



SUPREME COURT YEARLY DIGEST - 2024

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Preface

Dear Subscribers,

We started CaseCiter project on 1 January 2024. The idea has been simple but powerful: Make notes of every judgment delivered by the Supreme Court of India and share it as monthly digests with our subscribers - judges, lawyers, law professors , law students etc.

Last year, the Supreme Court delivered 1053 judgments and we have covered them all. We have already published 11 monthly digests (pdf) and have shared with you. We have combined all these monthly digests and has now made this **CaseCiter Supreme Court Yearly Digest 2024**.

We have tried to include all legal aspects of all 1053 judgments in our notes. But, if you find some mistakes or omissions, please feel free to point out. Some hyperlinks to full judgments might not be working and you can help us by pointing it out and we will find some way to fix it for you. We are trying to sort these judgments subject wise and we might come up with a subject wise index after sometime and the same will be shared with you through our whatsapp community. We request you not to share this file with anyone else without our prior permission. If you are not our subscriber and is reading this somehow, you may please support us by [subscribing](#).

We are grateful to all of you, our subscribers, who have inspired us to come out with this yearly digest. We beseech your support in future also.

Thank You,
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Kanwar Raj Singh (D) vs Gejo (D) 2024 INSC 1 – Registration Act

Registration Act, 1908 - Section 47 - A registered sale deed where entire consideration is paid would operate from the date of its execution - A registered document shall operate from the time from which it would have commenced to operate if no registration thereof was required. Thus, when a compulsorily registerable document is registered according to the Registration Act, it can operate from a date before the date of its registration. The date of the operation will depend on the nature of the transaction. If, in a given case, a sale deed is executed and the entire agreed consideration is paid on or before execution of the sale deed, after it is registered, it will operate from the date of its execution. The reason is that if its registration was not required, it would have operated from the date of its execution. (Para 6)

Registration Act, 1908 - Section 47 -Referred to Ram Saran Lall v. Domini Kuer AIR 1961 SC 1747: Section 47 of the Registration Act does not deal with the issue when the sale is complete - Section 47 applies to a document only after it has been registered, and it has nothing to do with the completion of the sale when the instrument is one of sale - Once a document is registered, it will operate from an earlier date, as provided in Section 47 of the Registration Act - The decision of the Constitution Bench only deals with the question of when the sale is complete- it does not deal with the issue of the date from which the sale deed would operate. (Para 8-10)

Registration Act, 1908 - Section 47 - The corrections unilaterally made by the first defendant after the execution of the sale deed without the knowledge and consent of the purchaser will have to be ignored. Only if such changes would have been made with the consent of the original plaintiff, the same could relate back to the date of the execution. (Para 11)

Punjab Courts Act, 1918 - Section 41 - A decision being contrary to law is a ground for interference- Referred to Satyender v. Saroj 2022 SCC OnLine SC 1026. (Para 13)

Vashist Narayan Kumar vs State of Bihar 2024 INSC 2 – Public Employment

Summary: Appellant applied for Police Constable Post and cleared the written examination and the Physical Eligibility Test - He was declared failed for the reason that in the application form uploaded online, his date of birth was shown as 08.12.1997, in the school mark sheet, his date of birth was reflected as 18.12.1997 - High Court dismissed his writ petition challenging this result -In appeal, Supreme Court held: the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making a mountain out of this molehill - We do not think that the appellant could be penalized for this insignificant error which made no difference to the ultimate result. Errors of this kind, as noticed in the present case, which are inadvertent do not constitute misrepresentation or wilful suppression.

Legal maxim - De minimis non curat lex - Law does not concern itself with trifles.
(Para 15)

Vishal Tiwari vs Union of India 2024 INSC 3 – SEBI – Judicial Review – Adani-Hindenburg

Constitution of India, 1950- Article 32, 226 - Judicial Review - SEBI - a. Courts do not and cannot act as appellate authorities examining the correctness, suitability, and appropriateness of a policy, nor are courts advisors to expert regulatory agencies on matters of policy which they are entitled to formulate- b. The scope of judicial review, when examining a policy framed by a specialized regulator, is to scrutinize whether it (i) violates the fundamental rights of the citizens- (ii) is contrary to the provisions of the Constitution- (iii) is opposed to a statutory provision- or (iv) is manifestly arbitrary. The legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review- c. When technical questions arise – particularly in the domain of economic or financial matters – and experts in the field have expressed their views and such views are duly considered by the statutory regulator, the resultant policies or subordinate legislative framework ought not to be interfered with- d. SEBI's wide powers, coupled with its expertise and robust information gathering mechanism, lend a high level of credibility

to its decisions as a regulatory, adjudicatory and prosecuting agency- and e. This Court must be mindful of the public interest that guides the functioning of SEBI and refrain from substituting its own wisdom in place of the actions of SEBI. (Para 17)

Constitution of India, 1950- Article 32, 226 - Power to transfer an investigation from the authorized agency to the CBI or constitute an SIT - Such powers must be exercised sparingly and in extraordinary circumstances. Unless the authority statutorily entrusted with the power to investigate portrays a glaring, willful and deliberate inaction in carrying out the investigation the court will ordinarily not supplant the authority which has been vested with the power to investigate. Such powers must not be exercised by the court in the absence of cogent justification indicative of a likely failure of justice in the absence of the exercise of the power to transfer. The petitioner must place on record strong evidence indicating that the investigating agency has portrayed inadequacy in the investigation or prima facie appears to be biased - The power to transfer an investigation to investigating agencies such as the CBI must be invoked only in rare and exceptional cases. Further, no person can insist that the offence be investigated by a specific agency since the plea can only be that the offence be investigated properly. (Para 32-33)

State of Uttar Pradesh vs Association of Retired Supreme Court and High Court Judges at Allahabad 2024 INSC 4 – Contempt Of Court- Summoning Of Govt. Officials

Contempt of Courts Act, 1971 - The power of the High Courts to initiate contempt proceedings cannot be used to obstruct parties or their counsel from availing legal remedies- Courts must refrain from summoning officials as the first resort. While the actions and decisions of public officials are subject to judicial review, summoning officials frequently without just cause is not permissible. Exercising restraint, avoiding unwarranted remarks against public officials, and recognizing the functions of law officers contribute to a fair and balanced judicial system. Courts across the country must foster an environment of respect and professionalism, duly considering the constitutional or professional mandate of law officers, who represent the government and its officials before the courts. Constantly summoning officials of the government instead of relying on the law

officers representing the government, runs contrary to the scheme envisaged by the Constitution - Standard Operating Procedure (SOP) on Personal Appearance of Government Officials in Court Proceedings laid down -The appearance of government officials before courts must not be reduced to a routine measure in cases where the government is a party and can only be resorted to in limited circumstances. The use of the power to summon the presence of government officials must not be used as a tool to pressurize the government, particularly, under the threat of contempt. (Para 34, 38-44)

Contempt of Courts Act, 1971 - ‘Wilful disobedience’ of a judgment, decree, direction, order, writ, or process of a court or wilful breach of an undertaking given to a court amounts to ‘civil contempt’. On the other hand, the threshold for ‘criminal contempt’ is higher and more stringent. It involves ‘scandalising’ or ‘lowering’ the authority of any court- prejudicing or interfering with judicial proceedings- or interfering with or obstructing the administration of justice. (Para 32)

Constitution of India, 1950 - Article 229 - Article 229(2) pertains only to the service conditions of ‘officers and servants’ of the High Courts and does not include Judges of the High Court (both sitting and retired judges). The Chief Justice does not have the power, under Article 229, to make rules pertaining to the post-retiral benefits payable to former Chief Justices and judges of the High Court. (Para 25)

Constitution of India, 1950 - Article 226 - The High Court, acting under Article 226 of the Constitution, cannot usurp the functions of the executive and compel the executive to exercise its rule-making power in the manner directed by it. Compelling the State Government to mandatorily notify the Rules by the next date of hearing, in the First Impugned Order, virtually amounted to the High Court issuing a writ of mandamus to notify the Rules proposed by the Chief Justice. Such directions by the High Court are impermissible and contrary to the separation of powers envisaged by the Constitution. The High Court cannot direct the State Government to enact rules on a particular subject, by a writ of mandamus or otherwise. (Para 29)

Practice and Procedure - Merely because reference is made to a wrong provision of law while exercising power, that by itself does not vitiate the exercise of power so long as the

power of the authority can be traced to another source of law. (Para 26)

Contempt of Courts Act, 1971 - Section 14 - Summary procedure, although, permitted under Section 14 of the Contempt of Courts Act cannot be invoked as a matter of routine and is reserved for only extraordinary circumstance - Referred to Leila David v. State of Maharashtra (2009) 10 SCC 337 (Para 36)

Ajeet Singh vs State of Uttar Pradesh 2024 INSC 5 – S 375 IPC – S 482 CrPC – Rape By Giving False Promise To Marry

Code of Criminal Procedure, 1973 - Section 482 - Indian Penal Code, 1860 - Section 375 - The allegation in the FIR is that the appellant maintained a physical relationship with the victim by giving her a false promise of marriage - The relationship between the appellant and the victim was a consensual relationship which culminated in the marriage. In the legal notice issued on behalf of the appellant, the factum of marriage was admitted. Therefore, on the face of it, the allegation that the physical relationship was maintained due to false promise given by the appellant to marry, is without basis as their relationship led to the solemnization of marriage. Therefore, this is a case where the allegations made in the FIR were such that on the basis of the statements, no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the appellant. Therefore, clause (5) of the decision of this Court in the case of the State of Haryana. (Para 9)

Neeraj Sharma vs State of Chhattisgarh 2024 INSC 6 – S 364A IPC – S 32 Evidence Act – Injured Eye-Witness

Indian Penal Code, 1860 - Section 364A - In order to make out an offence under Section 364 A, three conditions must be met: A) There should be a kidnapping or abduction of a person or a person is to be kept in detention after such kidnapping or abduction- B) There is a threat to cause death or hurt to such a person or the accused by their conduct give rise to a reasonable apprehension that such person may be put to death

or hurt C) Or cause death or hurt to such a person in order to compel the Government or any foreign state or intergovernmental organization or any other person to do or abstain from doing any act or to pay a ransom. The necessary ingredients which the prosecution must prove, beyond a reasonable doubt, before the Court are not only an act of kidnapping or abduction but thereafter the demand of ransom, coupled with the threat to life of a person who has been kidnapped or abducted, must be there - When there is no allegation about demand for ransom, offence under Section 364A IPC is not attracted- Referred to Shaik Ahmed v. State of Telangana (2021) 9 SCC 59 and Ravi Dhingra v. State of Haryana (2023) 6 SCC 76. (Para 14-16)

Indian Evidence Act, 1872 - Section 32 - Statement cannot be read as a dying declaration when the person making this statement or declaration had ultimately survived. (Para 17)

Indian Penal Code, 1860 - Section 364A - Section 364A IPC does not merely cover acts of terrorism against the Government or Foreign State but it also covers cases where the demand of ransom is made not as a part of a terrorist act but for monetary gains for a private individual.

Criminal Trial - Injured Witness - Unless there are compelling circumstances or evidence placed by the defence to doubt such a witness, this has to be accepted as an extremely valuable evidence in a criminal Trial - Principles which are to be kept in mind when appreciating the evidence of an injured eye-witness - Referred to Balu Sudam Khalde v. State of Maharashtra 2023 SCC OnLine SC 355. (Para 11)

Radhey Shyam Yadav vs State Of UP 2024 INSC 7 – Service Law

Summary: Appellants were appointed as Assistant Teachers at the Junior High School, Bahorikpur, Maharajganj, District Jaunpur, U.P- From October, 2005, abruptly their salaries were stopped - Writ petition challenging this was dismissed by Allahabad HC - Appeals allowed by Supreme Court with direction that the State shall pay the salaries of the

appellants for the period from 25.06.1999 till January, 2002 in full.

