....	608
Nagraj v. State of Mysore 1964 SCR 671		
– relied on	....	608
Nahar Singh v. Union of India 2010 (13) SCR 851		
– distinguished	922
Narcotics Control Bureau v. Dilip Prahlad Namade 2004 (3) SCR 92	3

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Narendra K. Amin (Dr.) v. State of Gujarat and Another 2008 (6) SCALE 415		
– relied on	676
Narinder Singh v. State of Punjab 2000 CrLJ 3462 SC		
– relied on	....	852
Narmada Bai v. State of Gujarat & Ors. 2011 (5) SCR 729	....	1078
Narsingh Das Tapadia v. Goverdhan Das Partani & Anr. 2000 (3) Suppl. SCR 171		
– relied on	....	605
Narsingh Das Tapadia v. Goverdhan Das Partani and Anr. 2000 (3) Suppl. SCR 171	....	196
National Highways Authority of India & Anr. v. Bumihway DDB Ltd.(JV) & Ors. 2006 (6) Suppl. SCR 586	....	745
National Insurance Co. Ltd. v. Seema Malhotra and Ors. 2001 (1) SCR 1131	....	263
Neelu Arora (Ms.) & Anr. v. UOI & Ors. 2003 (1) SCR 562		
– relied on	....	782
NEPC Micon Ltd and Ors. v. Magma Leasing Ltd. 1999 (2) SCR 932	....	505
New India Assurance Co. Ltd. v. Charlie 2005 (2) SCR 1173	....	207
New India Assurance Co. Ltd. v. Rula and Ors. 2000 (2) SCR 148	263
New India Public School v. HUDA 1996 (3) Suppl. SCR 597	145

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Niranjan Singh and Anr. v. Prabhakar Rajaram Kharote and Ors. 1980 (3) SCR 15 677
Nirmal Jeet Kaur v. State of M.P. and Another 2004 (3) Suppl. SCR 1006	.... 677
Nirmal Singh Kahlon v. State of Punjab & Ors. 2008 (14) SCR 1049	.... 1078
Northern Railway Administration, Ministry of Railway, New Delhi v. Patel Engineering Company Limited 2008 (12) SCR 216	.... 745
Oriental Insurance Co. Ltd. v. Inderjit Kaur and Ors. 1997 (6) Suppl. SCR 225	.... 263
Pala Singh and Anr. v. State of Punjab 1973 (1) SCR 964	
– relied on	.... 958
Panchdeo Singh v. State of Bihar 2001 (5) Suppl. SCR 503	
– relied on	.... 45
Paras Yadav v. State of Bihar 1999 (1) SCR 55	
– relied on	.... 931
Parkash Singh Badal & Anr. v. State of Punjab & Ors. 2006 (10) Suppl. SCR 197	
– relied on	.... 608
Parshotam Lal Dhingra v. Union of India 1958 SCR 828	.... 312
– relied on 327
Parthasarathi (S.) v. State of Andhra Pradesh 1974 (1) SCR 697	
– relied on 1033

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Percept D'Mark (India) (P) Ltd. v. Zaheer Khan & Anr. 2006 (3) SCR 146	
– cited 838
Pradeep Jain (Dr.) & Ors. v. Union of India & Ors. 1984 (3) SCR 942	
– relied on	.... 774
Pradeep Singh v. State of Rajasthan AIR 2004 SC 3781: 2004 (10) SCC 743	
– relied on	.... 700
Prakash Singh Badal v. State of Punjab and Ors. 2006 (6) Suppl. SCR 473	.... 320
Precious Oil Corporation & Ors. (M/s.) v. State of Assam 2009 (1) SCR 762	.... 185
Prem Printing Press v. Bihar State Text Book Publishing Corporation Ltd. & Ors., 2001 (4) PLJR 311	
– relied on	.... 717
Prithi v. State of Haryana 2010 (9) SCR 33	
– relied on	.... 48
Prithipal Singh & Ors. v. State of Punjab & Anr. (2012) 1 SCC 10	
– relied on	.... 699 & 957
Priyadarshini Dental College & Hospital v. Union of India & Ors. 2011 (2) SCR 945	
– relied on	.... 775
Pulicherla Nagaraju alias Nagaraja Reddy v. State of Andhra Pradesh 2006 (4) Suppl. SCR 633	
– relied on 1133

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Punanan (V.) Thomas v. State of Kerala, AIR 1969 Ker. 81	145
Punjab and Haryana, Through R.G. v. Ishwar Chand Jain and Anr. (1999) 4 SCC 579	999
Puran v. Rambilas and Another 2001 (3) SCR 432		
– relied on	....	677
Pyarali K. Tejani v. Mahadeo Ramchandra Dange & Ors. 1974 (2) SCR 154	....	185
Raj Kumar and Ors. v. Union of India and Anr. 2006 (1) SCR 169	....	472
Rajendra Prasad v. Narcotic Cell 1999 (3) SCR 818		
– held inapplicable	....	571
Rajendra Singh Verma (Dead) Through LRs. and Ors. v. Lieutenant Governor (NCT of Delhi) and Ors. 2011 (12) SCR 496		
– relied on	....	997
Rajesh Govind Jagesha v. State of Maharashtra 1999 (4) Suppl. SCR 277		
– relied on	....	1135
Rajesh Gulati v. Govt- of NCT of Delhi, AIR 2002 SC 3094	....	1175
Rajesh Tandon v. State of Punjab 1994 (1) SCALE 816		
– cited	....	898
Rajgopal (R.) v. S.S. Venkat (2001) 10 SCC 91	506 & 510
Rajneesh Aggarwal v. Amit J. Bhalla JT 2001 (1) SC 325	510

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Rakesh Kumar Mishra v. State of Bihar & Ors. 2006 (1) SCR 124		
– relied on	607
Rakesh Nemkumar Porwal v. Narayan Dhondu Joglekar and Anr. 1994 (3) Bom CR 355	196
Rakesh v. State of M.P. (2011) 9 SCC 698	....	854
Ram Kumar v. State (NCT) of Delhi (1999) 9 SCC 149	....	955
Ram Sarup v. Union of India & Anr. AIR 1965 SC 247		
– relied on	....	616
Ram Tahal and others v. The State of U.P. 1972 (2) SCR 423		
– relied on	....	1135
Rama Chaudhary v. State of Bihar 2009 (5) SCR 482	....	1078
Ramana Dayaram Shetty v. International Airport Authority of India 1979 (3) SCR 1014	....	145
Ramaraj v. State of Chhattisgarh 2009 (16) SCR 367		
– relied on	....	961
Ramaswamy Kalingaryar v. Mathayan Padayachi AIR 1992 SC 115		
– relied on	....	584
Rambhai Nathabhai Gadhvi & Ors. v. State of Gujarat 1997 (3) Suppl. SCR 356		
– relied on	609
Ramchandran & Ors. v. State of Kerala (2011) 9 SCC 257	282

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Ramdeo Chauhan @ Raj Nath v. State of Assam 2001 (3) SCR 669		
– relied on	244
Ramesh Yadav v. District Magistrate, Etah, AIR 1986 SC 315	1174
Rameshwar Shaw v. District Magistrate, Burdwan, 1964 SCR 921	....	1174
Ramjani & Ors. v. State of Rajasthan 1993 Cr.L.R. (Raj.) 179	....	571
Ramkrushna v. State of Maharashtra 2007 (5) SCR 818		
– relied on	....	49
Rammi alias Rameshwar v. State of Madhya Pradesh 1999 (3) Suppl. SCR 1		
– relied on	....	1134
Ramraj v. State of Chattisgarh 2009 (16) SCR 367		
– relied on	....	701
Rangachari (N.) v. Bharat Sanchar Nigam Ltd. 2007 (5) SCR 329	....	510
Ranjit Kumar Ghosh v. State of Bihar and Others 2004 (3) BLJR 2242		
– relied on	....	717
Ranjit Thakur v. Union of India and Others 1988 (1) SCR 512		
– relied on	1033
Rathinam v. State of Tamil Nadu & Anr. 2010 (11) SCR 871	185

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Rattan Chand v. Kanwar Ram Kripal and Anr. 2010 Cri.L.J. 706	196
Ravikumar @ Kutti Ravi v. State of Tamil Nadu (2006) 9 SCC 240		
– relied on	....	45
Re K, a Judicial officer AIR 2001 SC 1972		
– relied on	....	1158
Record Association v. Union of India & Ors. 1993 (2) Suppl. SCR 659	....	340
Regional Director, ESI Corporation and Anr. v. Francis De Costa and Anr. AIR 1997 SC 432	....	438
Rekha v. State of Tamil Nadu through Secretary to Govt. & Anr. 2011 (4) SCR 740	....	1175
Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. and Others (1987) 1 SCC 424	....	510
RITE Approach Group Ltd. v. Rosoboronexport 2005 (5) Suppl. SCR 266	....	745
Rizwan Ahmed Javed Shaikh & Ors. v. Jammal Patel & Ors. 2001 (3) SCR 766		
– relied on	....	608
Rubabbudin Sheikh v. State of Gujarat 2010 (1) SCR 991	....	1078
S.J.S. Enterprises (P) Ltd. v. State of Bihar 2004 (3) SCR 56	....	143
S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla and Another 2005 (3) Suppl. SCR 371		
– relied on	509

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Sabia Khan & Ors. v. State of U.P. & Ors. AIR 1999 SC 2284	185
Sabitha Ramamurthy and Another v. R.B.S. Channabasavaradhya 2006 (6) Suppl. SCR 126	509
Saha (S.B.) & Ors. v. M.S. Kochar 1980 (1) SCR 111		
– relied on	....	608
Sahadevan @ Sagadevan v. State rep. by Inspector of Police, Chennai AIR 2003 SC 215: 2003 (1) SCC 534	....	699
Sakiri Vasu v. State of Uttar Pradesh & Ors. 2007 (12) SCR 1100	....	1078
Salauddin Abdulsamad Shaikh v. State of Maharashtra 1995 (6) Suppl. SCR 556	....	677
Salem Advocate Bar Association v. Union of India 2002 (3) Suppl. SCR 353	....	320
Salim Zia v. State of U.P. AIR (1979) SC 39114		
– relied on	....	663
Samya Sett v. Shambu Sarkar and Anr. 2005 (2) Suppl. SCR 686		
– relied on	....	1158
Sandip Guha v. Saktipada Ghosh 2008 (3) CHN 214	....	196
Sankaran Moitra v. Sadhna Das & Anr. 2006 (3) SCR 305		
– relied on	....	608
Santosh Kumar Satishbushan Bariyar v. State of Maharashtra 2009 (9) SCR 90		
– relied on	961

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Santosh Kumar Singh v. State through CBI 2010 (13) SCR 901		
– relied on	699
Sarabjit Rick Singh v. Union of India (2008) 2 SCC 417	510
Sarav Investment & Financial Consultancy Private Limited and Another v. Lloyds Register of Shipping Indian Office Staff Provident Fund and Another 2007 (10) SCR 1110	....	196 & 509
Sardar Singh (Ex-Naik) v. Union of India and Others 1991 (2) SCR 676		
– relied on	....	1035
Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 121		
– relied on	....	207
Sarman & Ors. v. State of M.P. 1993 Suppl. (2) SCC 356		
– distinguished	....	282
Saroj Kumar Poddar v. State (NCT of Delhi) and Anr. 2007 (1) SCR 907	....	510
Sasi Thomas v. State & Ors. 2006 (9) Suppl. SCR 450	....	1078
Satyavir Singh Rathi ACP & Ors. v. State through CBI 2011 (6) SCR 138		
– relied on	....	605
Savitri Agarwal v. State of Maharashtra and Anr. 2009 (10) SCR 978		
– relied on	....	676