Mary Pushpam vs Telvi Curusumary 2024 INSC 8 – Suit For Possession – Doctrine of Merger – Precedents – Judicial Discipline

Civil Suit - Suit for possession has to describe the property in question with accuracy and all details of measurement and boundaries. When this was completely lacking , a suit for possession with respect to such a property would be liable to be dismissed on the ground of its identifiability. (Para 23)

Judicial Discipline - Lower or subordinate Courts do not have the authority to contradict the decisions of higher Courts - Referred to Central Board of Dawoodi Bohra Community & Anr. vs. State of Maharashtra & Anr (2005) 2 SCC 673 -‘Judicial Discipline and Propriety’ and the Doctrine of precedents has a merit of promoting certainty and consistency in judicial decisions providing assurance to individuals as to the consequences of their actions. (Para 20, 1)

Doctrine of merger- A common law doctrine that is rooted in the idea of maintenance of the decorum of hierarchy of courts and tribunals - The doctrine is based on the simple reasoning that there cannot be, at the same time, more than one operative order governing the same subject matter- Referred to Kunhayammed & Ors. v. State of Kerala & Anr. (2000) 6 SCC 359 (Para 17)

Precedent - When a decision of a coordinate Bench of same High court is brought to the notice of the bench, it is to be respected and is binding subject to right of the bench of such co-equal quorum to take a different view and refer the question to a larger bench. It is the only course of action open to a bench of co-equal strength, when faced with the previous decision taken by a bench with same strength. (Para 1)

Brij Narayan Shukla (D) vs Sudesh Kumar Alias Suresh Kumar (D) 2024 INSC 9 – S 100 CPC – Second Appeal- Adverse Possession

Code of Civil Procedure, 1908 - The High Court was hearing the Second Appeal under section 100 of Code of Civil Procedure, 1908 and it having reappreciated the findings to disturb findings of fact, committed an error. (Para 9.2)

Adverse Possession - The suit of the year 1944 was for the arrears of rent and not relating to any dispute of possession. The defendant respondents were tenants and therefore their possession was permissive as against the then landlords. There was no question of them claiming any adverse possession from 1944. (Para 9.4)

Reliance Life Insurance Company Ltd vs Jaya Wadhwani 2024 INSC 10 – Insurance Law

Insurance - The date of proposal cannot be treated to be the date of policy until and unless on the date of proposal, initial deposit as also the issuance of policy happens on the same date where, for example, the premium is paid in cash then, immediately, the policy could be issued. Merely, tendering a cheque may not be enough as till such time the cheque is encashed, the contract would not become effective. The drawer of the cheque may, at any time, after issuing, stop its payment or there may not be enough funds in the account of which the cheque is issued and there could be many other reasons for which the cheque could be returned without being encashed. (Para 11)

Insurance - conditions of the contract as contained in the policy should be strictly adhered to. Otherwise mentioning of the terms and conditions would be a futile exercise, if any other interpretation is given or terms and conditions are relaxed. (Para 12)

State of NCT of Delhi vs Raj Kumar @ Lovepreet @ Lovely 2024 INSC 11 – S 43D(2)(b) UAPA

Unlawful Activities (Prevention) Act, 1967 - Section 43 D(2)(b) - The extension for investigation could be granted up to a maximum period of 180 days for the following reasons: Completion of the investigation- Progress in the investigation was explained- and

Specific reasons for detention beyond a period of 90 days - In this case, the Public Prosecutor had mentioned in the request that major investigation of the case had been completed and the draft chargesheet had been prepared. However, for want of remaining sanctions and FSL report some more time was required for completing the investigation - The High Court also fell in error in not taking into consideration the reasons given under section 43D(2) (b) were clearly made out. (Para 10)

Rejendhiran vs Muthaiammal @ Muthayee 2024 INSC 12 – Civil Suit

Summary: High Court of Judicature at Madras allowed the Second Appeal filed by the plaintiff and the concurrent judgments of the Trial Court and the Sub-Judge dismissing the suit of the plaintiff were set aside and the suit was decreed - Allowing appeal, Supreme Court held: the impugned judgment cannot be sustained as it not only does not conform to the scope of Section 100 of the Code of Civil Procedure, 1908 but also as it was perverse on appreciated evidence, and also ignoring material evidence.

Perumal Raja @ Perumal vs State 2024 INSC 13 – Ss 27 & 106 Evidence Act

Indian Evidence Act, 1872- Section 25-27 - As soon as an accused or suspected person comes into the hands of a police officer, he is no longer at liberty and is under a check, and is, therefore, in “custody” within the meaning of Sections 25 to 27 of the Evidence Act. It is for this reason that the expression “custody” has been held, as earlier observed, to include surveillance, restriction or restraint by the police- Even if the accused was not formally arrested at the time of giving information, the accused is, for all practical purposes, in the custody of the police and the bar vide Sections 25 and 26 of the Evidence Act, and accordingly exception under Section 27 of the Evidence Act, apply - formal arrest is not a necessity for operation of Section 27 of the Evidence Act - Referred to State of U.P. v. Deoman Upadhyaya (1961) 1 SCR 14 . (Para 28-29)

Indian Evidence Act, 1872- Section 27 - Section 27 does not lay down the principle that discovery of a fact is to be equated to the object produced or found. The discovery of the fact resulting in recovery of a physical object exhibits knowledge or mental awareness

of the person accused of the offence as to the existence of the physical object at the particular place. Accordingly, discovery of a fact includes the object found, the place from which it was produced and the knowledge of the accused as to its existence. To this extent, therefore, factum of discovery combines both the physical object as well as the mental consciousness of the informant accused in relation thereto - the first condition imposed and necessary for bringing the section into operation is the discovery of a fact which should be a relevant fact in consequence of information received from a person accused of an offence. The second is that the discovery of such a fact must be deposited to. A fact already known to the police will fall foul and not meet this condition. The third is that at the time of receipt of the information, the accused must be in police custody. Lastly, it is only so much of information which relates distinctly to the fact thereby discovered resulting in recovery of a physical object which is admissible. Rest of the information is to be excluded. The word 'distinctly' is used to limit and define the scope of the information and means 'directly', 'indubitably', 'strictly' or 'unmistakably'. Only that part of the information which is clear, immediate and a proximate cause of discovery is admissible - Referred to *Mohmed Inayatullah v. State of Maharashtra* (1976) 1 SCC 828. (Para 23)

Indian Evidence Act, 1872- Section 27 - Evidentiary value to be attached on evidence produced before the court in terms of Section 27 of the Evidence Act cannot be codified or put in a straightjacket formula. It depends upon the facts and circumstances of the case. A holistic and inferential appreciation of evidence is required to be adopted in a case of circumstantial evidence. (Para 30)

Indian Evidence Act, 1872- Section 27 - Section 27 of the Evidence Act could not have been applied to the other co-accused for the simple reason that the provision pertains to information that distinctly relates to the discovery of a 'fact' that was previously unknown, as opposed to fact already disclosed or known. Once information is given by an accused, the same information cannot be used, even if voluntarily made by a co-accused who is in custody - Section 27 of the Evidence Act does apply to joint disclosures. (Para 43)

Indian Evidence Act, 1872- Section 106 - Section 106 comes into play when the prosecution is able to establish the facts by way of circumstantial evidence - A false

explanation given can be used as a link when: (i) various links in the chain of evidence laid by the prosecution have been satisfactorily proved- (ii) circumstance points to the guilt of the accused with reasonable definiteness- and (iii) the circumstance is in proximity to the time and situation. If these conditions are fulfilled only then the court can use the false explanation or a false defence as an additional link to lend an assurance to the court and not otherwise. Thus, a distinction has to be drawn between incomplete chain of circumstances and a circumstance after a chain is complete and the defence or explanation given by the accused is found to be false, in which event the said falsehood is added to reinforce the conclusion of the court. (Para 34-38)

Precedent -The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength. (Para 26)
(SCI)

DBS Bank Limited Singapore vs Ruchi Soya Industries Limited 2024 INSC 14 – S 30(2)(b)(ii) IBC

Insolvency and Bankruptcy Code, 2016 - Section 30(2)(b)(ii) - Whether Section 30(2)(b)(ii) of the Insolvency and Bankruptcy Code, 2016¹, as amended in 2019, entitles the dissenting financial creditor to be paid the minimum value of its security interest? - Referred to a larger bench.

Bharti Airtel Limited vs Vijaykumar V Iyer 2024 INSC 15 – S 25(2)(a) IBC – Set Off In CIRP

Insolvency and Bankruptcy Code, 2016 - Section 25(2)(a)- Right to claim set-off in the Corporate Insolvency Resolution Process, when the Resolution Professional proceeds in terms of Section 25(2)(a) to take custody and control of all the assets of the corporate debtor. Provisions of statutory set-off in terms of Order VIII Rule 6 of CPC or insolvency set-off as permitted by Regulation 29 of the Liquidation Regulations can be applied to the

Corporate Insolvency Resolution Process. The aforesaid rule would be, however, subject to two exceptions or situations. The first, if at all it can be called an exception, is where a party is entitled to contractual set-off, on the date which is effective before or on the date the Corporate Insolvency Resolution Process is put into motion or commences. - The second exception will be in the case of 'equitable set-off' when the claim and counterclaim in the form of set-off are linked and connected on account of one or more transactions that can be treated as one. (Para 30-34)

Satish P Bhatt vs State of Maharashtra 2024 INSC 16 – S 138 NI Act – Violation Of Undertaking

Summary: Bombay HC cancelled the order of suspension of sentence and bail granted to the appellant - accused - also the intervenor (petitioner before the High Court) as they violated the undertaking given before the High Court and further violated the condition contained in the order granting extension of time to comply- Supreme Court dismissed appeal with costs quantified at Rs. 5 lakhs to be paid to the Complainant within four weeks - this amount of costs will not be adjusted against the compensation awarded to the respondent No.2 but will be in addition to it.

S V Samudram vs State of Karnataka 2024 INSC 17 :: [2024] 1 S.C.R. 281 – S 34 Arbitration Act

Arbitration and Conciliation Act, 1996 - Section 34 - Any court under Section 34 would have no jurisdiction to modify the arbitral award - The court cannot correct errors of the arbitrators. It can only quash the award leaving the parties free to begin the arbitration again if it is desired- Referred to Larsen Air Conditioning and Refrigeration Company v. Union of India 2023 SCC On Line 982, Dakshin Haryana Bijli Vitran Nigam Limited v. Navigant Technologies Private Limited (2021) 7 SCC 657 and National Highways Authority of India v. M. Hakeen 2021) 9 SCC 1 (Para 14)

Arbitration and Conciliation Act, 1996 - Section 34 - Arbitral proceedings are per se not comparable to judicial proceedings before the Court The Arbitrator's view, generally is

considered to be binding upon the parties unless it is set aside on certain specified grounds. In the very same decision taking note of the opinion as is in "Russel on Arbitration", reiterated the need for the Court to look at the substance of the findings, rather than its form, stood reiterated and the need for adopting an approach of reading the award in a fair and just manner, and not in what is termed as "an unduly literal way". All that is required is as to whether the reasons borne out are intelligible or not for adequacy of reasons cannot stand in the way of making the award to be intelligibly readable - if the view taken by the Arbitrator is a plausible view, no interference on the specified grounds is warranted - an award passed by a technical expert is not meant to be scrutinised in the same manner as is the one prepared by a legally trained mind - Referred to Delhi Airport Metro Express Private Limited v. Delhi Metro Rail Corporation Limited (2022) 1 SCC 131 , Konkan Railway Corp. Ltd. v. Chenab Bridge Project (2023) 9 SCC 85 and Dyna Technologies Private Limited v. Crompton Greaves Limited (2019) 20 SCC 1. (Para 17-19)

Arbitration and Conciliation Act, 1996 - Section 31- Award of interest -Referred to Hyder Consulting (UK) Ltd. v. State of Orissa (2015) 2 SCC 189. (Para 45)

Sarfaraz Alam vs Union of India 2024 INSC 18 :: [2024] 1 S.C.R. 267- Article 22(5) Constitution – Detention

Constitution of India, 1950 - Article 22(5) - Article 22(5) of the Constitution of India can broadly be divided into two parts - The first part involves the bounden duty of the authorities in serving the grounds of detention containing such grounds which weighed in the mind of the detaining authority in passing the detention order. In doing so, adequate care has to be taken in communicating the grounds of detention and serving the relevant documents in the language understandable to the detenu. The second part is with respect to his right of making the representation. For exercising such a right, a detenu has to necessarily have adequate knowledge of the very basis of detention order. There is a subtle difference between the background facts leading to detention order and the grounds of detention. While the background facts are not required in detail, the grounds of detention which determine the detention order ought to be found in the grounds supplied to the detenu. In other words, the knowledge of the detenu is to the subjective satisfaction of a

detaining authority discernible from the grounds supplied to him. It is only thereafter that a detenu could be in a better position to take a decision as to whether he should challenge the detention order in the manner known to law. This includes his decision to make a representation to various authorities including the detaining officer. Therefore, an effective knowledge qua a detenu is of utmost importance -. On the second aspect, a detenu has to be informed that he has a right to make a representation. Such a communication of his right can either be oral or in writing. This right assumes importance as a detenu in a given case may well be a literate, semi-literate or illiterate person. Therefore, it becomes a cardinal duty on the part of the authority that serves the grounds of detention to inform a detenu of his right to make a representation - While the aforesaid two rights and duties form two separate parts of Article 22(5) of the Constitution of India, they do overlap despite being mutually reinforcing. Though they travel on different channels, their waters merge at the destination. This is for the due compliance of Article 22(5). The entire objective is to extend knowledge to the detenu leading to a representation on his decision to question the detention order. Such a right is an inalienable right under scheme of the Constitution of India, available to the detenu, corresponding to the duty of the serving authority - To what extent a communication can be made both orally and in writing? In a case where a detenu is not in a position to understand the language, a mere verbal explanation would not suffice. Similarly, where a detenu consciously declines to receive the grounds of detention, he has to be informed about his right to make a representation. In such a scenario, the question as to whether the grounds of detention contained a statement that a detenu has got a right to make a representation to named authorities or not, pales into insignificance. This is for the reason that a detenu despite refusing to receive the grounds of detention might still change his mind and receive them if duly informed of his right to challenge a detention order by way of a representation. -In a case where a detenu receives the ground of detention in the language known to him which contains a clear statement over his right to make a representation, there is no need for informing verbally once again. Such an exercise, however, would be required when the grounds of detention do not indicate so. - Referred to Lallubhai Jogibhai Patel v. Union of India, (1981) 2 SCC 427 - State of Bombay v. Atma Ram Shridhar Vaidya, AIR 1951 SC 157 - Harikisan v. State of Maharashtra, AIR 1962 SC 911. (Para 13- 15)

**Darshan Singh vs State of Punjab 2024 INSC 19 – Criminal Trial – Ss 161, 313
CrPC – Illiterate Witness – Circumstantial Evidence**

Criminal Trial - Code of Criminal Procedure, 1973 - Section 161 - If the PWs had failed to mention in their statements u/s 161 CrPC about the involvement of an accused, their subsequent statement before court during trial regarding involvement of that particular accused cannot be relied upon. Prosecution cannot seek to prove a fact during trial through a witness which such witness had not stated to police during investigation. The evidence of that witness regarding the said improved fact is of no significance.

Criminal Trial - Illiterate witness - Appreciation of evidence led by such a witness has to be treated differently from other kinds of witnesses. It cannot be subjected to a hyper-technical inquiry and much emphasis ought not to be given to imprecise details that may have been brought out in the evidence - The evidence of a rustic/illiterate witness must not be disregarded if there were to be certain minor contradictions or inconsistencies in the deposition. (Para 27)

Criminal Trial - Circumstantial Evidence -The normal approach in a case based on circumstantial evidence is that the circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established- that those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused- that the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion, that within all human probability, the crime was committed by the accused and they should be incapable of explanation on any hypothesis other than that of the guilt of the accused and inconsistent with his innocence. [See Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116] - failure to prove a single circumstance cogently can cause a snap in the chain of circumstances. There cannot be a gap in the chain of circumstances. When the conviction is to be based on circumstantial evidence solely, then there should not be any snap in the chain of circumstances. If there is a snap in the chain, the accused is entitled to benefit of doubt. If some of the circumstances in the chain can be explained by any other reasonable hypothesis, then also the accused is entitled to

the benefit of doubt. [See: Bhimsing Vs. State of Uttarakhand, (2015) 4 SCC 281.] (Para 9,37)

Code of Criminal Procedure, 1973 - Section 313- Standard of proof to be met by an accused in support of the defence taken by him under Section 313 of Code 21 of Criminal Procedure is not beyond all reasonable doubt, as such, a burden lies on the prosecution to prove the charge. The accused has merely to create a doubt and it is for the prosecution then to establish beyond reasonable doubt that no benefit can flow from the same to the accused. [See: Pramila vs State of Uttar Pradesh 2021 SCC OnLine SC 711] - The statement of an accused under Section 313 CrPC is no ‘evidence’ because, firstly, it is not on oath and, secondly, the other party i.e. the prosecution does not get an opportunity to cross examine the accused. [Sidhartha Vashisht Vs. State of NCT of Delhi, AIR 2010 SC 2352] (Para 31-32)

Death caused by poisoning through aluminum phosphide - Review of scholarly literature and research papers suggests that the nature of this substance (aluminum phosphide) is such that it is not conducive for deceitful administration since it carries a pungent garlic-like odour, which cannot go unmissed - Referred to Jaipal V. State of Haryana – (2003) 1 SCC 169. (Para 30)

Jitendra Kumar Mishra @ Jittu vs State of Madhya Pradesh 2024 INSC 20 – S 372 CrPC – Appeal Against Conviction

Code of Criminal Procedure, 1973- Section 372, 386 - The appellate court should be slow in interfering with the conviction recorded by the courts below but where the evidence on record indicates the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and that a plausible view, different from the one expressed by the courts below can be taken, the appellate court should not shy away in giving the benefit of doubt to the accused persons.

Pradeep Kumar vs State Of Haryana 2024 INSC 21 :: [2024] 1 S.C.R. 306 – Circumstantial Evidence – Murder Accused Acquitted

Criminal Trial - Circumstantial Evidence - While the principle applicable to circumstantial evidence requires that the facts must be consistent with the hypothesis of the guilt of the accused, in the present case the evidence adduced gives rise to doubts, improbabilities and inconsistencies - Referred to Pritinder Singh v. State of Punjab, (2023) 7 SCC 727.

Gurdev Singh Bhalla vs State Of Punjab 2024 INSC 22 :: [2024] 1 S.C.R. 319- S 319 CrPC – Summoning Order

Summary: Supreme Court upheld an order summoning police officers in a corruption case

Jaipur Vidyut Vitran Nigam Ltd. vs MB Power (Madhya Pradesh) Limited 2024 INSC 23 – Electricity Act – Article 226 – Writ Jurisdiction In Contractual Matters – Interpretation Of Statutes

Constitution of India, 1950- Article 226 - When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution of India - Availability of an alternate remedy is not a complete bar in the exercise of the power of judicial review by the High Courts. But, recourse to such a remedy would be permissible only if extraordinary and exceptional circumstances are made out. (Para 95-99)

Constitution of India, 1950- Article 226 - Writ Petitions in contractual matters - The award of a contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision, considerations which are paramount are commercial considerations - The State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny - The State can enter into negotiations before finally deciding to accept one of the offers made to it - Price need not always be the sole criterion for

awarding a contract - State may not accept the offer even though it happens to be the highest or the lowest. However, the State, its corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the court can examine the decision making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness - Even when some defect has been found in the decision making process, the court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should intervene - Unless the Court finds that the decision-making process is vitiated by arbitrariness, mala fides, irrationality, it will not be permissible for the Court to interfere with the same - Referred to Air India Ltd. v. Cochin International Airport Ltd. (2000) 2 SCC 617=2000 INSC 39 and Tata Cellular v. Union of India (1994) 6 SCC 651 (para 94)= 1994 INSC 283. (Para 102-103)

Constitution of India, 1950- Article 226 - A petition need not be dismissed solely on the ground of delay and laches. However, if petitioner approaches the Court with delay, he has to satisfy the Court about the justification for delay in approaching the Court belatedly. (Para 100)

Electricity Act, 2003 - Section 86(1)(b) - State Commission has ample power to regulate electricity purchase and procurement process of distribution licensees. It also empowers the State Commission to regulate the matters including the price at which electricity shall be procured from the generating companies, etc. (Para 71)

Electricity Act, 2003 - Section 63 - Appropriate Commission does not act as a mere post office under Section 63 - Clause 4, in particular, deals with tariff and the appropriate Commission certainly has the jurisdiction to look into whether the tariff determined through the process of bidding accords with Clause 4. (Para 67)

Interpretation of Statutes - The modern approach of interpretation is a pragmatic one, and not pedantic. An interpretation which advances the purpose of the Act and which ensures its smooth and harmonious working must be chosen and the other which leads to absurdity, or confusion, or friction, or contradiction and conflict between its various provisions, or undermines, or tends to defeat or destroy the basic scheme and purpose of the enactment must be eschewed. (para 90)

Words and Phrases - “all”- “any”- The words “all” or “any” will have to be construed in their context taking into consideration the scheme and purpose of the enactment. What is the meaning which the legislature intended to give to a particular statutory provision has to be decided by the Court on a consideration of the context in which the word(s) appear(s) and in particular, the scheme and object of the legislation. (Para 87)

Bilkis Yakub Rasool vs Union of India 2024 INSC 24 :: [2024] 1 S.C.R. 743 – S 432 CrPC – Remission – Article 32 Constitution

Code Of Criminal Procedure, 1973- Section 432 -In a case where the trial has been transferred by this Court from a court of competent jurisdiction of a State to a court in another State, Government of the State within which the offender was sentenced is the appropriate Government which has the jurisdiction as well as competency to pass an order of remission under Section 432 of the CrPC. Therefore, it is not the Government of the State within whose territory the offence occurred or the convict is imprisoned which can assume the power of remission. (Para 33.6)

Code Of Criminal Procedure, 1973- Section 432(2) -The expression “may” has to be interpreted as “shall” and as a mandatory requirement under sub-section (2) of Section 432 of the CrPC- It cannot be held that the expression “may” in the said provision is not mandatory nor can it be left to the whims and fancies of the appropriate Government either to seek or not to seek the opinion of the Presiding Judge or the Court before which the conviction had taken place.it cannot be held that the expression “may” in the said provision is not mandatory nor can it be left to the whims and fancies of the appropriate