Secretary and Curator (The), Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity and Ors. AIR 2010 SC 1285	....	438
Secretary, Ministry of Defence and Ors. v. A.V. Damodaran (dead) through L.Rs. and Ors. 2009 (13) SCR 416	....	438
Secretary, Ministry of Defence and Ors. v. Ajit Singh 2009 (8) SCR 934		
– relied on	....	438
Secretary, State of Karnataka & Ors. v. Uma Devi (3) & Ors. 2006 (3) SCR 953	....	329
Senthamilselvi v. State of T.N. & Anr. 2006 (3) Suppl. SCR 24	....	1175
Sesamma Phillip (Mrs.) v. P. Phillip (1973) 1 SCC 405		
– relied on	....	922
Sewakram Sobhani v. R.K. Karanjiya, Chief Editor, Weekly Blitz & Ors. AIR 1981 SC 1514		
– relied on	....	612
Shambhoo Nath Misra v. State of U.P. & Ors. 1997 (2) SCR 1139		
– relied on	....	608
Shashi Aggarwal (Smt.) v. State of U.P., AIR 1988 SC 596	....	1174
Sheela Barse (II) and Ors. v. U.O.I. and Ors. (1986) 3 SCC 632	....	320
Sheoratan Agarwal and Another v. State of Madhya Pradesh 1985 (1) SCR 719		
– overruled	....	509

Shraddananda v. State of Karnataka 2008 (11) SCR 93		
– relied on	....	961
Shrawan Kumar & etc. etc. v. Director General of Health Services & Anr. & etc. (1993) 3 SCC 332		
– relied on	....	774
Shree Baidyanath Ayurved Bhawan Pvt. Ltd. v. State of Punjab and Ors. 2009 (12) SCR 326		
– relied on	....	922
Shrijee Sales Corporation and Anr. v. Union of India 1996 (10) Suppl. SCR 888	....	585
Shrilekha Vidyarthi v. State of U. P. 1990 (1) Suppl. SCR 625	....	145
Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors. 2010 (15) SCR 201	....	3 & 678
Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi) 2010 (4) SCR 103		
– relied on	....	48
Singhal (B.P.) v. Union of India (2010) 6 SCC 33	....	313
Somappa Vamanappa Madar and Shankarappa Ravanappa Kaddi v. State of Mysore (1980) 1 SCC 479	....	955
Sri Ram v. State of M.P. 2003 (6) Suppl. SCR 129		
– relied on	1132
Srikanth (K.) Singh v. North East Securities Ltd. and Anr. 2007 (8) SCR 452	509

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Standard Chartered Bank and Others v. Directorate of Enforcement and Others 2005 (1) Suppl. SCR 49		
– relied on	....	506
State (NCT of Delhi) v. Navjot Sandhu alias Afsan Guru 2005 (2) Suppl. SCR 79	....	551
State Government of NCT of Delhi v. Sunil & Anr. 2000 (5) Suppl. SCR 144		
– relied on	....	84
State of Andhra Pradesh (The) v. N. Venugopal & Ors. 1964 SCR 742		
– relied on	....	608
State of Andhra Pradesh v. S. Sree Rama Rao (1964) 3 SCR 25		
– relied on	....	997
State of Bihar & Ors. v. Dr. Sanjay Kumar Sinha & Ors. 1989 (2) Suppl. SCR 168		
– relied on	....	775
State of Bihar v. Nilmani Sahu and Anr. (1999) 9 SCC 211		
– relied on	....	1158
State of Goa v. Babu Thomas 2005 (3) Suppl. SCR 712		
– relied on	....	572
State of Gujarat v. Bai Fatima AIR (1975) SC 1478		
– relied on	663
State of H.P. v. Lekh Raj and Another 1999 (4) Suppl. SCR 286		
– relied on	1134

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State of H.P. v. M.P. Gupta 2003 (6) Suppl. 88 SCR 541		
– relied on	609
State of Haryana v. Ram Singh 2002 (1) SCR 208		
– held inapplicable	....	281
State of Himachal Pradesh v. Nishant Sareen 2010 (13) SCR 1200		
– held inapplicable	....	571
State of M.P. v. Nandlal Jaiswal and Ors. 1987 1 SCR 1		
– relied on	....	1158
State of M.P. & Ors. v. Gopal D. Tirthani & Ors. 2003 (1) Suppl. SCR 797	....	793
State of M.P. and Anr. v. Ram Kishna Balothia and Anr. 1995 (1) SCR 897	....	3
State of Madhya Pradesh v. Sheetla Sahai & Ors. 2009 (12) SCR 1048		
– relied on	....	608
State of Madras v. C.V. Parekh and Another (1970) 3 SCC 491		
– relied on	....	.509
State of Maharashtra & Anr. v. Mohd. Sajid Husain Mohd. S. Husain and Ors. 2007 (10) SCR 995		
– relied on	3
State of Maharashtra v. Atma Ram & Ors. AIR 1966 SC 1786		
– relied on	608

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State of Maharashtra v. Dr. Budhikota Subbarao 1993 (2) SCR 311		
– relied on	608
State of Maharashtra v. Goraksha Ambaji Adsul 2011 (9) SCR 41		
– relied on	....	701
State of Maharashtra v. Goraksha Ambaji Adsul AIR 2011 SC 2689		
– relied on	....	961
State of Maharashtra v. Narhar Rao 1966 SCR 880		
– relied on	....	608
State of Maharashtra v. Mohd. Rashid and Anr. 2005 (1) Suppl. SCR 817	....	677
State of Orissa & Ors. v. Ganesh Chandra Jew 2004 (3) SCR 504		
– relied on	....	608
State of Punjab & Anr. v. Mohammed Iqbal Bhatti 2009 (11) SCR 790		
– relied on	....	608
State of Punjab v. Amar Singh Harika AIR 1966 SC 1313		
– relied on	....	744
State of Punjab v. Davinder Pal Singh Bhullar & Ors. etc. AIR 2012 SC 364	....	185
State of Punjab v. Jagir Singh Baljit Singh and Karam Singh 1974 (1) SCR 328		
– relied on	1134

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State of Punjab v. Surja Ram 1995 (2) Suppl. SCR 590		
– relied on	2
State of Rajasthan v. Shera Ram alias Vishnu Dutta (2012) 1 SCC 602		
– relied on	....	72
State of Tamil Nadu v. Arooran Sugars Ltd. 1996 (8) Suppl. SCR 193		
– relied on	....	508
State of U.P. v. Krishna Gopal 1988 (2) Suppl. SCR 391		
	....	852
State of U.P. v. M.K. Anthony 1985 AIR 48		
– relied on	....	1134
State of U.P. v. Mohd. Musheer Khan AIR (1977) SC 2226		
– relied on	....	663
State of Uttar Pradesh v. Mohammad Naim 1964 SCR 363		
– relied on	....	1158
State of Uttar Pradesh v. Paras Nath Singh 2009 (8) SCR 85		
– relied on	....	609
State of W.B. & Anr. v. Mohd. Khalid & Ors. 1994 (6) Suppl. SCR 16		
– relied on	609
State of W.B. v. Mir Mohammad Omar and Ors. 2000 (2) Suppl. SCR 712		
	699 & 955

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Subhash Chander etc. v. Krishan Lal and Ors. AIR 2001 SC 1903		
– relied on	958
Subramaniam Swamy (Dr.) v. Ramakrishna Hegde 1989 (1) Suppl. SCR 469		
– relied on	....	921
Subramaniam Swamy (Dr.) v. Dr. Manmohan Singh & Anr. AIR 2012 SC 1185: 2012 (3) SCC 64		
– relied on	....	609
Sucha Singh & Anr. v. State of Punjab 2003 (2) Suppl. SCR 35		
– relied on	....	876
Sudha (A.) v. University of Mysore & Anr. 1988 (1) SCR 368	....	793
Sumer Chand (Prof.) v. Union of India & Ors. 1993 (2) Suppl. SCR 123		
– relied on	....	608
Sunil Kumar and Anr. v. State of Rajasthan 2005 (1) SCR 612	....	955
Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra 2010 (15) SCR 452		
– relied on	....	853
Sunita Devi v. State of Bihar & Anr. 2004 (6) Suppl. SCR 707	....	678
Suraj Pal Sahu v. State of Maharashtra, 1986 (3) SCR 837	....	1174
Suresh Kumar Bhikamchand Jain v. Pandey Ajay Bhushan & Ors. 1997 (5) Suppl. SCR 524		
– relied on	608

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Suryalakshmi Cotton Mills Ltd. v. Rajvir Industries Ltd. and Ors. 2008 (1) SCR 432	510
Sushil Kumar Sen v. State of Bihar 1975 (3) SCR 942		
– relied on	587
Swami Shraddananda @ Murali Manohar Mishra v. State of Karnataka 2008 (11) SCR 93		
– relied on	701
Swamy Shraddananda v. State of Karnataka 2008 (11) SCR 93		
– relied on	961
Syed T.A. Naqshbandi and Ors. v. State of Jammu and Kashmir and Ors. 2003 (1) Suppl. SCR 114		
– relied on	997
Tahir v. State (Delhi) 1996 (3) SCR 757	74
Takdir Samsuddin Sheikh v. State of Gujarat and Anr. AIR 2012 SC 37		
– relied on	3
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(2) Crime - Role of Police.

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(3) Remarks against Judicial Officer while setting aside the judicial order passed by him.

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s.11(6) - Appointment of arbitrator - Dispute as regards named arbitrator - Held: Supreme Court has power to appoint a person other than the named arbitrator if the relevant facts indicate that the named arbitrator is not likely to be impartial - In the instant case, petitioner had clearly pleaded that the named arbitrator is a direct subordinate of the CMD and employee of respondent - Therefore, it would not be unreasonable for petitioner to entertain the plea that arbitrator appointed by respondent would not be impartial - In exercise of powers u/ss.11(4) and 11(6) read with Para 2 of the 1996 Scheme, sole arbitrator appointed - Appointment of Arbitrators by the Chief Justice of India Scheme, 1996.

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(ii) s.7 - Interpretation of - Held: The scheme of the Act provides protection to Army personnel in respect of anything done or purported to be done in exercise of powers conferred by the Act - s.7 prohibits institution of legal proceedings against any Army personnel without prior sanction of Central Government - The term "institution" contained in s.7 means taking cognizance of offence and not mere presentation of chargesheet by investigating agency - The question to examine as to whether sanction is required or not under a statute has to be considered at the time of taking cognizance of offence and not during enquiry or

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(Also see under: Code of Criminal Procedure, 1973)

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ARMY ACT, 1950:

(1) s.125 - Exercise of option under - Held: The stage of making option to try an accused by a court-martial and not by criminal court is after filing of the chargesheet and before taking cognizance or framing of the charges - If the Army chooses, it can prosecute the accused through court-martial instead of going through the criminal court - Once the option is made that the accused is to be tried by a court-martial, further proceedings would be in accordance with the provisions of s.70 of the Act and for that purpose, sanction of Central Government is not required.