Government either to seek or not to seek the opinion of the Presiding Judge or the Court before which the conviction had taken place. (Para 52)

Code Of Criminal Procedure, 1973- Section 432 - Factors that must be taken into account while entertaining an application for remission under the provisions of the CrPC, which are however not exhaustive - (a) The application for remission under Section 432 of the CrPC could be only before the Government of the State within whose territorial jurisdiction the applicant was convicted (appropriate Government) and not before any other Government within whose territorial jurisdiction the applicant may have been transferred on conviction or where the offence has occurred. (b) A consideration for remission must be by way of an application under Section 432 of the CrPC which has to be made by the convict or on his behalf. In the first instance whether there is compliance of Section 433A of the CrPC must be noted inasmuch as a person serving a life sentence cannot seek remission unless fourteen years of imprisonment has been completed. (c) The guidelines under Section 432(2) with regard to the opinion to be sought from the Presiding Judge of the Court which had convicted the applicant must be complied with mandatorily. While doing so it is necessary to follow the requirements of the said Section which are highlighted by us, namely i) the opinion must state as to whether the application for remission should be granted or refused and for either of the said opinions, the reasons must be stated- (ii) the reasons must have a bearing on the facts and circumstances of the case- (iii) the opinion must have a nexus to the record of the trial or of such record thereof as exists- (iv) the Presiding Judge of the Court before or by which the conviction was had or confirmed, must also forward along with the statement of such opinion granting or refusing remission, a certified copy of the record of the trial or of such record thereof as exists. (d) The policy of remission applicable would therefore be the Policy of the State which is the appropriate Government and which has the jurisdiction to consider that application. The policy of remission applicable at the time of the conviction could apply and only if for any reason, the said policy cannot be made applicable a more benevolent policy, if in vogue, could apply. (e) While considering an application for remission, there cannot be any abuse of discretion. In this regard, it is necessary to bear in mind the following aspects as mentioned in Laxman Naskar, namely, - (i) Whether the offence is an individual act of crime without affecting the society at large? (ii) Whether there is any

chance of future recurrence of committing crime? (iii) Whether the convict has lost his potentiality in committing crime? (iv) Whether there is any fruitful purpose of confining this convict any more? (v) Socio-economic condition of the convict's family. (f) There has also to be consultation in accordance with Section 435 of the CrPC wherever the same is necessitated. (g) The Jail Advisory Committee which has to consider the application for remission may not have the District Judge as a Member inasmuch as the District Judge, being a Judicial Officer may coincidentally be the very judge who may have to render an opinion independently in terms of sub-section (2) of Section 432 of the CrPC. (h) Reasons for grant or refusal of remission should be clearly delineated in the order by passing a speaking order. (i) When an application for remission is granted under the provisions of the Constitution, the following among other tests may apply to consider its legality by way of judicial review of the same. (i) that the order has been passed without application of mind- (ii) that the order is mala fide- (iii) that the order has been passed on extraneous or wholly irrelevant considerations- (iv) that relevant materials have been kept out of consideration- (v) that the order suffers from arbitrariness.

Constitution of India, 1950- Article 32- The right to file a petition under Article 32 of the Constitution is also a Fundamental Right. The object and purpose of Article 32 of the Constitution which is also recognised to be the "soul of the Constitution" and which is a Fundamental Right in itself is for the enforcement of other Fundamental Rights in Part-III of the Constitution - The aforesaid constitutional remedy is also to enforce the goals enshrined in the Preamble of the Constitution, which speak of justice, liberty, equality and fraternity. (Para 22.2)

Constitution of India, 1950- Article 32- Question regarding maintainability of a PIL challenging orders of remission is kept open to be considered in any other appropriate case. (Para 27)

Code Of Criminal Procedure, 1973- Section 432 -435 -Remission : Scope & Ambit discussed (Para 29-32)

Fraud - Fraud vitiates everything - fraud avoids all judicial acts - any litigant who is guilty

of inhibition before the Court should not bear the fruit and benefit of the court's orders. This Court has also held that fraud is an act of deliberation with a desire to secure something which is otherwise not due. Fraud is practiced with an intention to secure undue advantage. Thus, an act of fraud on courts must be viewed seriously. - fraud can be established when a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii), recklessly, being careless about whether it be true or false. While suppression of a material document would amount to a fraud on the Court, suppression of material facts vital to the decision to be rendered by a court of law is equally serious. Thus, once it is held that there was a fraud in judicial proceedings all advantages gained as a result of it have to be withdrawn. In such an eventuality, doctrine of res judicata or doctrine of binding precedent would not be attracted since an order obtained by fraud is non est in the eye of law. (Para 43)

Doctrines of per incurium and sub silentio -Although it is the ratio decidendi which is a precedent and not the final order in the judgment, however, there are certain exceptions to the rule of precedents which are expressed by the doctrines of per incurium and sub silentio. Incuria legally means carelessness and per incurium may be equated with per ignorantiam. If a judgment is rendered in ignorantiam of a statute or a binding authority, it becomes a decision per incurium. Thus, a decision rendered by ignorance of a previous binding decision of its own or of a court of coordinate or higher jurisdiction or in ignorance of the terms of a statute or of a rule having the force of law is per incurium. Such a per incurium decision would not have a precedential value. If a decision has been rendered per incurium, it cannot be said that it lays down good law, even if it has not been expressly overruled - a decision per incurium is not binding - A decision is passed sub-silentio when the particular point of law in a decision is not perceived by the court or not present to its mind or is not consciously determined by the court and it does not form part of the ratio decidendi it is not binding. (Para 44)

Constitution of India, 1950 - Article 21 -The most important constitutional value is personal liberty which is a fundamental right enshrined in Article 21 of our Constitution. It is in fact an inalienable right of man and which can be deprived of or taken away only in accordance with law. That is the quintessence of Article 21. (Para 58)

Constitution of India, 1950 - Article 32 - An order of a High Court cannot be set aside in a proceeding under Article 32 of the Constitution - Referred to Naresh Shridhar Mirajkar vs. State of Maharashtra, AIR 1967 SC 1. (Para 39,44)

Rule of Law - Rule of law means wherever and whenever the State fails to perform its duties, the Court would step in to ensure that the rule of law prevails over the abuse of the process of law. Such abuse may result from, inter alia, inaction or even arbitrary action of protecting the true offenders or failure by different authorities in discharging statutory or other obligations in consonance with the procedural and penal statutes. Breach of the rule of law, amounts to negation of equality under Article 14 of the Constitution - Rule of law means, no one, howsoever high or low, is above the law- it is the basic rule of governance and democratic polity. It is only through the courts that rule of law unfolds its contours and establishes its concept. The concept of rule of law is closely intertwined with adjudication by courts of law and also with the consequences of decisions taken by courts. Therefore, the judiciary has to carry out its obligations effectively and true to the spirit with which it is sacredly entrusted the task and always in favour of rule of law. There can be no rule of law if there is no equality before the law- and rule of law and equality before the law. (Para 61-66)

Justice - Courts have to be mindful of not only the spelling of the word “justice” but also the content of the concept. Courts have to dispense justice and not justice being dispensed with. In fact, the strength and authority of courts in India are because they are involved in dispensing justice. It should be their life aim. (Para 67)

State of MP vs Vijay Kumar Tiwari 2024 INSC 25 – Ayurveda & Allopathy PG Course

Summary: Madhya Pradesh High Court directed State to treat the students pursuing Post Graduate in Ayurveda stream at par with the students pursuing Post Graduate Course in Allopathy stream - setting aside the HC judgment, held: The nature of duties discharged by the Postgraduate students in Ayurveda stream is not the same as that of Post Graduate

students undertaking therein education in Allopathy stream.

All India Judges Association vs Union Of India 2024 INSC 26 :: [2024] 1 S.C.R. 327 – Second National Judicial Pay Commission – Recommendations – Judicial Service

Second National Judicial Pay Commission - Recommendations accepted - Directed the constitution of a Committee in each High Court for overseeing the implementation of the recommendations of the SNJPC as approved by this Court. The Committee shall be called the 'Committee for Service Conditions of the District Judiciary. - All States and Union Territories shall now act in terms of the above directions expeditiously. Disbursements on account of arrears of salary, pension and allowances due and payable to judicial officers, retired judicial officers and family pensioners shall be computed and paid on or before 29 February 2024. The CSCDJs institutionalized in terms of the directions issued earlier shall monitor compliance. Each Committee working under the auspices of the High Court shall submit its report to this Court on or before 7 April 2024 through the Registrar General of the High Court.

Objections raised against SNJPC recommendations considered - a plea of financial burden cannot be raised to resist mandatory duties of the state. Providing necessary service conditions for the effective discharge of judicial functions is one such duty - there is a need to maintain uniformity in the service conditions of judicial officers across the country. Thus, the plea that rules of each State must govern pay and allowances, lacks substance - It would be wholly inappropriate to equate judicial service with the service of other officers of the State. The functions, duties, restrictions and restraints operating during and after service are entirely distinct for members of the judicial service. (Para 10-18)

Judicial service - Judicial Service is an integral and significant component of the functions of the State and contributes to the constitutional obligation to sustain the rule of law. Judicial service is distinct in its characteristics and in terms of the responsibilities which are cast upon the officers of the District Judiciary to render objective dispensation of

justice to citizens. The State is duty bound to ensure that the conditions of service, both during the tenure of office and after retirement, are commensurate with the need to maintain dignified working conditions for serving judicial officers and in the post-retirement emoluments made available to former members of the judicial service. Members of the district judiciary are the first point of engagement for citizens who are confronted with the need for dispute resolution. The conditions in which judicial officers across the country are required to work are arduous. The work of a judicial officer is not confined merely to the working hours ended in the course of judicial duties in the court. Every judicial officer is required to work both before and after the court working hours. The judicial work of each day requires preparation before cases are called out. A judicial officer continues to work on cases which may have been dealt with in court, in terms of preparing the judgment and attending to other administrative aspects of the judicial record. That apart, members of the district judiciary have wide ranging administrative functions which take place beyond working hours, especially on week-ends including the discharge of numerous duties in relation to prison establishments, juvenile justice institutions, legal service camps and in general, work associated with the Legal Services Act 1987 - The work of a Judge cannot be assessed solely in terms of their duties during court working hours. The State is under an affirmative obligation to ensure dignified conditions of work for its judicial officers and it cannot raise the defense of an increase in financial burden or expenditure. Judicial officers spend the largest part of their working life in service of the institution. The nature of the office often renders the incumbent incapacitated in availing of opportunities for legal work which may otherwise be available to a member of the Bar. That furnishes an additional reason why post-retirement, it is necessary for the State to ensure that judicial officers are able to live in conditions of human dignity. It needs to be emphasized that providing for judges, both during their tenure and upon retirement, is correlated with the independence of the judiciary. Judicial independence, which is necessary to preserve the faith and confidence of common citizens in the rule of law, can be ensured and enhanced only so long as judges are able to lead their life with a sense of financial dignity. The conditions of service while a judge is in service must ensure a dignified existence. The post-retirement conditions of service have a crucial bearing on the dignity and independence of the office of a judge and how it is perceived by the society. If the service of the judiciary is to be a viable career option so as to attract

talent, conditions of service, both for working and retired officers, must offer security and dignity. (Para 13-14)

K.P. Mozika vs Oil and Natural Gas Corporation Ltd. 2024 INSC 27 :: [2024] 1 S.C.R. 488 – Article 366(29A)(d) Constitution -Assam General Sales Tax Act -Assam Value Added Tax Act

Constitution of India, 1950 - Article 366(29A)(d) - In every case where the owner of the goods permits another person to use goods, the transaction need not be of the transfer of the right to use the goods. It can be simply a license to use the goods which may not amount to the transfer of the right to use. The contract will be covered by subclause (d) of Clause 29A of Article 366, provided all the five conditions laid down are fulfilled - To constitute a transaction for the transfer of the right to use the goods, the transaction must have the following attributes: (a) there must be goods available for delivery- (b) there must be a consensus ad idem as to the identity of the goods- (c) the transferee should have a legal right to use the goods—consequently all legal consequences of such use including any permissions or licences required therefor should be available to the transferee- (d) for the period during which the transferee has such legal right, it has to be the exclusion to the transferor—this is the necessary concomitant of the plain language of the statute viz. a “transfer of the right to use” and not merely a licence to use the goods- (e) having transferred the right to use the goods during the period for which it is to be transferred, the owner cannot again transfer the same rights to others - Referred to concurring view of the Justice AR Lakshmanan in the case of Bharat Sanchar Nigam Limited v. Union of India (2006) 3 SCC 1. (Para 31-33)

Alagammal vs Ganesan 2024 INSC 28 :: [2024] 1 S.C.R. 374 – Specific Relief Act

Summary - Plaintiffs filed a suit for specific performance of agreement to sale - Trial Court dismissed the suit - Appellate Court and High Court decreed - Allowing appeal, the Supreme Court held: Even if the case of later payments by the respondents to the appellants is accepted, the same being at great intervals and there being no willingness

shown by them to pay the remaining amount or getting the Sale Deed ascribed on necessary stamp paper and giving notice to the appellants to execute the Sale Deed, it be said that in the present 32 case, judged on the anvil of the conduct of parties, especially the appellants, time would not remain the essence of the contract - Referred to K.S. Vidyanadam v Vairavan, (1997) 3 SCC 1.

Dr. Balbir Singh Bhandari vs State of Uttarakhand 2024 INSC 29 – Service Law

The benefit of a personal/promotional pay scale was granted to the appellants by the State of Uttarakhand. The said benefit was withdrawn under a subsequent decision of the State of Uttarakhand. - Order to recover benefits from the appellants who have superannuated was challenged before High Court which dismissed it - Supreme Court dismissed appeal against HC order.

State Of Himachal Pradesh vs Yogendra Mohan Sengupta 2024 INSC 30 – NGT – HP Town & Country Planning Act

Constitution of India, 1950- Article 32, 226 -Independence and separation of powers - Giving a direction or advisory sermons to the Executive in respect of the sphere which is exclusively within the domain of the Executive or the Legislature would neither be legal nor proper. The Court cannot be permitted to usurp the functions assigned to the Executive, the Legislature or the subordinate legislature - Neither the High Courts while exercising powers under Article 226 of the Constitution nor this Court while exercising powers under Article 32 of the Constitution can direct the legislature or its delegatee to enact a law or subordinate legislation in a particular manner - Constitution of India recognizes the independence and separation of powers amongst the three branches of the State viz. the Legislature, the Executive and the Judiciary. Each of the branches are co-equal. (Para 65-69)

Constitution of India, 1950- Article 226 - High Courts exercise the power of judicial review over all the Tribunals which are situated within its jurisdiction [Referred to L.

Chandra Kumar v. Union of India (1997) 3 SCC 261 : 1997 INSC 288 - Priya Gupta and Another v. Additional Secretary, Ministry of Health and Family Welfare (2013) 11 SCC 404 : 2012 INSC 601] (Para 101-107)

Precedent -Law declared by the higher court in the State is binding on authorities and tribunals under its superintendence and they cannot ignore it - Disrespect to the constitutional ethos and breach of discipline have a grave impact on the credibility of judicial institution and encourages chance litigation - Predictability and certainty are important hallmarks of judicial jurisprudence developed in this country, as discipline is sine qua non for effective and efficient functioning of the judicial system - (Para 108)

Himachal Pradesh Town & Country Planning Act, 1977 - TCP Act empowers the State Government and the Director to exercise the powers to enact a piece of delegated legislation, the NGT could not have imposed fetters on such powers and directed it to exercise its powers in a particular manner - NGT could not have directed the delegatee who has been delegated powers under the TCP Act to enact the regulations, to do so in a particular manner. A. (Para 70,88)

Environment - Sustainable Development -Need to have a balance between the requirement of development and preservation of ecology and environment - While ensuring the developmental activities so as to meet the demands of growing population, it is also necessary that the issues with regard to environmental and ecological protection are addressed too. (Para 113-122) [Referred to T.N. Godavarman Thirumulpad v. Union of India and Others 2023 INSC 430, State of Uttar Pradesh and Others v. Uday Education and Welfare Trust and Others 2022 INSC 465, Essar Oil Limited v. Halar Utkarsh Samiti (2004) 2 SCC 392 : 2004 INSC 40, Indian Council for Enviro-Legal Action v. Union of India (1996) 5 SCC 281 : 1996 INSC 237 - N.D. Jayal and Another v. Union of India (2004) 9 SCC 362 : 2003 INSC 438 , Rajeev Suri v. Delhi Development Authority and Others (2022) 11 SCC 1: 2021 INSC 4, Residents Welfare Association and Another v. Union Territory of Chandigarh and Others (2023) 8 SCC 643 : 2023 INSC 22]

Precedent - What could be a binding precedent ? it is not profitable to extract a sentence here and there from the judgment and to build upon it -The essence of the decision is its

ratio and not every observation found therein -A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue would constitute a precedent. Referred to Union of India and Others v. Dhanwanti Devi (1996) 6 SCC 44 : 1996 INSC 911. (Para 74-75)

Distinction between legislative function and administrative function - Referred to Union of India and Another v. Cynamide India Ltd. (1987) 2 SCC 720 : 1987 INSC 100- A legislative act is the creation and promulgation of a general rule of conduct without reference to particular cases- whereas an administrative act is the making and issue of a specific direction or the application of a general rule to a particular case in accordance with the requirements of policy. It has been held that legislation is the process of formulating a general rule of conduct without reference to particular cases and usually operating in future. Whereas, administration is the process of performing particular acts of issuing particular orders or of making decisions which apply general rules to particular cases. It has also been held that rule-making is normally directed towards the formulation of requirements having a general application to all members of a broadly identifiable class- whereas an adjudication, on the other hand, applies to specific individuals or situations. (Para 49-50)

Container Corporation of India Ltd. vs Ajay Khera 2024 INSC 31 – Environment Pollution (Prevention and Control) Authority Recommendations

Environment Pollution (Prevention and Control) Authority ('EPCA') Recommendations on the issue of shift to CNG/Hybrid/Electric - Directions issued - After examining recommendation 3.1, the Union of India shall formulate a policy of phasing out heavyduty diesel vehicles and replacing them with BSVI vehicles - The process of exploring the possibility of finding better sources, including CNG/Hybrid/Electric, for the use of heavy-duty vehicles shall continue-

Re: NGT observation to restrict the entry of diesel vehicles in the said ICDs at Tughlakabad by diverting these vehicles to the ICDs at Dadri, Rewari, Ballabhgarh, Khatuawas or any other ICD around Delhi so as to control the pollution in Delhi NCR - Citizens living in other parts of the country other than Delhi NCR also have a fundamental right to a pollution free environment as guaranteed by Article 21 of the Constitution of India. Such a fundamental right is equally enforceable by all and is not confined to the people of Delhi NCR. The NGT while protecting/safeguarding the above fundamental right of the people of Delhi NCR cannot allow infringement of the same fundamental right of the citizens living outside Delhi NCR. The observation of the NGT is totally unjustified and unwarranted. (Para 21)

Dinesh Gupta vs State of Uttar Pradesh 2024 INSC 32 :: [2024] 1 S.C.R. 390 – Criminal Case Over A Civil Matter – Frivolous Litigation

Litigation - Unscrupulous litigants should not be allowed to go scot-free. They should be put to strict terms and conditions including costs. It is time to check with firmness such litigation initiated and laced with concealment, falsehood, and forum hunting. Even State actions or conduct of government servants being party to such malicious litigation should be seriously reprimanded - unnecessary turning of a civil matter into a criminal case not only overburdens the criminal justice system but also violates the principles of fairness and right conduct in legal matters. (Para 1)

Summary - A criminal complaint was filed and FIR was registered despite the commercial nature of dispute. Such ill intended acts of abuse of power and of legal machinery seriously affect the public trust in judicial functioning - FIR and criminal proceedings quashed - Imposed cost of ₹25 lakhs on Complainant with a view to curb others from such acts leading to abuse of judicial remedies

Delhi Development Authority vs Hello Home Education Society 2024 INSC 33 :: [2024] 1 S.C.R. 454 – Art. 226 Constitution – Internal Notings – Public Land Transfer – Parity

Constitution of India, 1950- Article 226 - Litigant who is not diligent cannot invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India - There is no justifiable or satisfactory explanation for the said period of inordinate delay of 11 years. The writ petition ought to have been dismissed on this ground alone. (Para 18.1)

Internal notings - Whether internal notings would confer any right or not ? Until and unless the decision taken on file is converted into a final order to be communicated and duly served on the concerned party, no right accrues to the said party. Mere notings and in-principle approvals do not confer a vested right. (Para 18.7)

Public Land - Whenever the State intends to transfer any land resort should be by public auction or inviting tenders. (Para 18.9)

Parity - negative parity is not recognised or approved rather it is disapproved. (Para 18.10)

State of Haryana vs Mohd. Yunus 2024 INSC 34 :: [2024] 1 S.C.R. 404 – Criminal Trial – Untrustworthy witness

Criminal Trial - S 302 IPC - For trial under Section 302 IPC, if a witness is branded as untrustworthy having allegedly twisted the facts and made contrary statement, it is not safe to impose conviction on the basis of statement made by such witness. When there is an effort to falsely implicate one accused person, statement made by such an eyewitness cannot be relied without strong corroboration. (Para 18)

Birla Corporation Limited vs Bhanwar Singh 2024 INSC 35 – Chittorgarh Fort – Blasting Operations

Summary -Blasting operations undertaken for limestone extraction resulting in possible damage to the existing structures of the Chittorgarh Fort - Directions issued to undertake the study of environmental pollution and impact on all the structures in the Chittorgarh Fort - The prevention of damage from any such collateral activities must be simultaneously addressed by the State Government of Rajasthan and the ASI. Therefore, through this order, a three-pronged study and action plan are implemented.