(Also see under: Armed Forces J & K (Special Powers) Act, 1990; and Code of Criminal Procedure, 1973).

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(2) Court-Martial of Major in Army - Charges found proved and sentence of cashiering and rigorous imprisonment of five years awarded - Confirming authority reduced rigorous imprisonment to six months - Held: Nothing was brought on record

that there was anything personal against any of the members who constituted Court Martial - It was not a case where appellant was not provided with assistance of a defending officer - Defending officer had acted with due sincerity and put forth the case of appellant in proper perspective, therefore, there was compliance of principle of natural justice and no prejudice was caused to appellant - Appellant was found guilty of all the charges, fundamentally, pertaining to commission of illegal acts in fiscal sphere to gain pecuniary advantage - Thus, the punishment was not harsh or arbitrary - Regard being had to the nature of rank held by appellant and the disciplined conduct expected of him, doctrine of proportionality was uninvocable.

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held ostensible title to the property in a fiduciary capacity vis-à-vis his siblings (i.e. respondents) who had by reason of their contribution towards the sale consideration paid for acquisition of the property and the contribution made by their father continued to evince interest in the property and its ownership - Especially when respondents continued to enjoy possession over the property, they would in law and on a parity of reasoning be deemed to be holding the same for the benefit of appellant and vice versa - Consequently, sale transaction in favour of appellant was completely saved from the mischief of s.4 by reason of the same falling under sub-s. (3)(b) of s.4 - Suit, therefore, barred by the Act.

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CITY OF NAGPUR CORPORATION ACT, 1948:

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Alienation of - Resolution dated 28-8-1991 passed
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favour of appellant and sanction accorded by State
Government u/s.70(5) - Quashed by High Court -
Held: Resolution passed by the Corporation for
renewal of lease in favour of appellant was ex
facie illegal - High Court did not commit any error
by quashing the same - The Corporation holds
the property as a trustee of the public and any
alienation of such property or any right or interest
therein otherwise than by way of auction or by
inviting bids would amount to breach of that trust
- Before granting 30 years' lease of the plot in
question in favour of the appellant, the Corporation
neither issued any advertisement nor followed any
procedure consistent with the doctrine of equality
so as to enable the members of the public,
including the earlier lessee, to participate in the
process of alienation of public property - Appellant
directed to hand over possession of the plot to
the Corporation - Corporation to alienate the same
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that even if the facts set out in the plaint are treated
to have been admitted, a judgement and decree
could not possibly be passed without requiring
the plaintiff to prove the fact pleaded in the plaint
- It is only when the court for reasons recorded is
fully satisfied that there is no fact which needs to
be proved at the instance of the plaintiff in view of
the deemed admission by the defendant, the court
can conveniently pass a judgement and decree
against the defendant who has not filed the written
statement - In the instant case, the trial court
decreed the suit without assigning any reason how
the plaintiff was entitled for half share in the
property - High Court was legally justified in setting
aside the judgment and decree of trial court and
remanding the matter to it for a de-novo trial after
permitting defendant-respondent to file written
statement - However, a sum of rupees twenty five
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(3) O. 39 rr. 1 and 2 r/w s.151 -Temporary injunction
- Suit for specific performance of agreement in
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M/s. Best Sellers Retail (India) Pvt. Ltd. v. M/s. Aditya Birla Nuvo Ltd. & Ors. 834

CODE OF CRIMINAL PROCEDURE, 1973:

(1) s. 157 - Delay in forwarding express report to Magistrate - Effect of, on prosecution case - Held: Where FIR is recorded without delay and investigation started on the basis of FIR and no infirmity brought out, mere delay in forwarding express report to Magistrate, in absence of any prejudice to accused, cannot be said to have tainted the investigation.

(Also see under: Penal Code, 1860)

Sandeep v. State of U.P. 952

(2) s.173(8), 202 and 210 - Held: Further investigation by investigating agency, after presentation of a challan (charge sheet in terms of s.173) is permissible in any case impliedly but

in no event is impermissible - Initiation of investigation and filing of chargesheet do not completely debar further or wide investigation by investigating agency or police, or even by a specialized investigation agency - In the instant case, direction of further investigation is based upon documents and facts brought to light by CEC as a result of examination conducted in the course of its primary function relating to inquiry into environmental violations and illegal mining activity - If investigation by specialized agency finds that suspects have committed offences with or without involvement of persons in power, still such violation undoubtedly would have been a great loss to environmental and natural resources and would hurt both the State and national economy.

(Also see under: Constitution of India, 1950; and Investigation)

Samaj Parivartan Samudaya & Ors. v. State of Karnataka & Ors. 1074

(3) s.313 - Statement under - Duty of accused - Held: It is the duty of accused to explain incriminating circumstance proved against him while making a statement u/s.313 - Keeping silent and not furnishing any explanation for such circumstance is an additional link in the chain of circumstances to sustain the charges against him.

(Also see under: Penal Code, 1860)

Neel Kumar @ Anil Kumar v. The State of Haryana 696

(4) s. 378 - Appeal against acquittal - Scope of - Held: Appellate court has every power to re-appreciate, review and reconsider the evidence before it, as a whole - There is presumption of innocence in favour of accused and that

presumption is reinforced by an order of acquittal recorded by trial court - Court has to keep in mind that interference is justifiable only when a clear distinction is kept between perversity in appreciation of evidence and merely the possibility of another view - High Court should not merely record that the judgment of trial court was perverse without specifically dealing with facets of perversity relating to issues of law and/or appreciation of evidence.

(Also see under: Penal Code, 1860; Evidence; and Evidence Act, 1872)

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(5) s. 406 - Prayer for transfer of criminal case from Delhi to Thane, Maharashtra - On ground of convenience of petitioners-accused and witnesses cited in charge sheet by prosecution - Petitioners facing prosecution under Prevention of Corruption Act, 1988 for amassing assets disproportionate to known sources of income - Held: 82 out of 92 witnesses are from Maharashtra - One of the accused working in Thane while the other posted in Gujarat - Trial at Rohini Court in Delhi would be inconvenient not only to accused persons but also to almost all the witnesses cited by prosecution - Case even otherwise not Delhi centric - CBI is fully equipped with an office at Bombay and a court handling CBI cases is established at Thane also - Searches relied upon by prosecution were conducted at Thane - When witnesses from distant places are sought to be summoned, early conclusion of trial becomes so much more difficult apart from the fact that prosecution has to bear additional burden by way of travelling expenses of official and non-official witnesses summoned

to appear before court - Accordingly, criminal case pending in Court of Special Judge, CBI Cases, Rohini Courts, New Delhi transferred to Court of Special Judge, CBI Cases, Court of Session at Thane, Maharashtra - Prevention of Corruption Act, 1988 - s.13(1)(e) and 13(2).

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(6) s. 438 - Anticipatory bail - Granted by High Court in an offence punishable u/ss. 302/34 IPC - Held: Anticipatory bail can be granted only in exceptional circumstances where court is prima facie of the view that applicant has falsely been enroped in the crime and would not misuse his liberty - High Court did not apply any of the parameters laid down by Supreme Court for grant of anticipatory bail, and rather dealt with a very serious matter in a most casual and cavalier manner - High Court did not consider as to whether custodial interrogation was required and also did not record any reason as to how pre-requisite condition incorporated in statutory provision itself stood fulfilled - Order de hors the grounds provided in s. 438 itself suffers from non-application of mind - Orders passed by High Court set aside.

(Also see under: FIR)

Jai Prakash Singh v. The State of Bihar & Anr. Etc.

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(7) s.438 - Application for anticipatory bail - Held: Court of Session or High Court cannot pass an order that on surrendering of accused before Magistrate he shall be released on bail on such terms and conditions as the Magistrate may deem fit and proper - When High Court in categorical terms expressed the view that it was not inclined

to grant anticipatory bail to accused, it could not have issued such direction which would tantamount to conferment of benefit by which the accused would be in a position to avoid arrest - Court cannot issue a blanket order restraining arrest and it can only issue an interim order and such an order must also conform to requirement of the section and suitable conditions should be imposed - Direction to admit accused persons to bail on their surrendering has no sanction in law and, in fact, creates a dent in the sacrosanctity of law - It curtails the power of the regular court dealing with the bail applications - Impugned orders directing enlargement on bail of accused persons on their surrendering are wholly unsustainable and bound to founder and accordingly are set aside.

Rashmi Rekha Thatoi & Anr. v. State of Orissa & Ors. 674

(5) (i) Institution of a case - Meaning of - Held: The term 'institution' has to be ascertained taking into consideration the scheme of the Act/Statute applicable - So far as criminal proceedings are concerned, "institution" does not mean filing; presenting or initiating the proceedings, rather it means taking cognizance as per the provisions contained in the Cr.P.C.

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pilferage and illegal extraction of natural wealth and resources, particularly, iron ore, as also environmental degradation and disaster that may result from unchecked intrusion into forest areas. (Also see under: Code of Criminal Procedure, 1973)

Samaj Parivartan Samudaya & Ors. v. State of Karnataka & Ors. 1074

(4) (i) Arts. 32 and 226 - Issuance of mandamus in policy decision - Decision by Central Government not to finance the Fast Track Court (FTC) Scheme beyond 31st March 2011 - Power of court to issue mandamus - Held: Any policy or decision of Government which would undermine or destroy independence of judiciary would not only be opposed to public policy but would also impinge upon the basic structure of the Constitution - Government should not frame any policies or do any acts which shall derogate from the very ethos of the stated basic principle of judicial independence - If the policy decision is likely to prove counter-productive and increase the pendency of cases it would tantamount to infringement of basic rights and constitutional protection - Thus, the Court is competent to issue a writ of mandamus - Administrative Law - Policy decision.

(ii) Arts. 19(1)(g), 19(6), 233 to 235 read with Arts. 21, 39 and 142 - Right to practise law - Reasonable restriction - Appointment of retired District and Sessions Judges as ad hoc judges in Fast Track Courts (FTCs) - Discontinuance of FTCs - Appointees on ceasing to be judges debarred from practising in District and Subordinate Courts - Challenge to - Held: Right

to practise law is not an absolute right - It is subject to possession of requisite qualifications as contemplated under Advocates Act, 1961 and to the limitations prescribed in Bar Council of India Rules - Appointee's right to practise is abridged with respect to courts in which they acted as judges and courts of the equivalent or lower grade - They can still practise in higher courts - It does not amount to complete and absolute restriction on their right to practise but is only a partial restriction - It cannot be a consideration for compelling the Government to continue their appointments, if they are otherwise not entitled under law to continue - Judiciary - Administrative law - Advocates Act, 1961 - Bar Council of India Rules.

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(5) Art. 136 - Acquittal by High Court - Interference with - Scope of - Held: Against judgment of acquittal, onus is on the prosecution to show that the finding recorded by High Court is perverse and requires correction by Supreme Court - An appellate court must bear in mind that in case of acquittal, there is a double presumption in favour of accused - Firstly, the presumption of innocence is available to such accused under fundamental principles of criminal jurisprudence, i.e., that every person shall be presumed to be innocent unless proved guilty and secondly, that a lower court, upon due appreciation of evidence has found in favour of his innocence - Merely because another view is possible, it would be no reason for Supreme Court to interfere with the order of acquittal.

(Also see under: Penal Code, 1860)

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Nagesh v. State of Karnataka 872

(7) Arts. 141,142.