Asma Lateef vs Shabbir Ahmad 2024 INSC 36 :: [2024] 1 S.C.R. 517 – S 47 CPC – Order VIII Rule 10 CPC – Judgment -Interim Orders

Code Of Civil Procedure, 1908 - Order VIII Rule 10 - Scope and extent of power - Rule 10 is permissive in nature, enabling the trial court to exercise, in a given case, either of the two 13 alternatives open to it. Notwithstanding the alternative of proceeding to pronounce a judgment, the court still has an option not to pronounce judgment and to make such order in relation to the suit it considers fit. The verb 'shall' in Rule 10 [although substituted for the verb 'may' by the Amendment Act of 1976] does not elevate the first alternative to the status of a mandatory provision, so much so that in every case where a party from whom a written statement is invited fails to file it, the court must pronounce the judgment against him. If that were the purport, the second alternative to which 'shall' equally applies would be rendered otiose Only on being satisfied that there is no fact which need to be proved on account of deemed admission, could the court pass a judgment against the defendant who has not filed the written statement- but if the plaint itself suggests involvement of disputed questions of fact, it would not be safe for the court to pass a judgment without requiring the plaintiff to prove the facts- Provision of Rule 10 of Order VIII, CPC is by no means mandatory in the sense that a court has no alternative but to pass a judgment in favour of the plaintiff, if the defendant fails or neglects to file his written statement - plaint in a suit is not akin to a writ petition where not only the facts are to be pleaded but also the evidence in support of the pleaded facts is to be annexed,

whereafter, upon exchange of affidavits, such petition can be decided on affidavit evidence. Since facts are required to be pleaded in a plaint and not the evidence, which can be adduced in course of examination of witnesses, mere failure or neglect of a defendant to file a written statement controverting the pleaded facts in the plaint, in all cases, may not entitle him to a judgment in his favour unless by adducing evidence he proves his case/ claim - *Balraj Taneja v. Sunil Madan* (1999) 8 SCC 396 (Para 15-17) - It is to avoid a situation of contradictory/inconsistent decrees that power under Rule 10 of Order VIII ought to be invoked with care, caution, and circumspection, only when none of several defendants file their written statements and upon the taking of evidence from the side of the plaintiff, if deemed necessary, the entire suit could be decided. Where even one of several defendants had filed a written statement, it would be a judicious exercise of discretion for the court to opt for the second alternative in Rule 10 of Order VIII, CPC unless, of course, extraordinary circumstances exist warranting recourse to the first alternative. (Para 22)

Code Of Civil Procedure, 1908 - Section 47- The powers of an executing court, though narrower than an appellate or revisional court, can be exercised to dismiss an execution application if the decree put to execution is unmistakably found to suffer from an inherent lack of jurisdiction of the court that made the same rendering it a nullity in the eye of law - But the lack of jurisdiction must be patent on the face of the decree to enable an executing court to conclude that the decree was a nullity -All irregular or wrong decrees would not necessarily be void. An erroneous or illegal decision, which was not void, could not be objected in execution or incidental proceedings. - Referred to *Rafique Bibi v. Sayed Waliuddin* (2004) 1 SCC 287 and *Balvant N. Viswamitra v. Yadav Sadashiv Mule* (2004) 8 SCC 706. (Para 29,37)

Interim Relief - Jurisdiction -Question of jurisdiction would assume importance even at the stage a court considers the question of grant of interim relief. Where interim relief is claimed in a suit before a civil court and the party to be affected by grant of such relief, or any other party to the suit, raises a point of maintainability thereof or that it is barred by law and also contends on that basis that interim relief should not to be granted, grant of relief in whatever form, if at all, ought to be preceded by formation and recording of at

least a *prima facie* satisfaction that the suit is maintainable or that it is not barred by law. Such a satisfaction resting on appreciation of the averments in the plaint, the application for interim relief and the written objection thereto, as well as the relevant law that is cited in support of the objection, would be a part of the court's reasoning of a *prima facie* case having been set up for interim relief, that the balance of convenience is in favour of the grant and non-grant would cause irreparable harm and prejudice. It would be inappropriate for a court to abstain from recording its *prima facie* satisfaction on the question of maintainability, yet, proceed to grant protection pro tem on the assumption that the question of maintainability has to be decided as a preliminary issue under Rule 2 of Order XIV, CPC. That could amount to an improper exercise of power. If the court is of the opinion at the stage of hearing the application for interim relief that the suit is barred by law or is otherwise not maintainable, it cannot dismiss it without framing a preliminary issue after the written statement is filed but can most certainly assign such opinion for refusing interim relief. However, if an extraordinary situation arises where it could take time to decide the point of maintainability of the suit and non grant of protection pro tem pending such decision could lead to 29 irreversible consequences, the court may proceed to make an appropriate order in the manner indicated above justifying the course of action it adopts. In other words, such an order may be passed, if at all required, to avoid irreparable harm or injury or undue hardship to the party claiming the relief and/or to ensure that the proceedings are not rendered infructuous by reason of non-interference by the court. (Para 39)

Code Of Civil Procedure, 1908 -Section 2(9) - A judgment, as envisaged in section 2(9), CPC, should contain the process of reasoning by which the court arrived at its conclusion to resolve the controversy and consequently to decree the suit - Judgment - Any verdict of a competent judicial forum in the form of a judgment/order, that determines the rights and liabilities of the parties to the proceedings, must inform the parties what is the outcome and why one party has succeeded and not the other - the 'why' constituting the reasons and 'what' the conclusion. Apart from anything else, insistence of the requirement for the reason(s) to support the conclusion guarantees application of mind by the adjudicator to the materials before it as well as provides an avenue to the unsuccessful party to test the reasons before a higher court - a "judgment", if pronounced by a court

under Rule 10 of Order VIII, CPC, must satisfy the requirements of Rule 4(2) of Order XX, CPC, and thereby conform to its definition provided in section 2(9) thereof - "decree" shall follow a "judgment" in a case where the court invokes power upon failure of a defendant to file its written statement. It is, therefore, only a "judgment" conforming to the provisions of the CPC that could lead to a "decree" being drawn up. (Para 43-47)

Code Of Civil Procedure, 1908 -Section 2(9) - Order VIII Rule 10 - Order XX

Rule 4(2)- A "judgment", if pronounced by a court under Rule 10 of Order VIII, CPC, must satisfy the requirements of Rule 4(2) of Order XX, CPC, and thereby conform to its definition provided in section 2(9) thereof - "decree" shall follow a "judgment" in a case where the court invokes power upon failure of a defendant to file its written statement. It is, therefore, only a "judgment" conforming to the provisions of the CPC that could lead to a "decree" being drawn up. (Para 44-45)

Jurisdiction - Jurisdiction is the entitlement of the civil court to embark upon an enquiry as to whether the cause has been brought before it by the plaintiff in a manner prescribed by law and also whether a good case for grant of relief claimed been set up by him. As and when such entitlement is established, any subsequent error till delivery of judgment could be regarded as an error within the jurisdiction. The enquiry as to whether the civil court is entitled to entertain and try a suit has to be made by it keeping in mind the provision in section 9, CPC and the relevant enactment which, according to the objector, bars a suit. Needless to observe, the question of jurisdiction has to be determined at the commencement and not at the conclusion of the enquiry. (Para 38)

S Rajaseekaran vs Union Of India 2024 INSC 37 – S 161 Motor Vehicles Act -Compensation of Victims of Hit and Run Motor Accidents Scheme, 2022 –

Motor Vehicles Act, 1988 - Section 161 - Compensation of Victims of Hit and Run Motor Accidents Scheme, 2022 - An accident involving a motor vehicle can be considered

as a hit and run accident, provided the identity of the vehicle that caused the accident cannot be ascertained despite reasonable efforts. Obviously, reasonable efforts must be made by the Police Station which registers the accident. If the Police conclude that it is a case of hit and run accident, the Police must inform the victim or the legal representatives of the victim, as the case may be, about the availability of the Scheme. There are cases where the Police, as well as the Claims Enquiry Officer, are aware of the fact that a hit and run accident has occurred. However, no efforts are made to ensure that the persons entitled to seek compensation file their claims - Directions issued - a) If the particulars of the vehicle involved in the accident are not available at the time of registration of the report regarding the accident by the jurisdictional Police Station and if, after making reasonable efforts, the particulars of the vehicle involved in the accident could not be ascertained by the Police within a period of one month from the date of registration of accident report, the officer-in-charge of the Police Station shall inform in writing to the injured or the legal representatives of the deceased, as the case may be, that compensation can be claimed under the Scheme. The contact details such as e-mail ID and office address of the jurisdictional Claims Enquiry Officer shall be provided by the Police to the injured or the legal representatives of the deceased, as the case may be- b) The officer in charge of the Police Station, within one month from the date of the accident, shall forward the FAR to the Claims Enquiry Officer as provided in sub-clause (1) of clause 21 of the Scheme. While forwarding a copy of the said report, the names of the victims in case of injury and the names of the legal representatives of the deceased victim (if available with the Police Station) shall also be forwarded to the jurisdictional Claims Enquiry Officer, who shall cause the same to be entered in a separate register. After receipt of the FAR and other particulars as aforesaid by the Claims Enquiry Officer, if the claim application is not received within one month, the information shall be provided by the Claims Enquiry Officer to the concerned District Legal Service Authority with a request to the said authority to contact the claimants and assist them in filing the claim applications- c) A Monitoring Committee shall be constituted at every district level consisting of the Secretary of the District Legal Service Authority, the Claims Enquiry Officer of the district or, if there is more than one, the Claim Enquiry Officer nominated by the State Government, and a police officer not below the level of Deputy Superintendent of Police as may be nominated by the District Superintendent of Police. The Secretary of the District

Legal Services Authority shall be the Convener of the Monitoring Committee. The Committee shall meet at least once in every two months to monitor the implementation of the Scheme in the district and the compliance with the aforesaid directions- d) The Claims Enquiry Officer shall ensure that a report containing his recommendation and other documents are forwarded to the Claim Settlement Commissioner within one month from receipt of the claim application duly filled in. (Para 6-9)

Motor Vehicles Act, 1988 - Section 161(2) -Sub-section (2) of Section 161 of MV Act provides that in case of death of any person resulting from hit and run motor accident, a compensation of Rs. 2 lakhs or such higher amount as may be prescribed by the Central Government shall be paid. In case of grievous injury, the compensation amount is Rs. 50 thousand. The value of money diminishes with time. We direct the Central Government to consider whether the compensation amounts can be gradually enhanced annually. The Central Government shall take an appropriate decision on this issue within eight weeks from today. (Para 10)

Solatium Scheme - Clause 20(2)- Whether the time limit prescribed in sub-clause (2) of clause 20 of the Solatium Scheme can be extended and permission be granted to the eligible claimants to apply within the extended time as a onetime measure. Even on this aspect, we expect the Central Government to decide within eight weeks from today. (Para 11)

Mohd Julfukar vs State of Uttarakhand 2024 INSC 38 – Rape Case Quashed

Summary : Petition seeking Quashing of FIR under Sections 376 and 506 IPC Against appellant dismissed by High Court - In appeal, the Supreme Court noted the complainant's statement that she was forced to marry the appellant. As such, the relationship between the appellant and the complainant was after the said marriage - even if the statement made by the complainant is taken on its face value, the ingredients to constitute the offence

under Section 376 IPC are not made out - now even the complainant herself does not want to proceed further with the proceedings. She has stated in her affidavit filed before this Court that they have mutually obtained a divorce and it was finalized by Talaq-E-Khula - continuation of proceedings in these circumstances would be prejudicial even to the interest of the complainant and she would be forced to continue with the case, which she does not want- FIR quashed.

Suresh Garodia vs State of Assam 2024 INSC 39 – Rape Case Quashed – 34 Years Delay To Lodge FIR

Summary: In 2016, a woman complained that the accused raped her 34 years ago - In Final report Investigation Officer opined that the case was of a civil nature and filed only for the greed for the property of the appellant- Magistrate rejected this Final Report and took cognizance under Section 376/506 of IPC- HC rejected accused's plea challenging this order - Allowing appeal, SC held: Lodging a case after 34 years and that too on the basis of a bald statement that the prosecutrix was a minor at the time of commission of offence, could itself be a ground to quash the proceedings. No explanation whatsoever is given in the FIR as to why the prosecutrix was keeping silent for a long period of 34 years. The material on record shows that the relationship was consensual, inasmuch as the son who is born out of the said relationship has been treated by the appellant as his son and all the facilities, including cash money, have been provided to him. (Para 13)

Code of Criminal Procedure, 1973- Section 190 - Magistrate, while exercising his powers under Section 190 Cr.P.C., is not bound to accept the final report of the I.O. However, if the Magistrate disagrees with the finding of the I.O., the least that is expected of him is to give reasons as to why he disagrees with such a report and as to why he finds it necessary to take cognizance despite the negative report submitted by the I.O.

Code of Criminal Procedure, 1973- Section 482 - The power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the

rarest of rare cases. The Court would normally not embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint.

Anjum Ara vs State Of Bihar 2024 INSC 40 – Service Law

Summary : Appellate Authority's order setting aside the order of appointment challenged before HC - HC dismissed writ petitions and upheld it -In appeal, the court noted: Clause 4.9 of the 2011 Guidelines imposed a restriction on such persons whose family member or members have secured appointment with the State Government or any organization of the State - In another case, HC had struck this down as unconstitutional - The only ground on which the appellant has been nonsuited was that the appellant had not challenged the said Clause 4.9 of the 2011 Guidelines before the High Court - When the said Clause of the Guidelines was struck down by the High Court , it ceased to exist. As such, it was not necessary for the appellant to challenge the validity of the same inasmuch as the same was already held to be invalid by the very same High Court - Appeal allowed with direction to reinstate Appellant .

Nara Chandrababu Naidu vs State of Andhra Pradesh 2024 INSC 41 :: [2024] 1 S.C.R. 549- S 17A Prevention Of Corruption Act- Split Verdict

Prevention Of Corruption Act, 1988- Section 17A - Per Aniruddha Bose J: If an enquiry, inquiry or investigation is intended in respect of a public servant on the allegation of commission of offence under the 1988 Act after Section 17A thereof becomes operational, which is relatable to any recommendation made or decision taken, at least *prima facie*, in discharge of his official duty, previous approval of the authority postulated in subsection (a) or (b) or (c) of Section 17A of the 1988 Act shall have to be obtained. In absence of such previous approval, the action initiated under the 1988 Act shall be held illegal - Per Bela M. Trivedi J: Section 17A would be applicable to the offences under the PC

Act as amended by the Amendment Act, 2018, and not to the offences existing prior to the said amendment - Referred to larger bench.

Shadakshari vs State Of Karnataka 2024 INSC 42 :: [2024] 1 S.C.R. 429 – Ss 197, 482 CrPC – Sanction

Code of Criminal Procedure, 1973- Section 197 - Section 197 Cr.PC does not extend its protective cover to every act or omission of a public servant while in service. It is restricted to only those acts or omissions which are done by public servants in the discharge of official duties - The object of such sanction for prosecution is to protect a public servant discharging official duties and functions from undue harassment by initiation of frivolous criminal proceedings. (Para 17-23)

Code of Criminal Procedure, 1973- Section 197 , 482 - The question whether accused was involved in fabricating official documents by misusing his official position as a public servant is a matter of trial. Certainly, a view can be taken that manufacturing of such documents or fabrication of records cannot be a part of the official duty of a public servant. (Para 25)

Sanjay Kundu vs Registrar General, High Court of Himachal Pradesh 2024 INSC 43 : [2024] 1 S.C.R. 442- HC Direction Transferring DGP

Summary: High Court issued directions transferring the petitioner out of the post of DGP - The allegations which were levelled by the complainant are that the petitioner, in his official capacity, intervened in a civil dispute and attempted to used his office to intimidate the complainant- Setting aside HC direction, the SC held: “The consequence of shifting out of an IPS officer has serious consequences. The order was passed without an opportunity to the petitioner to contest the allegations against him or to place his response before the

Court. There was thus a manifest miscarriage of procedural justice.”

**State of Assam vs Binod Kumar 2024 INSC 44 :: [2024] 1 S.C.R. 473 – S 17
Assam Police Act vs Rule 63(iii) Assam Police Manual – Interpretation of Statutes**

Summary : Assam Police Act, 2007- Section 14(2) -Upheld Gauhati HC judgment that held that Rule 63(iii) of the Assam Police Manual held invalid on the ground that it is in direct conflict with Section 14(2) of the Assam Police Act, 2007 - 1970 Rules/2007 Rules define reporting, reviewing and accepting authorities to mean that they must all be from the same service or department, intervention by the Deputy Commissioner during the exercise of performance assessment of SPs of the districts in the State of Assam, by virtue of Rule 63(iii) of the Manual, cannot be countenanced, being in direct conflict therewith, and would tantamount to permitting the Deputy Commissioner to interfere with the internal organization of the police force, which would be contrary to the mandate of Section 14(2) of the Act of 2007. (Para 26)

Interpretation of Statutes - the words used in a statute must be interpreted in their plain grammatical meaning and it is only when they are capable of two constructions that the question of giving effect to the policy or object of the legislation can legitimately arise. (Para 17)

Interpretation of Statutes - A statutory provision has to be considered first and foremost as a norm of the current legal system whence it takes force, as it has a legal existence independent of the historical contingencies of its promulgation and should be interpreted in the light of its place within the system of legal norms currently in force. - Referred to Sir Rupert Cross in his ‘Statutory Interpretation’ (3rd Edition, 1995) and Dharani Sugars and Chemicals Limited vs. Union of India (2019) 5 SCC 480. (Para 12)

Ramalingam vs N. Viswanathan 2024 INSC 45 – S 227 CrPC – Discharge

Code of Criminal Procedure,1973- Section 227 - Upheld Sessions Court order discharging accused - Expert witness examined by the complainant, who admittedly carried out a post-mortem on the body of the deceased, has categorically stated that the death of the deceased was natural - In the post-mortem, no injury was found on the chest or any other part of the body of the deceased.

Kusha Duruka vs State Of Odisha 2024 INSC 46 :: [2024] 1 S.C.R. 604 – Bail Applications Guidelines

Bail Applications -To avoid any confusion in future it would be appropriate to mandatorily mention in the application(s) filed for grant of bail: (1) Details and copies of order(s) passed in the earlier bail application(s) filed by the petitioner which have been already decided. (2) Details of any bail application(s) filed by the petitioner, which is pending either in any court, below the court in question or the higher court, and if none is pending, a clear statement to that effect has to be made. - All bail applications filed by the different accused in the same FIR should be listed before the same Judge except in cases where the Judge has superannuated or has been transferred or otherwise incapacitated to hear the matter. The system needs to be followed meticulously to avoid any discrepancies in the orders. In case it is mentioned on the top of the bail application or any other place which is clearly visible, that the application for bail is either first, second or third and so on, so that it is convenient for the court to appreciate the arguments in that light. If this fact is mentioned in the order, it will enable the next higher court to appreciate the arguments in that light. (3) The registry of the court should also annex a report generated from the system about decided or pending bail application(s) in the crime case in question. The same system needs to be followed even in the case of private complaints as all cases filed in the trial courts are assigned specific numbers (CNR No.), even if no FIR number is

there. (4) It should be the duty of the Investigating Officer/any officer assisting the State Counsel in court to apprise him of the order(s), if any, passed by the court with reference to different bail applications or other proceedings in the same crime case. And the counsel appearing for the parties have to conduct themselves truly like officers of the Court. (Para 20)

Litigation - One of the two cherished basic values by Indian society for centuries is "satya" (truth) - Truth constituted an integral part of the justice-delivery system in the pre-Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim suppressio veri, expression faisi, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. Its nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth- read anything except truth- speak anything except truth and believe anything except truth. Someone rightly said that 'Lies are very sweet, while truth is bitter, that's why most people prefer telling lies.' (Para 7)

Raja Gounder vs M Sengodan 2024 INSC 47 :: [2024] 1 S.C.R. 413 – Partition – Ss 17,18 Evidence Act – Admissions

Indian Evidence Act, 1872- Section 17,18 - Admission is a conscious and deliberate act and not something that could be inferred. An admission could be a positive act of

acknowledgement or confession. To constitute an admission, one of the requirements is a voluntary acknowledgement through a statement of the existence of certain facts during the judicial or quasi-judicial proceedings, which conclude as true or valid the allegations made in the proceedings or in the notice. The formal act of acknowledgement during the proceedings waives or dispenses with the production of evidence by the contesting party. The admission concedes, for the purpose of litigation, the proposition of fact claimed by the opponents as true. An admission is also the best evidence the opposite party can rely upon, and though inconclusive, is decisive of the matter unless successfully withdrawn or proved erroneous by the other side.- Section 18 of the Act lays down the conditions and the requirements satisfied for applying to a statement as an admission - Section 18 of the Act deals with: (i) admission by a party to a proceeding, (ii) his agent, (iii) by a suitor in a representative character, (iv) statements made by a party in trusted subject matter, (v) statements made by a person from whom interest is derived. The qualifying circumstances to merit as admission are subject to satisfying the requirement. (Para 13-14)

Partition suit -The shares are dependent upon the nature of status and the time at which the partition is decreed. It is axiomatic that the shares fluctuate not only with the happening of events in the family but also with the circumstances established by the parties to the lis. (Para 17)

Hindu Succession Act, 1955- Section 16 -Entitlement of share to the children of void or voidable marriages - Referred to Revanasiddappa v. Mallikarjun (2023) 10 SCC 1. (Para 17-18)

Jay Shri vs State of Rajasthan 2024 INSC 48 – Ss 406,420 IPC -Converting Purely Civil Dispute Into Criminal Cases – Anticipatory Bail

Indian Penal Code, 1860 - Sections 420, 406 - Mere breach of contract does not amount to

an offence under Section 420 or Section 406 of the Indian Penal Code, 1860, unless fraudulent or dishonest intention is shown right at the beginning of the transaction.

Code of Criminal Procedure, 1973 - Section 438 - Caution against converting purely civil disputes into criminal cases - Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged - Anticipatory bail granted.