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(ii) Art. 235 - Control over subordinate courts - Scope of - It is constitutional mandate that every High Court ensures that subordinate judiciary functions within its domain and administers justice according to law, uninfluenced by any extraneous consideration - While it is imperative for High Court to protect honest and upright judicial officer, it is equally necessary not to ignore or condone any dishonest deed of a judicial officer.

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EDUCATION / EDUCATIONAL INSTITUTIONS:

(i) Medical and Dental College - Admission to MBBS course - Tampering with the schedule specified under Regulations and judgments of Supreme Court with clear intent to grant admission to less meritorious candidates over and above candidates of higher merit - Held: Adherence to principle of merit, compliance with the prescribed schedule, refraining from mid stream admission

and adoption of admission process that is transparent, non-exploitative and fair are mandatory requirements of the entire scheme - Schedules prescribed have the force of law in as much as they form part of judgments of Supreme Court - No person or authority is vested with the power of relaxing, varying or disturbing the time schedule or procedure of admission - There have been irregularities in maintaining the prescribed Schedule and that the last few days of the declared schedule are primarily being utilized in an exploitative manner on account of charging higher fees for securing admission and thereby defeating the principle of admission on merit - Adverse consequences of non-adherence to the time schedules stated and directions issued - In the instant case, out of favouritism and arbitrariness, appellants were given admission by completing the entire admission process within few hours - The entire exercise smacked of arbitrariness, unfairness and discriminatory - On peculiar facts and circumstances, though there is no legal infirmity in judgment under appeal, but since by virtue of interim orders, appellants had completed four years of studies during the High Court decision, in order to do complete justice within the ambit of Art. 142 of the Constitution, appellants permitted to complete their professional courses subject to the condition that each one of them shall pay a sum of Rs.5 lakhs to the college, which amount shall be utilized for developing the infrastructure in the college - Initiation of proceedings directed under Contempt of Courts Act against various authorities - Constitution of India, 1950 - Arts. 141 and 142 - Costs.

(ii) Recognition to medical or dental college granted prior/after 15th July of each year - Effect of.

Priya Gupta v. State of Chhatisgarh & Ors. .. 768

ELECTRICITY ACT, 2003:

s. 125 - Appeal - Maintainability of - Held: Appeal u/s. 125 is maintainable only on the grounds specified u/s. 100 CPC - It is maintainable only when the case involves substantial question of law - Concurrent findings of fact recorded by courts below cannot be reopened in appeal u/s. 125 - On fact, no substantial question of law arose for consideration - No perversity is found in the findings arrived at by courts below - Code of Civil Procedure, 1908 - s. 100.

M/s. DSR Steel (P) Ltd. v. State of Rajasthan & Ors. 583

ENVIRONMENTAL LAW:

(1) Lakshadweep islands - Tourist resorts - Order of High Court in writ petition directing the appellants to process applications made by respondent for all clearances including finalisation of CRZ norms and pending final decision on the same, to permit respondent to run the resort established by it and further directing the appellants to issue travel permits and entry passes required by tourists making use of accommodation in the said resort - Challenge to - Held: High Court failed to appreciate that equitable considerations were wholly misplaced in a situation where the very erection of the building to be used as a resort violated CRZ requirements or conditions of land use diversion - The resort could not be commissioned under a judicial order in disregard

of serious objections that were raised by Administration, which objections had to be answered before any direction could issue from a writ Court - Direction given by Supreme Court for constituting an Expert Committee to examine allegations regarding violation of CRZ and other irregularities committed by respondent or by other individuals/entities - Committee to submit preliminary report about the steps taken by it.

Union Territory of Lakshadweep & Ors. v. Seashells Beach Resort & Ors. 1108

(2) (See under: Mines and Minerals) 1074

ESSENTIAL COMMODITIES ACT, 1955:

s. 7.
(See under: Administration of Justice) 184

EVIDENCE:

(1) Circumstantial evidence.
(See under: Penal Code, 1860) 872

(2) Establishment of paternity of the foetus - Held: The sample preserved in ice was tested which confirmed that the accused was father of the foetus - Thus, fatherhood of accused with foetus was established.
(Also see under: Evidence Act, 1872; and Penal Code, 1860)

Sandeep v. State of U.P. 952

(2) (i) Evidence of related witnesses - Held: All that is necessary is that the evidence of interested witnesses should be subjected to careful scrutiny and accepted with caution - If on such scrutiny, their testimony is found to be intrinsically reliable or inherently probable, it may, by itself, be sufficient, in the circumstances of the particular

case, to base a conviction thereon - In the instant case, occurrence took place in the house of deceased - Therefore, family members and close relatives are bound to be natural witnesses - They intervened and sustained injuries - They are the most natural witnesses and there is nothing on record to doubt their presence at the place of occurrence.

(ii) Oral evidence - Discrepancies in - Held: Discrepancies pointed out are minor in nature - Giving undue importance to them would amount to adopting a hyper-technical approach - Court, while appreciating the evidence, should not attach much significance to minor discrepancies, which do not shake the basic version of prosecution case and, as such, are to be ignored - As regards non-explanation of injuries of accused, the same were superficial in nature - Besides, non-explaining of injuries of accused persons is always not fatal to the case of prosecution.

(Also see under: Penal Code, 1860)

Thoti Manohar v. State of Andhra Pradesh 1129

(3) (i) Oral/Ocular evidence - Appreciation of - Contradictions and inconsistencies - Effect of - Held: While appreciating the evidence, court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial - Minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of prosecution case should not be made a ground to reject the evidence in its entirety.

(ii) Witness - Unusual reaction of eye-witness - Effect of - Held: When an eyewitness behaves in

a manner that perhaps would be unusual, it is not for the prosecution or court to go into the question as to why he reacted in such a manner - There is no fixed pattern of reaction of an eyewitness to a crime - When faced with what is termed as 'an unusual reaction' of an eyewitness, court must only examine whether prosecution story is in anyway affected by such reaction - If the answer is in negative, then such reaction is irrelevant.

(Also see under: Penal Code, 1860)

Kathi Bharat Vajsur & Anr. v. State of Gujarat

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(4) Police officer as sole eye-witness - Evidentiary value of - Held: Testimony of police officer can be relied upon and form basis of conviction when such witness is reliable, trustworthy, cogent and duly corroborated by other witnesses or admissible evidences - Absence of some independent witness of the locality does not in any way affect the creditworthiness of prosecution case - However, in the instant case, the police officer-sole eye witness was nearly 30 yards away from the place of incident and was on motor-cycle, equipped with a weapon - He saw three accused chasing and then inflicting injuries upon the deceased - However, he was unable to stop the further stabbing and/or running away of the accused - He did not mention the names of the accused in the FIR nor to the Investigating Officer - The statement of police officer implicating the accused did not find any corroboration and suffers from improbabilities, not free of suspicion and lacked credence and reliability - Conviction of appellant on basis of such statement not sustainable.

(Also see under: Penal Code, 1860)

Govindaraju @ Govinda v. State by Srirampuram P.S. & Anr.

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EVIDENCE ACT, 1872:

(1) s. 27 - Recoveries of weapons - Whether in conformity with the provisions of Section - Held: Memos did not bear signatures of accused upon their disclosure statements - This is a defect in the recovery of weapons - Recovery witnesses turned hostile - Weapons of offence, recovered from appellant did not contain any blood stain, whereas knife recovered at the behest of co-accused was blood-stained - However, no steps taken by prosecution to prove whether it was human blood and of the same blood group as of the deceased.

(Also see under: Penal Code, 1860)

Govindaraju @ Govinda v. State by Srirampuram P.S. & Anr.

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(2) (i) s.32 - Dying declaration - Appreciation of - Held: If the dying declaration has been recorded in accordance with law, is reliable and gives a cogent and possible explanation of the occurrence, then it can certainly be relied upon and could form the sole piece of evidence resulting in conviction of accused - The first attempt of court has to be, to rely upon the dying declaration, whether corroborated or not, unless it suffers from certain infirmities, is not voluntary and has been produced to overcome the laches in investigation - There has to be a very serious doubt or infirmity in the dying declaration for courts to not rely upon the same - If it falls in that class of cases, the dying declaration cannot form the sole basis of conviction.

(ii) s.32 - Dying declaration - Appreciation of - Distinction between principles governing evaluation of a dying declaration under the English law and the Indian law - Held: Under the English law, credence and relevancy of a dying declaration is only when the person making such a statement is in hopeless condition and expecting an imminent death - So under the English law, for its admissibility, the declaration should have been made when in the actual danger of death and that the declarant should have had a full apprehension that his death would ensue - However, under the Indian law, the dying declaration is relevant, whether the person who makes it was or was not under expectation of death at the time of such declaration.

(Also see under: Penal Code, 1860)

Bhajju @ Karan Singh v. State of M.P. 37

(3) s. 32 - Dying declaration - Recorded by police officer - Efficacy of - Statement of a deceased recorded by police officer as a complaint and not as a dying declaration, can be treated as a dying declaration, if other requirements in this regard are satisfied.

(Also see under: Penal Code, 1860)

Salim Gulab Pathan v. State of Maharashtra through SHO 930

(4) s.106.

(See under: Penal Code, 1860) 696

(5) (i) s. 106 - Burden of proving fact specially within knowledge - Accused taking plea of alibi - Held: Burden to establish the plea is on accused since it was within his special knowledge.

(ii) ss. 25 and 8 - Admission of facts and

confession by accused before police officials - Admissibility of - Held: Statement of accused consisting mixture of admission and confession required to be sifted - Distinction required to be drawn between admission and confession - Part of statement which does not implicate the accused would amount to mere admission and not confession and can be relied upon and would be covered by s. 8 - s. 25 can be pressed into service only to the part of the statement that would implicate the accused - When reliance is placed upon admissible portion, the entirety of the statement cannot be rejected outrightly by application of s. 25.

(Also see under: Penal Code, 1860)

Sandeep v. State of U.P. 952

EXPLOSIVE SUBSTANCES ACT, 1908:

(i) ss.3,4,5,6 and 7 - Initiation of criminal proceedings challenged on the ground of delay - Held: The offence committed was grave and at no stage, sanction was refused by competent authority - Though proceedings are sought to be initiated against appellant after three years, but, in the facts of the case, where 14 innocent persons lost their lives and several persons were severely injured due to the blast which took place in appellant's shop, three years period cannot be termed as delay - It cannot be said that the lapse of three years has caused prejudice to accused - The case will be conducted in accordance with law and appellant will have enough opportunity to prove his innocence - Besides, victim's rights are equally important - Trial court to frame charges against appellant u/ss. 3, 4, 5 and 6 and to proceed with the trial - Criminal Trial - Delay/laches.

(ii) s.7 - Consent/sanction to prosecute the accused - Lackadaisical approach of prosecution in obtaining consent/sanction in the instant case - Deprecated.

Deepak Khinchi v. State of Rajasthan 568

FIR:

Promptness in filing an FIR - Object of - Effect on the prosecution case - Stated.

(Also see under: Code of Criminal Procedure, 1973)

Jai Prakash Singh v. The State of Bihar & Anr. Etc. 1

GENERAL CLAUSES ACT, 1897:

s.3(22) - Good faith - Held: Good faith is defined in s.3(22) to mean a thing which is, in fact, done honestly, whether it is done negligently or not - Anything done with due care and attention, which is not malafide, is presumed to have been done in good faith - Good faith and public good are though questions of fact, are required to be proved by adducing evidence.

(Also see under: Armed Forces J & K (Special Powers) Act, 1990) 599

GUJARAT STATE JUDICIAL SERVICE RULES, 2005:

(See under: Judiciary) 305

HAJJ POLICY:

(i) Registration of Private Tour Operators (PTOs) for ferrying Hajj Pilgrims - Eligibility conditions - Held: Object of registering PTOs is to ensure that pilgrim may be able to perform his religious duty without undergoing any difficulty, harassment or suffering - Restriction would not be unreasonable merely because in a given case it operates harshly

- Therefore, no objection can be taken to high standards and stringent conditions being set up for registration as PTOs - Court's interference would be called for only if it is shown that any of the conditions was purely subjective or designed to exclude any individual or group of private operators/travel agents i.e. bordering on malice.

(ii) Registration of Private Tour Operators - Conditions laid down in the 2012 Hajj Policy - Requirement of minimum 250 sq. ft. office area (carpet) - Held: There is no arbitrariness or unreasonableness in the requirement of minimum office area - This condition ensures that only genuine operators approach for Hajj Quota i.e. those who have a proper and well maintained office and those who are genuinely interested in taking the pilgrims to Saudi Arabia - The condition is further meant to scrutinize the PTOs who sell their Quota to other PTOs.

(iii) Registration of Private Tour Operators - Requirement of minimum annual turnover of Rs.1crore and refundable security deposit of Rs.25 lakhs - Held: Each PTO is to be given quota of at least 50 pilgrims as per the bilateral agreement between Government of India and Kingdom of Saudi Arabia - The turnover on the basis of a quota of 50 Hajj pilgrims alone would not be less than Rs.75 lakhs - Thus, the turnover fixed in the Policy is a modest figure - Similarly security deposit of Rs.25 lakhs is reasonable.

(iv) Registration of Private Tour Operators - Disqualification in case of court case against the private operator - Held: Court case that might render a private operator/travel agent ineligible for registration means a case instituted against the private operator/travel agent as an accused

or in regard to some liability against him.

(v) Hajj subsidy - Central Government directed to progressively reduce the amount of subsidy so as to completely eliminate it within a period of 10 years as subsidy money can be more profitably used for upliftment of the community in education and other indices of social development.

(vi) Goodwill Delegation - Nomination of members of Delegation - Held: Was in complete violation of Art. 14 of the Constitution - No purpose can be served by sending large, unwieldy, amorphous and randomly selected delegation - Practice of sending Delegation must come to stop.

(vii) Reservation of 11,000 seats for different categories by Government of India - Union of India directed to file affidavit stating in greater detail the way the quota of 11,000 seats is being allocated for 2012 Hajj, the procedure followed by Hajj Committee of India and State Hajj Committee in making selection for sending pilgrims for Hajj.

*Union of India & Ors. v. Rafique Shaikh
Bhikan & Anr.* 715

INFORMATION TECHNOLOGY ACT, 2000:

ss. 67, 85.

(See under: Interpretation of Statutes; and
Liability) 503

INTEREST:

(See under: Motor Vehicles Act, 1988) 118
and 207

INTERPRETATION OF STATUTES:

(i) Legal fiction - Held: It is for the court to ascertain for what purpose the legal fiction has been created

and to imagine the fiction with all real consequences and instances unless prohibited from doing so - That apart, the use of the term 'deemed' has to be read in its context and further the fullest logical purpose and import are to be understood - Information Technology Act, 2000 - Negotiable Instruments Act, 1881.

(ii) Doctrine of strict construction.

(Also see under: Negotiable Instruments Act, 1881)

*Aneeta Hada v. M/s. Godfather Travels &
Tours Pvt. Ltd.* 503

INVESTIGATION:

Duty of State - Opportunity of hearing - Held: A suspect has no indefeasible right of being heard prior to initiation of investigation, particularly, by the investigating agency - CBI may even conduct pre-registration inquiry for which notice is not contemplated under the provisions of the Code, Police Manual or even as per the precedents laid down by the Court - It was ever and shall always remain statutory obligation of State to prove offences against violators of law - If a private citizen has initiated proceedings before competent court, it will not absolve the State of discharging its obligation under provisions of CrPC and obligations of Rule of Law - Court cannot countenance an approach of this kind where the State can be permitted to escape its liability only on the ground that multifarious complaints or investigations have been initiated by private persons or bodies other than the State - It enhances the primary and legal duty of the State to ensure proper, fair and unbiased investigation. (Also see under: Constitution of India, 1950;

Code of Criminal Procedure, 1973; and Mines and Minerals)

Samaj Parivartan Samudaya & Ors. v. State of Karnataka & Ors. 1074

JUDICIARY:

(1) Adverse remarks and direction against Subordinate Judicial officer in judgment of High Court - Expunction of - Application filed before appellant-Chief Judicial Magistrate u/s.156(3), CrPC for issuance of direction to the police to register FIR and make investigation into alleged criminal offences - Appellant dismissed the application - In revision, High Court set aside the impugned order and made adverse comments and observations against appellant and also passed direction for appropriate action against him - Held: Derogatory remarks against a judicial officer not only cause immense harm to him individually (as the expunction of the remarks later on may not completely resuscitate his reputation) but also affect credibility of the institution and corrode sacrosanctity of its zealously cherished philosophy - In the case at hand, the observations, the comment and the eventual direction were wholly unwarranted and uncalled for - Perceptions of fact and application of law may be erroneous but that never warrants such kind of observations and directions - The remarks and the direction against appellant are expunged.

Amar Pal Singh v. State of U.P. and Anr. 1154

(2) (i) Fast Track Court Scheme - Appointment to the posts of FTC judges under the Scheme as ad hoc judges - Vacancies in the regular judicial cadre of States - Absorption and regularisation against such post - Entitlement to - Held: On

analysis of the Rules relating to the different States, the appointment letters issued and methodology adopted for appointment of FTC judges, appointees cannot have any legal, much less an indefeasible right to the posts - Financing of FTC Scheme has already been stopped by Central Government with effect from 31st March, 2011 - Relevant Rules of the States, and the Notifications state that appointees have been appointed not only on ad hoc and temporary basis but the entire FTC Scheme itself was ad hoc and for a duration of five years only - No permanent post was created - Thus, appointees do not have any absolute right to the post - Service Law - Constitution of India, 1950 - Arts. 233 and 235.

(ii) FTC Scheme by Central Government - Financed for limited period - Some States continuing with the Scheme while others forced to discontinue it because of non-availability of funds - Scope of judicial review - Held: It is the constitutional duty of the Government to provide the citizens with such judicial infrastructure and means of access to justice so that every person is able to receive an expeditious, inexpensive and fair trial - Financial limitations or constraints cannot be justified as a valid excuse - Policy of State has to be in larger public interest and free of arbitrariness - Adhocism and uncertainty adversely affect any State policy and its results - Though the Central Government took a decision to stop financing and consequently to wind up the FTC Scheme however, at the same time it allocated substantial funds for starting morning, evening and shift courts - Thus, it would not be appropriate to decide upon a comparative analysis of the policy decisions but whichever policy is taken up has to be fair in public interest - Constitution of India,

1950 - Arts. 21 and 39 - Administrative law - Policy decision.

(iii) Administration of justice in States - Decision/recommendations of Conference of Chief Ministers of States and Chief Justices of High Courts - Implementation of - Held: Decision/recommendations of the Conference should form the basis of the policy decisions by the State or the Central Government relating to administration of justice - Due weightage should be attached to these recommendations - On facts, decision taken in the Conference to extend FTC Scheme for the period of 5 years beyond 31st March 2010 i.e. till 31st March 2015 as also other measures taken to tackle the problem of arrear of cases - However, decision of the Conference not implemented and the decision contrary to the minutes taken and placed before Supreme Court that the FTC Scheme would not be financed by the Central Government beyond 31st March, 2011 - Central Government not justified in brushing aside the minutes and recommendations of such a high level meeting in a most casual manner.

(iv) Fast Track Courts (FTC) Scheme by Central Government - Ad hoc appointment of District and Sessions Judges in FTCs made by different States in different manner - Subsequently, Central Government agreeing to finance the FTC Scheme upto 30th March, 2011 - Claims as regards absorption of Judicial Officers in regular cadre disposed of - Gujarat State Judicial Service Rules, 2005 - Orissa Judicial Service (Special Scheme) Rules, 2001 - Punjab Superior Judicial Services Rules, 2007 - Rajasthan Higher Judicial Service Rules, 1969 - Andhra Pradesh State Higher Judicial Service Special Rules for Adhoc

Appointments, 2011 - Administrative Law.

(v) Fast Track Courts (FTC) Scheme - Directions sought for extension of the Scheme - Held: Normally courts do not interfere with the policy decision taken by the Governments but, to protect the guarantees of Art. 21, to improve the Justice Delivery System, to fortify the independence of judiciary, while ensuring attainment of constitutional goals as well as to do complete justice, certain orders and directions issued - Constitution of India, 1950 - Arts. 21 and 142.

Brij Mohan Lal v. Union of India & Ors. 305

(3) Judicial Officer - Dismissed from service - On the allegation of misconduct - Dismissal quashed by High Court in writ petition - Held: Division Bench exceeded its jurisdiction by interfering with the decision of Full Court - It dealt with the matter as if it was exercising appellate powers over the decision of subordinate court - There is nothing on record to suggest that the evaluation made by Standing Committee and then by Full Court was so arbitrary, capricious or irrational as to shock the conscience of Division Bench to justify its interference - Dismissal justified - Constitution of India, 1950 - Arts. 235 and 226.

(Also see under: Constitution of India, 1950)

Registrar General, Patna High Court v. Pandey Gajendra Prasad & Ors. 994

(4) (See under: Constitution of India, 1950) 305

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000:

Offence of rape - Plea of juvenility by accused - Determination of age of the accused - Medical evidence - Appreciation of - 13½ year old girl

allegedly subjected to rape by accused and a co-accused - Accused claimed to be a juvenile - Held: The age of accused could not be proved merely on the basis of school record as the courts below inspite of its scrutiny could not record a finding of fact that the accused, in fact, was a minor on the date of the incident - In such a situation when the school record itself is not free from ambiguity, medical opinion cannot be allowed to be overlooked or treated to be of no consequence - While the medical expert who conducted the ossification test opined that accused was 19 years of age on the date of commission of the offence, another medical expert opined on the basis of x-ray films that age of the accused was above 18 years and below 20 years - Accused and his father failed to prove that he was a minor at the time of commission of offence - Consequently, accused directed to be sent for trial before the court of competent jurisdiction wherein the trial is pending and not to the Juvenile Court as pleaded by him - Medical Jurisprudence.

Om Prakash v. State of Rajasthan and Anr. ... 237

LIABILITY:

Vicarious liability - Held: An authorised signatory of a company cannot be held liable for prosecution u/s.138 of Negotiable Instruments Act, 1881 or u/s.67 r/w s.85 of Information Technology Act, 2000 without the company being arraigned as an accused - Information Technology Act, 2000 - ss.67, 85 - Negotiable Instruments Act, 1881 - ss.138, 141.

(Also see under: Negotiable Instruments Act, 1881)

Aneeta Hada v. M/s. Godfather Travels & Tours Pvt. Ltd. 503

LIMITATION:

Reckoning of limitation - Original order and the order dismissing the review petition - Held: Where review petition is dismissed, there is no question of merger - Limitation would be reckoned from the date of the original order - Doctrine of merger.

M/s. DSR Steel (P) Ltd. v. State of Rajasthan & Ors.

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MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960:

s. 152, read with r.6-A of Rules of Business - Interpretation of - Controversy with regard to disqualification of 6617 voters found ineligible to be members of Sugarcane Factory by the regional Joint Director - Statutory appeals filed before the State u/s. 152 - Due to allegations of bias, Minister for Co-operation transferred the cases to the Secretary, Department of Co-operation - Competency of the Secretary of the Department to hear the appeals - High Court holding that the said power contained in r. 6-A would have to be exercised by Chief Minister since appeals were already pending before State Government - Held: r.6-A does not contemplate the functions of a Minister being discharged by the Secretary of the Department or any other officer for that matter - Order passed by High Court was a pragmatic attempt to ensure that the elections were duly held and the same was within the parameters of r. 6-A, which indicates that if Chief Minister was unable to discharge his functions for the reasons indicated, he could direct any other Minister to discharge all or any of his functions during his absence - Likewise, if any Minister was unable to discharge his functions, the Chief Minister could direct any other Minister to discharge all or any of

the functions of the Minister during the absence of the said Minister.

Rajendra Prataprao Mane & Ors. v. Sadashivrao Mandalik K.T.S.S.K. Ltd. & Ors. 131

MEDICAL JURISPRUDENCE:

(See under: Juvenile Justice (Care and Protection of Children) Act, 2000) 237

MINERAL CONCESSION RULES, 1960:

r. 59 - Proposed integrated steel plant - Application for grant of lease for mining of iron ore for use in the plant - Rejection of, by State Government - Validity - Held: Despite having allotted land and granted sanction to appellant company to take steps for construction of the said plant, to turn around and take a stand that the application made by appellant company was premature, is not only unreasonable, but completely unfair to appellant company, which has already invested large sums of money in setting up the plant - State Government had, on its own volition, entered into MOU with appellant company - The action taken by State Government appears to be highly unreasonable and arbitrary and also attracts the doctrine of legitimate expectation - Since the State Government has already made allotments in favour of others in relaxation of the Mineral Concession Rules, under r. 59(2) thereof, no cogent ground made out to deny the said privilege to appellants as well - Judgment of High Court and also the decision of State Government rejecting appellant's claim for grant of mining lease set aside - State Government directed to take appropriate steps to act in terms of the MOU, as also its earlier commitments to recommend the

case of the appellants to Central Government for grant of adequate iron ore reserves to meet the requirements in their steel plant - Doctrines - Doctrine of legitimate expectation.

Bhushan Power and Steel Ltd. and Ors. v. State of Orissa and Anr. 16

MINES AND MINERALS:

(1) Minerals - Pilferage and illegal mining of - Case registered by CBI against erring company - Charge-sheet filed in court - Petition filed before Supreme Court regarding illegal mining still going on - Central Empowered Committee (CEC) constituted by Supreme Court - CEC submitted reports dated 20.4.2012 and 27.4.2012 to Supreme Court pointing out large illegalities and irregularities coupled with criminality - Held: In the instant case, all the acts and transactions may be so inter-connected that they would ultimately form one composite transaction making it imperative for the Court to direct complete and comprehensive investigation by a single investigating agency - Directions given to CBI to investigate into the issues specified in CEC Report dated 20.4.2012 - Environmental law.

(Also see under: Code of Criminal Procedure, 1973; Constitution of India; and Investigation)

Samaj Parivartan Samudaya & Ors. v. State of Karnataka & Ors. 1074

(2) (See under: Mineral Concession Rules, 1960) 16

MOTOR VEHICLES ACT, 1988:

(1) ss. 146, 147 and 149 - Insurer's liability against third party risk - Limits of - Owner of the vehicle taking an insurance policy for a year and paying the premium through cheque - Cheque got

dishonoured - Subsequent to the accident, insurer cancelled the insurance policy - Liability of insurer to indemnify third party under the insurance policy - Held: Liability of authorized insurer to indemnify third parties subsists and the insurer has to satisfy award of compensation unless the policy of insurance is cancelled by the authorized insurer and intimation of such cancellation has reached the insured before the accident.

United India Insurance Co. Ltd. v. Laxamma & Ors.

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(2) s.166 - Compensation - Motor accident of victim riding a moped, due to rash and negligent driving of lorry - Victim aged 32 years suffered 90% permanent disability in his right leg which had to be amputated and also 50% to 60% disability of mouth and other parts of the body - Tribunal applied multiplier of 16 and awarded total compensation of Rs.4.17 lacs by taking his monthly income as Rs.2000 - High Court enhanced compensation to Rs.7.26 lacs by taking salary as Rs.3000 - Held: The evidence on record showed that the victim was earning Rs.8500 per month prior to the accident - Annual income being Rs.1,02,000 - 90% of it would be Rs.91,800 and same multiplied by 16 would come to Rs.14,68,800 towards loss of future earnings - The nature of injuries and treatment taken by victim showed that he must not have been able to work for minimum of 6 months - Rs.51,000 awarded towards loss of income during treatment - The amount towards medical bills was Rs.1,86,000 - Amount awarded by High Court modified and respondent-insurance company directed to pay Rs.19,75,800 with 6% interest to the victim.

N. Suresh v. Yusuf Shariff & Anr.

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(3) s.166 - Fatal accident - Of unmarried man aged 26 years - Parents and unmarried sister of deceased filing claim petition - Tribunal holding that only parents were dependents as the sister got married in the meantime - Taking into account his age, his unmarried status and his annual salary, deducting 50% for personal and living expenses and applying multiplier of 17, compensation of Rs. 8,66,000/- awarded - High Court reduced the compensation to Rs. 6,68,000/- by applying multiplier of 13 - Held: Tribunal rightly used the multiplier of 17 based on the age of the deceased and not on the basis of the age of the dependents and rightly deducted 50% for personal and living expenses - Age of dependents has no nexus with the computation of compensation - Compensation computed accordingly using multiplier of 17 - Rs. 1,00,000 granted towards the affection of the son, Rs. 10,000 towards funeral and ritual expenses - Compensation amounting to Rs. 9,54,000/- granted with interest @ 6% from the date of filing of the claim petition - Compensation - Interest.

Amrit Bhanu Shali & Ors. v. National Insurance Co. Ltd. & Ors.

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MUMBAI MUNICIPAL CORPORATION ACT, 1888:

s. 314 - Demolition of unauthorized construction - Issuance of notice by Municipal Corporation u/s. 314 to occupants directing them to demolish the structure reconstructed after court's order - Held: Direction issued by High Court to grant alternative site to the occupants is quite reasonable - If the Corporation wants to keep the site open, in public interest, they are bound to comply with the direction within the stipulated time period - Such a conclusion is arrived at because there was inaction on the part of the officers of Corporation

before courts below.

Municipal Corporation of Greater Mumbai v. Thomas Mathew & Ors. 218

MUNICIPALITIES:

(1) (See under: City of Nagpur Corporation Act, 1948) 141

(2) (See under: Mumbai Municipal Corporation Act, 1888) 218

NATIONAL SECURITY ACT, 1980:

s. 3(2) - Order of detention passed against a person arrested for an offence punishable u/s 302 IPC and s.25(1-C) Arms Act - Held: In the instant case, resorting to the provisions of N.S. Act was not permissible, since detenu had not moved any bail application and no other co-accused, if any, had been enlarged on bail - Factors to be taken into consideration while passing an order of detention in respect of a person who is already in custody, enumerated in the judgment - Constitution of India, 1950 - Arts. 21 and 22.

Huidrom Konungjao Singh v. State of Manipur & Ors. 1173

NEGOTIABLE INSTRUMENTS ACT, 1881:

(1) ss.138 and 141 - Statutory intendment of - Held: s.141 stipulates that if the person, who commits offence u/s.138, is a company, the company as well as every person in-charge of and responsible to the company for conduct its of business at the time of commission of offence is deemed to be guilty of the offence - Criminal liability on account of dishonour of cheque primarily falls on drawee company and is extended to its officers and as there is a specific provision

extending the liability to officers, conditions incorporated in s.141 are to be satisfied - Applying the doctrine of strict construction, commission of offence by company is an express condition precedent to attract the vicarious liability of others - For maintaining the prosecution u/s.141 of the Act, arraigning of a company as an accused is imperative - The analysis pertaining to s.141 of the Act would squarely apply to the Information Technology Act, 2000.

Aneeta Hada v. M/s. Godfather Travels & Tours Pvt. Ltd. 503

(2) ss. 138(c) and 142(b) - Offence punishable u/s. 138 - Whether cognizance of an offence could be taken on the basis of a complaint filed before expiry of the period of 15 days stipulated in the notice required to be served upon the drawer of the cheque in terms of s. 138(c) - If no, whether the complainant could be permitted to present the complaint again notwithstanding the fact that the period of one month stipulated u/s. 142 (b) for the filing of such a complaint has expired - Conflict in the judicial pronouncements - Matter referred to the larger bench - Reference to larger bench.

Yogendra Pratap Singh v. Savitri Pandey & Anr. 192

ORISSA JUDICIAL SERVICE (SPECIAL SCHEME) RULES, 2001:

(See under: Judiciary) 305

PENAL CODE, 1860:

(1) ss. 96 to 106, 302, 300, Exception 4 and s. 304 (Part-I) - Right of private defence - General principles - Explained - Held: Evidence clearly indicates that appellant was armed with a knife

with which he inflicted serious injuries on the head of deceased, resulting in his death and also that appellant inflicted injuries on wife of deceased as well when she tried to save her husband - Further, there is nothing to show that victims had attacked appellant, nor do the surrounding circumstances indicate that there was a reasonable apprehension that death or grievous hurt was likely to be caused to appellant by anybody - Mere fact that other seven accused were acquitted or that some of prosecution witnesses were also convicted not sufficient to hold that appellant was not the aggressor - Plea of private defence not sustainable - Considering the background facts as well as the fact that there was no pre-meditation and the act was committed in a heat of passion and that appellant did not take any undue advantage or acted in a cruel manner and that there was a fight between the parties, case falls under fourth exception to s. 300 - Conviction altered from s. 302 to s. 304 (Part 1) with custodial sentence of 10 years.

Arjun v. State of Maharashtra 661

(2) s.302 - Murder - Accused alleged to have poured kerosene on his wife, and set her ablaze - Dying declaration recorded by Executive Magistrate-cum-Tehsildar - Conviction by courts below - Held: The dying declaration had been recorded by competent officer of the executive, duly attested by doctor and cross-examination of both these witnesses did not bring out any legal or substantial infirmity in dying declaration, which could render it inadmissible or unreliable - Statements of doctor, and Investigating Officer, and Exhibits including site plan, post-mortem report etc., which are admissible pieces of

substantive evidence, fully corroborated the dying declaration - Conviction accordingly confirmed.

Bhaju @ Karan Singh v. State of M.P. 37

(3) s. 302 - Murder of wife - By setting her on fire - Statement of deceased implicating the husband - Before three witnesses immediately after the incident and to police constable in hospital - Doctor certifying that deceased was in fit mental condition to make the statement - Plea of discrepancies in evidence - Conviction by courts below - Held: Conviction justified in view of dying declaration and evidence of witnesses - Dying declaration was admissible - Discrepancies in evidence of one of the witnesses not material - Evidence Act, 1872 - s.32 - Dying declaration. (Also see under: Evidence Act, 1872)

Salim Gulab Pathan v. State of Maharashtra through SHO 930

(4) s.302 - Murder - Conviction based on circumstantial evidence - Held: Statement of witnesses provided complete chain as to how the deceased was last seen with the appellant whereafter she died and her body was cremated despite protest by her parents - Appellant was last seen with the deceased but offered no explanation - Statements of witnesses established the facts which formed the very basis of case of prosecution - Evidence was admissible and was appreciated in consonance with rules of prudence and law - Findings of courts below were neither perverse nor improper - Interference with order of conviction not called for merely because another view on the same evidence was possible - Director General of Police/Commissioner of Police directed to take disciplinary action against

the police officers/officials who were present at the place of occurrence when deceased was brought from her room downstairs where the car was parked, but failed to take appropriate action and register a case despite the fact that it was openly stated that deceased had consumed poison - Further, disciplinary action directed against the police officers/officials who were present when the body of deceased was cremated and they failed to take charge of the dead body and proceed in accordance with law, it being an unnatural death, and did not discharge their public duty and mandatory obligations under the provisions of Police Manual and Code of Criminal Procedure - Constitution of India, 1950 - Art. 136 - Administration of Justice.

Nagesh v. State of Karnataka 872

(5) s. 302/34 - Appellant and other accused charged with offence punishable u/s. 302 r/w. 34 - Acquittal by trial court - Leave to appeal filed before High Court, granted only against appellant - Conviction and sentence of appellant u/s. 302 by High Court - Held: High Court did not bring out as to how trial court's judgment was perverse in law or in appreciation of evidence or whether it suffered from an erroneous approach and was based on conjectures and surmises in contradistinction to facts proved by evidence on record - Testimony of sole eye witness-police officer not reliable and worthy of credence - Eye-witnesses, seizure witnesses and the witness to the recovery of knife not supporting the prosecution case - Defect in the recovery - Non-examination of material witnesses as also person from the forensic laboratory - Medical evidence also not supporting the prosecution case - Case of prosecution suffers from proven improbabilities,

infirmities, contradictions - Appellant acquitted. (Also see under: Evidence; and Evidence Act, 1872)

Govindaraju @ Govinda v. State by Srirampuram P.S. & Anr. 67

(6) s.302 r/w s.34 - Armed assault - Gunshots - Blow on head with axe - Death of one person and serious injury to another - Acquittal of all three accused by trial court - Death of one accused during pendency of appeal - Remaining two convicted by High Court u/s.302 r/w s.34 and sentenced to life imprisonment - Held: From the evidence of witnesses it is clear that the three accused were present at the place of incident and were carrying country pistols and axe; that there was altercation between accused persons and victims; that gun shots were fired and deceased died because of gun shot injuries and blow on the head with axe - When medical evidence is in consonance with the principal part of oral / ocular evidence thereby supporting the prosecution story, no question of ruling out the ocular evidence merely on the ground that there are some inconsistencies or contradictions in oral evidence - Guilt of appellants proved beyond doubt - High Court correctly appreciated the evidence on record - Conviction and sentence of appellants, as imposed by High Court, upheld.

Kathi Bharat Vajsur & Anr. v. State of Gujarat 850

(7) ss. 302, 302/34, 324, 326 and 452 - Murder - Common intention - Held: The material evidence clearly shows that the appellant along with his brother had the previous day threatened the deceased with dire consequences and had

inimical relationship with deceased and his family - On the day of occurrence both armed with deadly weapons went to house of deceased and dragged him - Though appellant did not give the blow, but his participation from the beginning till the end would clearly show that he shared the common intention with his brother - He had assaulted other witnesses who tried to intervene - High Court rightly upheld his conviction.

(Also see under: Evidence)

Thoti Manohar v. State of Andhra Pradesh 1129

(8) ss. 302/34 and 316/54 - Murder - Accused persons apprehended with victim who was in injured condition - Victim implicating the accused - Accused admitting the facts narrated by victim and confessing the guilt - Recoveries made - Subsequent death of victim - Trial court convicting both the accused for murder and sentencing them to death - High Court confirming conviction of both the accused - Death sentence of main accused upheld while that of co-accused commuted to life sentence - Held: The chain of circumstances alleged against the accused persons conclusively proved without any missing link - Conviction of both the accused and life sentence of co-accused affirmed - Death sentence of main accused commuted to life sentence - He would serve a minimum of 30 years in jail without remissions - Sentence/Sentencing.

Sandeep v. State of U.P. 952

(9) ss.302, 325, 148 and 149 - Murder - Common object - Armed assault on parents of the witnesses causing 30/33 injuries on different parts of their bodies resulting in their death - Earlier, also two of the accused had beaten the couple, for which

they were facing criminal trial - All nine accused convicted by trial court - High Court accepted the plea of alibi taken by three accused and acquitted them but upheld conviction of six accused - Cross-appeals by State and convicts - Held: Accused had been looking for an opportunity to fight with victims on one pretext or the other - All the accused, except those acquitted by High Court, had participated with a common mind to cause fatal injuries upon the couple - The witnesses, clearly and definitely explained the occurrence, by attributing specific role to each one of the accused - Their version fully supported by other documentary evidence on record and also medical evidence - The members of the assembly had acted in furtherance to the common object - The way in which the crime was committed reflects nothing but sheer brutality - Conviction of six accused (as upheld by High Court) affirmed - As regards the other three accused, High Court accepted their plea of alibi keeping in view the evidence led by defence witnesses and acquitted them - Judgment of High Court accordingly not interfered with.

(Also see under: Constitution of India, 1950; and Witnesses)

State of Haryana v. Shakuntla and Ors. 276

(10) ss. 302, 376(2)(f) and 201 - Rape and murder of a girl of 4 year by his father - FIR lodged by victim's mother - Held: Trial court enumerated number of incriminating circumstances against appellant - If somebody else would have committed the offence it was but natural that appellant would have taken steps to initiate legal action to find out the culprit - Silence on his part in spite of such grave harm to his daughter was again a very strong

incriminating circumstance against him - The provisions of s.106 of the Evidence Act, 1872 were fully applicable - No explanation was given by appellant as to how the blood was present on his clothes - Recovery of incriminating material at his disclosure statement, duly proved, was a very positive circumstance against him - No cogent reason to take a view different from the view taken by the courts below - Conviction upheld - However, death sentence imposed by trial court and upheld by High Court, set aside and accused directed to serve 30 years in jail - Evidence Act, 1872 - s.106.

(Also see under: Sentence/Sentencing)

Neel Kumar @ Anil Kumar v. State of Haryana 696

(11) ss. 302, 376(2) (f) and 201.
(See under: Sentence / Sentencing) 696

(12) (i) s.304-B - Dowry death - Woman burnt to death within 7 years of her marriage - Conviction of husband, brother-in-law and mother-in-law of deceased u/s.304B and imprisonment for life awarded by courts below - Appeals by husband and brother-in-law before Supreme Court - Held: Definite ocular, expert and documentary evidence to show that deceased died an unnatural death, she was subjected to cruelty and ill-treatment, there was demand of dowry of specific items - An accused who raises a false plea would normally earn criticism of court leading to adverse inference - Furthermore, conduct of accused prior to and immediately after the occurrence clearly shows that they were not innocent - Circumstances consistent only with hypothesis that the accused had killed the deceased by setting her on fire - Accused not entitled to any benefit.

(ii) s.304-B - Dowry death - Life imprisonment - Justification - Held: There were no mitigating circumstances in favour of accused - Offence of s.304B was proved - Manner in which the offence was committed was found to be brutal - In the circumstances, Court normally would not exercise its judicial discretion in favour of accused by awarding lesser sentence than life imprisonment.

(iii) s.304B - Ingredients of - Stated - Held: The requirement of s.304B is that the death of a woman be caused by burns, bodily injury or otherwise than in normal circumstances, within seven years of her marriage - Further, it should be shown that soon before her death, she was subjected to cruelty or harassment by her husband or his family or relatives, and thirdly, that such harassment should be in relation to a demand for dowry - Once these three ingredients are satisfied, the death shall be treated as a 'dowry death' and such husband or relative shall be presumed to have caused her death - Thus, by fiction of law, the husband or relative would be presumed to have committed the offence of dowry death rendering them liable for punishment unless the presumption is rebutted - It is not only a presumption of law in relation to a death but also a deemed liability fastened upon the husband/relative by operation of law.

Rajesh Bhatnagar v. State of Uttarakhand 895

(13) ss. 324 and 326 - Assault - Subsequent death - Four witnesses to the incident - Trial court convicting three accused u/s. 326 - High Court affirming conviction of two, but altering the conviction of third accused to one u/s. 324 and reducing the sentence - Held: Though the injuries

on deceased not proved to be cause of death, prosecution case cannot be rejected in toto - Prosecution case supported by the evidence of four witnesses, statement of deceased and medical evidence - Conviction and sentence as ordered by High Court, justified.

Para Seenaiah & Anr. v. State of Andhra Pradesh & Anr. 942

PENSION REGULATIONS OF THE ARMY, 1961:

Part I - Paragraph 179 - Disability pension - Entitlement to - Respondent enrolled in Army, suffered from injury at his home when on annual leave - Opinion of Medical Board that disability was 30% for life but the said disability was neither attributable to, nor aggravated by medical service - Rejection of claim by Competent Authority - Held: Person claiming disability pension must establish that the injury suffered by him bears a causal connection with military service - Opinion of Medical Board which is an expert body should be given primacy in deciding cases of disability pension and court should not grant such pension brushing aside the opinion of Medical Board - On facts, respondent not entitled to disability pension.

Union of India & Anr. v. Talwinder Singh 437

POLICY DECISION:

(See under: Constitution of India, 1950; and Judiciary) 305

POST OFFICE ACT, 1898:

ss. 11 and 12 - Demand for deficit amount of postage from sender of postal articles - Held: In the absence of any breach of conditions of licence, provisions of clauses 11(10)(xv) and 34 of Post Office Guide are not attracted - It is apparent that

due to a wrong intimation given by Postal Authority, the Company affixed postal stamp of Rs.1/- per bill, treating it as 'book post' and the staff of Postal Department without any objection cleared and delivered it to respective addressees - The mistake having been committed by Postal Authority and there being failure on the part of its office to check the postal articles and postage for recovering the amount from addressee, it is not open for Postal Authority to pass on such liability on sender-company or to recover the same from it - Demand notice set aside - Post Office Guide - Clauses 11(10)(xv) and 34.

CESC Ltd. v. Chief Post Master General & Ors. 1055

POST OFFICE GUIDE:

Clauses 11(10)(xv) and 34.
(See under: Post Office Act, 1898) 1055

PREVENTION OF CORRUPTION ACT, 1988:

s.13(1)(e) and 13(2).
(See under: Code of Criminal Procedure, 1973) 919

PREVENTIVE DETENTION:

(See under: National Security Act, 1980) 1173

PUNJAB SUPERIOR JUDICIAL SERVICES RULES, 2007:

(See under: Judiciary) 305

RAJASTHAN HIGHER JUDICIAL SERVICE RULES, 1969:

(See under: Judiciary) 305

REFERENCE TO LARGER BENCH:

(See under: Negotiable Instruments Act, 1881) 192

REMAND:

Recovery suits as also various applications filed by appellant against respondent - Orders passed by trial court, High Court and Supreme Court in the matter on different occasions - Remand of the matter by High Court to trial court for de novo consideration of applications filed by appellants, - Held: Considering the various disputes, orders passed by the courts and in order to shorten the litigation, taking note of the stand taken by respondents in the form of an affidavit that the property would not be encumbered in any manner nor any interest would be created in favour of any third party, interference with remand order passed by High Court, not called for.

*Bandekar Brothers Private Ltd. Etc. v.
M/s. V.G. Quenim & Ors.*

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SENTENCE / SENTENCING:

(1) (i) Father convicted of raping and murdering his 4 year old daughter - Death sentence imposed by courts below - Held: Courts below rightly convicted the accused - However, so far as the sentence part is concerned, the case does not fall within the rarest of rare cases - But, considering the nature of offence, age and relationship of the victim with the appellant and gravity of injuries caused to her, appellant cannot be awarded a lenient punishment - In the facts and circumstances of the case, death sentence set aside and life imprisonment imposed - However, appellant directed to serve a minimum of 30 years in jail without remissions, before consideration of his case for pre-mature release - Penal Code, 1860 - ss. 302, 376(2)(f) and 201.

(ii) Death sentence - When warranted - Held:

Before opting for death penalty the circumstances of the offender also require to be taken into consideration alongwith the circumstances of the crime for the reason that life imprisonment is the rule and death sentence is an exception - The penalty of death sentence may be warranted only in a case where court comes to the conclusion that imposition of life imprisonment is totally inadequate having regard to the relevant circumstances of the crime - For awarding death sentence, there must be existence of aggravating circumstances and the consequential absence of mitigating circumstances - As to whether death sentence should be awarded, would depend upon the factual scenario of the case in hand.

(Also see under: Penal Code, 1860)

*Neel Kumar @ Anil Kumar v. State of
Haryana*

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(2) (See under: Penal Code, 1860)

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SERVICE LAW:

(1) Selection - Post of Chief Engineer in Uttar Pradesh Avas Evam Vikas Parishad - Officiating appointment of appellant challenged by respondent, senior most in the feeding cadre - Considering the sensitive nature of the post and the duties to be performed by the incumbent, selection committee directed to be constituted by the Board to consider the suitability of all the eligible candidates for the purpose of holding the post of Chief Engineer - Till then appellant to continue holding charge - Uttar Pradesh Avas Evam Vikas Parishad (Appointment and Conditions of Service of Chief Engineer) Regulations, 1990 - Regulations 7, 8 and 11.

Narsing Prasad v. Anil Kumar Jain & Ors.

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(2) (See under: Judiciary) 305

SPECIFIC RELIEF ACT, 1963:

(1) s. 20(2)(b) - Suit for specific performance of contract - Defence of hardship - Held: In a case of specific performance, hardship is a good defence provided such defence is taken by the defendant and evidence in support of such defence is brought on record - On facts, trial court and first appellate court did not frame issue relating to the hardship of the defendant - No such defence was taken nor any evidence was brought on record in its support - Question as to whether the grant of relief for specific performance would cause hardship to the defendant within the meaning of Clause (b) of sub s. (2) of s. 20, is a question of fact - First appellate court without framing such an issue erred in reversing the finding of trial court while concurring with it on all other issues with regard to plaintiff's entitlement to relief for specific performance of contract - Plaintiff is entitled to the specific performance of agreement for sale.

Prakash Chandra v. Narayan 444

(2) s.37.

(See under: Code of Civil Procedure, 1908) 834

STRICTURES:

(See under: Judiciary) 1154

TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997:

s.11 - Telecom Regulatory Authority of India (TRAI) - Powers and functions of - Held: TRAI is the regulatory body for the telecommunications sector in India - It is a statutory obligation upon TRAI to recommend a regulatory regime which will serve the purpose of development, facilitate competition

and promote efficiency, while taking due precautions in regard to safety of the people at large and the various other aspects of subscriber verification - TRAI has to regulate the interests of telecom service providers and subscribers, so as to permit and ensure orderly growth of telecom sector - TRAI would not only recommend, to the DoT, the terms and conditions upon which a licence is granted to a service provider but has also to ensure compliance of the same and may recommend revocation of licence in the event of non-compliance with the regulations - It is expected of TRAI to monitor the quality of service and even conduct periodical survey to ensure proper implementation.

(Also see under: Telecommunications).

Avishek Goenka v. Union of India and Anr.... 547

TELECOMMUNICATIONS:

Mobile phone service - Verification of subscriber identity - Safe distribution of pre-paid Subscriber Identity Module (SIM) cards - DoT filed its instructions dated 14th March, 2011, specifically, on the manner of verification of new mobile subscribers (pre-paid and post-paid) - Difference of opinion between DoT and TRAI on certain points - Held: The points of divergence between TRAI and DoT are matters which will have serious ramifications not only vis-à-vis the regulatory authorities and the licensees but also on the subscribers and the entire country - These aspects demand serious deliberation at the hands of technical experts - Instructions dated 14th March, 2011 issued by DoT accepted by the Court subject to conditions - Directions given for constituting of a Joint Expert Committee to resolve the issues on which TRAI gave opinion divergent to that

declared by DoT in its instructions dated 14th March, 2011 - DoT to take into consideration the recommendations of the Joint Expert Committee - Instructions issued by DoT dated 14th March, 2011 be thereupon amended, modified, altered, added to or substituted accordingly - Composite instructions, so formulated, to be positively issued by the DoT within definite time frame and report of compliance submitted to Supreme Court Registry.

Avishek Goenka v. Union of India and Anr. 547

UTTAR PRADESH AVAS EVAM VIKAS PARISHAD
(APPOINTMENT AND CONDITIONS OF
SERVICE OF CHIEF ENGINEER)
REGULATIONS, 1990:

Regulations 7, 8 and 11.

(See under: Service Law) 177

WAKF ACT, 1995:

s.112 - Muslim Wakfs and Trusts created by Muslims, in State of Maharashtra - Held: The Wakf Board was constituted under the provisions of the 1995 Act, but not at full strength as envisaged in ss.13 and 14 of the said Act - The factual position is that there is no properly constituted Board of Wakfs functioning in State of Maharashtra - At the same time, administration of Wakfs in Maharashtra cannot be kept in vacuum - Although, it cannot be said that the Bombay Public Trusts Act was a corresponding law and, therefore, stood repealed, it cannot also be said that the same would be applicable to Wakf properties which were not in the nature of public charities - There is a vast difference between Muslim Wakfs and Trusts created by Muslims which was overlooked by High Court and orders were passed by High

Court without taking into consideration the fact that the Charity Commissioner would not ordinarily have any jurisdiction to manage Wakf properties - In these circumstances, it would be in the interest of all concerned to maintain the status quo and to restrain all those in management of Wakf properties from alienating and/or encumbering Wakf properties during the pendency of the proceedings before Supreme Court - Bombay Public Trusts Act, 1950.

Maharashtra State Board of Wakfs v. Shaikh Yusuf Bhai Chawla & Ors. 1014

WITNESSES:

(1) Hostile witness - Held: Evidence of such witnesses cannot be treated as washed off the records, it remains admissible in trial and there is no legal bar to base conviction of accused upon such testimony, if corroborated by other reliable evidence - But, court will always have to take a very cautious decision while referring to statements of such witnesses who turn hostile or go back from their earlier statements recorded, particularly, u/s.164 Cr.P.C. - What value should be attached and how much reliance can be placed on such statement is a matter to be examined by courts with reference to the facts of a given case.

Bhajju @ Karan Singh v. State of M.P. 37

(2) Interested witness - Held: Once, the statement of a witness is found trustworthy and is duly corroborated by other evidence, there is no reason for the court to reject the statement of such witness, merely on the ground that it was a statement of a related or interested witness - In the instant case, presence of children of deceased-couple at the place of occurrence was natural and their

statements were trustworthy, corroborated by other evidence and did not suffer from the vice of suspicion or uncertainty - 30 and 33 injuries respectively were caused on the bodies of the two deceased, but still, the witnesses attributed specific role to each individual accused, particularly, with regard to the grievous injuries caused by them - Court has to give credence to their statements as they lost their close relations and had no reason to falsely implicate the accused persons, who were also their relations.

State of Haryana v. Shakuntla and Ors. 276

(3) (i) Material witness - Non-production - Effect of - Non-production of doctor (who performed the post mortem and examined the victim before he was declared dead) as well as of the Head Constable and the Constable who reached the site immediately upon the occurrence - Held: Creates a reasonable doubt in the case of prosecution - Court should also draw adverse inference against prosecution for not examining material witnesses - Applicability of principle of 'adverse inference' pre-supposes that withholding was of such material witnesses who could have stated precisely and cogently the events as they occurred.

(ii) Material witness - Effect on prosecution case - Explained.

(iii) Hostile witness - Effect on prosecution case - Explained.

Govindaraju @ Govinda v. State by Srirampuram P.S. & Anr. 67

WORDS AND PHRASES:

(1) (i) 'cognizance', 'prosecution', 'suit', 'legal proceedings', and expression 'institution of case' - Meaning of.

(ii) 'except', 'purport', 'good faith' - Meaning of.

(iii) "Legal proceedings" and "judicial proceedings" - Distinction between.

General Officer Commanding v. CBI and Anr. 599

(2) "fiduciary capacity" - Meaning of.

Sri Marcel Martins v. M. Printer & Ors. 480

JUDGES OF THE SUPREME COURT OF INDIA

(From 14.03.2012 to 17.05.2012)

1. Hon'ble Shri Justice S.H. Kapadia, Chief Justice of India
2. Hon'ble Mr. Justice Altamas Kabir
3. Hon'ble Mr. Justice Dalveer Bhandari
(Resigned on 27.04.2012)
4. Hon'ble Mr. Justice D. K. Jain
5. Hon'ble Mr. Justice P. Sathasivam
6. Hon'ble Mr. Justice G.S. Singhvi
7. Hon'ble Mr. Justice Aftab Alam
8. Hon'ble Mr. Justice R.M. Lodha
9. Hon'ble Mr. Justice H. L. Dattu
10. Hon'ble Mr. Justice Deepak Verma
11. Hon'ble Dr. Justice B.S. Chauhan
12. Hon'ble Mr. Justice A.K. Patnaik
13. Hon'ble Mr. Justice T.S. Thakur
14. Hon'ble Mr. Justice K.S. Radhakrishnan
15. Hon'ble Mr. Justice Surinder Singh Nijjar
16. Hon'ble Mr. Justice Swatanter Kumar
17. Hon'ble Mr. Justice Chandramauli Kr. Prasad
18. Hon'ble Mr. Justice H.L. Gokhale
19. Hon'ble Mrs. Justice Gyan Sudha Misra
20. Hon'ble Mr. Justice Anil R. Dave
21. Hon'ble Mr. Justice S.J. Mukhopadhaya
22. Hon'ble Mrs. Justice Ranjana Prakash Desai
23. Hon'ble Mr. Justice J.S. Khehar
24. Hon'ble Mr. Justice Dipak Misra
25. Hon'ble Mr. Justice J. Chelameswar
26. Hon'ble Mr. Justice Fakkir Mohamed Ibrahim Kalifulla
27. Hon'ble Mr. Justice Ranjan Gogoi

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