Mariam Fasihuddin vs State 2024 INSC 49 :: [2024] 1 S.C.R. 623 – Ss 420,468,471 IPC – Cheating and Forgery- S 12(b) Passports Act -S 173(8) CrPC- Supplementary Report

Indian Penal Code, 1860- Section 420 - In order to attract the provisions of Section 420 IPC, the prosecution has to not only prove that the accused has cheated someone but also that by doing so, he has dishonestly induced the person who is cheated to deliver property. There are, thus, three components of this offence, i.e., (i) the deception of any person, (ii) fraudulently or dishonestly inducing that person to deliver any property to any person, and (iii) mens rea or dishonest intention of the accused at the time of making the inducement- For the offence of cheating, fraudulent and dishonest intention must exist from the inception when the promise or representation was made - Every deceitful act is not unlawful, just as not every unlawful act is deceitful. Some acts may be termed both as unlawful as well as deceitful, and such acts alone will fall within the purview of Section 420 IPC - A statement of fact is deemed ‘deceitful’ when it is false, and is knowingly or recklessly made with the intent that it shall be acted upon by another person, resulting in damage or loss- 'Cheating' generally involves a preceding deceitful act that dishonestly induces a person to deliver any property or any part of a valuable security, prompting the induced person to undertake the said act, which they would not have done but for the inducement - The term ‘property’ employed in Section 420 IPC has a welldefined connotation. Every species of valuable right or interest that is subject to ownership and has an exchangeable value – is ordinarily understood as ‘property’. It also describes one’s exclusive right to possess, use and dispose of a thing. The IPC itself defines the term

‘moveable property’ as, “intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.” Whereas immovable property is generally understood to mean land, benefits arising out of land and things attached or permanently fastened to the earth. (Para 10-13)

Indian Penal Code, 1860- Section 468 ,471- Two primary components that need to be fulfilled in order to establish the offence of ‘forgery’, namely: (i) that the accused has fabricated an instrument- and (ii) it was done with the intention that the forged document would be used for the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of causing damage or injury - The offences of ‘forgery’ and ‘cheating’ intersect and converge, as the act of forgery is committed with the intent to deceive or cheat an individual. (Para 21-23)

Code of Criminal Procedure, 1973- Section 173(8) - The provision for submitting a supplementary report infers that fresh oral or documentary evidence should be obtained rather than reevaluating or reassessing the material already collected and considered by the investigating agency while submitting the initial police report, known as the chargesheet under Section 173(2) CrPC. In the absence of any new evidence found to substantiate the conclusions drawn by the investigating officer in the supplementary report, a Judicial Magistrate is not compelled to take cognizance, as such a report lacks investigative rigour and fails to satisfy the requisites of Section 173(8) CrPC. (Para 27)

Passports Act, 1967- Section 12(b) -What must be established is that the accused knowingly furnished false information or suppressed material information with the intent of obtaining a passport or travel document. (Para 35-36)

Constitution of India, 1950- Article 21 - The right to travel abroad is a fundamental right of an individual, albeit not absolute, and subject to established legal procedures. (Para 38)

Summary: Husband complaint was that the wife submitted passport application with his

forged signatures was submitted, to procure the minor child's passport- FIR registered at Police Station Adugodi, Bengaluru under Sections 420, 468, 471 read with Section 34 IPC - Discharge plea dismissed - Allowing appeal, SC Quashed FIR - imposed cost of Rs. 1,00,000 on husband

Pramila vs State Of Chhattisgarh 2024 INSC 50 – Juvenility Plea – Murder Conviction Set Aside

Summary : Woman concurrently convicted in a murder case of the year 2000 - Juvenility claim accepted and appeal allowed - on the date on which the incident constituting the offence took place, the age of the appellant was less than 18 years - The maximum action which could have been taken against the appellant was of sending her to a special home - As the appellant has undergone incarceration for a period of more than eight years, no purpose will be served by sending the appellant before the Juvenile Justice Board.

State Bank of India vs Consortium of Mr Murari Lal Jalan and Mr Florian Fritsch 2024 INSC 51 – IBC – Timely Resolution Of Insolvency Cases

Insolvency and Bankruptcy Code, 2016 - The timely resolution of insolvency cases is vital for sustaining the effectiveness and credibility of the insolvency framework. Therefore, concerted efforts and decisive actions are imperative to break the deadlock and ensure the expeditious implementation of the resolution plan. (Para 24)

Adv Babasaheb Wasade vs Manohar Gangadhar Muddeshwar 2024 INSC 52 – Doctrine Of Necessity- Societies Registration Act

Doctrine of Necessity - Under given circumstances an action is required to be taken under compelling circumstances -law permits certain things to be done as a matter of necessity which it would otherwise not countenance on the touchstone of judicial propriety. Stated differently, the doctrine of necessity makes it imperative for the authority to decide and considerations of judicial propriety must yield. It is often invoked in cases of bias where there is no other authority or Judge to decide the issue. If the doctrine of necessity is not allowed full play in certain unavoidable situations, it would impede the course of justice itself and the defaulting party would benefit therefrom.

Societies Registration Act, 1860- Section 15 -The effect of the proviso to Section 15 of the Registration Act - The Objectors have to be treated as suspended members and would not be entitled to any notice as they had no right to vote or to be counted as members - a clear reading and interpretation of the proviso to Section 15 of the Registration Act would disentitle such defaulting members from being given any notice even if their membership was not terminated or ceased (Para 26)

Mangalam Publications vs Commissioner of Income Tax 2024 INSC 53 :: [2024] 1 S.C.R. 642 – Income Tax Act – Reassessment

Income Tax Act, 1961- Section 142,143- The expression “change of opinion” would imply formulation of opinion and then a change thereof. In terms of assessment proceedings, it means formulation of belief by the assessing officer resulting from what he thinks on a particular question. Therefore, before interfering with the proposed reopening of the assessment on the ground that the same is based only on a change of opinion, the court ought to verify whether the assessment earlier made has either expressly or by necessary implication expressed an opinion on a matter which is the basis of the alleged escapement of income that was taxable. If the assessment order is non-speaking, cryptic or perfunctory in nature, it may be difficult to attribute to the assessing officer any opinion on the questions that are raised in the proposed reassessment proceedings- When the

assessee had not made any false declaration, it was nothing but a subsequent subjective analysis of the assessing officer that income of the assessee for the three assessment years was much higher than what was assessed and therefore, had escaped assessment. This is nothing but a mere change of opinion which cannot be a ground for reopening of assessment. (Para 42)

Income Tax Act, 1961- Section 139 -A return filed without the regular balance sheet and profit and loss account may be a defective one but certainly not invalid. A defective return cannot be regarded as an invalid return. The assessing officer has the discretion to intimate the assessee about the defect(s) and it is only when the defect(s) are not rectified within the specified period that the assessing officer may treat the return as an invalid return. Ascertaining the defects and intimating the same to the assessee for rectification, are within the realm of discretion of the assessing officer. It is for him to exercise the discretion. The burden is on the assessing officer. If he does not exercise the discretion, the return of income cannot be construed as a defective return. As a matter of fact, in none of the three assessment years, the assessing officer had issued any declaration that the returns were defective. (Para 43)

Income Tax Act, 1961- Section 139- While the duty of the assessee is to disclose fully and truly all primary and relevant facts necessary for assessment, it does not extend beyond this. Once the primary facts are disclosed by the assessee, the burden shifts onto the assessing officer. (Para 40)

Ansal Crown Heights Flat Buyers Association vs Ansal Crown Infrabuild Pvt. Ltd. 2024 INSC 54- S 14 IBC – Moratorium – Company Directors/Officers

Insolvency and Bankruptcy Code, 2016- Section 14 - The protection of the moratorium will not be available to the directors/officers of the company - Referred to Anjali Rathi vs. Today Homes and Infrastructure Pvt. Ltd. (2021) SCC OnLine SC 729 and P. Mohanraj vs. Shah Bros. Ispat (P) Ltd. (2021) 6 SCC 258.

Prakashchandra Joshi vs Kuntal Prakashchandra Joshi @ Kuntal Visanji Shah 2024 INSC 55 :: [2024] 1 S.C.R. 697- Article 142 Constitution -Irretrievable Breakdown Of Marriage

Constitution of India, 1950- Article 142- Exercise of jurisdiction under Article 142 (1) of the Constitution of India is clearly permissible to do ‘complete justice’ to a ‘cause or matter’ and this Court can pass an order or decree which a family court, trial court or High Court can pass and when such power is exercised, the question or issue of lack of subject-matter jurisdiction does not arise- in exercise of power under Article 142(1) of the Constitution of India, has the discretion to dissolve the marriage on the ground of its irretrievable breakdown. This discretionary power is to be exercised to do ‘complete justice’ to the parties, wherein this Court is satisfied that the facts established show that the marriage has completely failed and there is no possibility that the parties will cohabit together, and continuation of the formal legal relationship is unjustified - Referred to Shilpa Sailesh vs. Varubn Sreenivasan (2023) SCC online SC 544- In this case, the Court noted that parties are residing separately since February, 2011 and there have been no contact whatsoever between them during this long period of almost 13 years. The wife is not even responding to the summons issued by the courts - It seems she is no longer interested in continuing the marital relations with the husband. Therefore, the present is a case of irretrievable breakdown of marriage as there is no possibility of the couple staying together.

Raja Nayakar vs State Of Chhattisgarh 2024 INSC 56 – Criminal Trial – Circumstantial Evidence – S 313 CrPC – S 27 Evidence Act

Criminal Trial - Circumstantial Evidence - Sharad Birdhichand Sarda vs. State of Maharashtra (1984) 4 SCC 116=1984 INSC 121 - the circumstances from which the conclusion of the guilt is to be drawn should be fully established - The accused ‘must be’

and not merely ‘may be’ proved guilty before a court can convict the accused - There is not only a grammatical but a legal distinction between ‘may be proved’ and ‘must be or should be proved’ - The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty- The circumstances should be such that they exclude every possible hypothesis except the one to be proved - There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused - The suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent ¹⁰ unless proved guilty beyond a reasonable doubt. (Para 8-9)

Indian Evidence Act, 1872- Section 27 - Referred to Pulukuri Kotayya and others v. King-Emperor 1946 SCC OnLine 47=AIR 1947 PC 67 - Only such statement which leads to recovery of incriminating material from a place solely and exclusively within the knowledge of the maker thereof would be admissible in evidence. (Para 13)

Criminal Trial - The sole circumstance of recovery of blood-stained weapon cannot form the basis of conviction unless the same was connected with the murder of the deceased by the accused - Referred to Mustkeem alias Sirajudeen v. State of Rajasthan AIR 2011 SC 2769=2011 INSC 487. (Para 19)

Code of Criminal Procedure, 1973- Section 313- A case based on circumstantial evidence, the nonexplanation or false explanation of the accused under Section 313 Cr.P.C. cannot be used as an additional link to complete the chain of circumstances. It can only be used to fortify the conclusion of guilt already arrived at on the basis of other proven circumstances - it is only after the prosecution discharges its duty of proving the case beyond all reasonable doubt that the false explanation or non-explanation of the accused could be taken into consideration. (Para 21)

Goa Foundation vs State Of Goa 2024 INSC 57- Identification Of Private Forests

Please see In Re: TN Godavarman Thirumalpad vs UoI 2024 INSC 59

CBI vs Kapil Wadhawan 2024 INSC 58 – S 173 CrPC :: [2024] 1 S.C.R. 677 – Incomplete Charge Sheet – Default Bail

Code of Criminal Procedure, 1973- Section 173 - Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr.P.C. - Though ordinarily all documents relied upon by the prosecution should accompany the chargesheet, nonetheless for some reasons, if all the documents are not filed along with the chargesheet, that reason by itself would not invalidate or vitiate the chargesheet. (Para 23)

Code of Criminal Procedure, 1973- Section 173 - The right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a chargesheet is filed under sub-section (2) thereof against the accused. (Para 23)

Code of Criminal Procedure, 1973- Section 173 - Statutory requirement of the report under Section 173 (2) would be complied with if the various details prescribed therein are

included in the report. The report under Section 173 is an intimation to the court that upon investigation into the cognizable offence, the investigating officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175 (5) - It is not necessary that all the details of the offence must be stated. (Para 22)

In Re: TN Godavarman Thirumalpad vs UoI 2024 INSC 59 :: [2024] 3 S.C.R. 187 – Identification Of Private Forests

Identification Of Private Forests - existing criteria for identification of private forests in the State of Goa are adequate and valid, hence, they require no alteration. The Ministry of Environment, Forest & Climate Change guidelines, as well as the Scheduled Tribes & other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, are clear and unambiguous, as they have exempted the application of the Forest Conservation Act, 1980, on areas that are less than 1 hectare and where not more than 75 trees have to be cut. (Para 69)

Krishan vs State of Haryana 2024 INSC 60 – Murder Accused Acquitted-Recovery Of Weapons

Summary - Appeal against concurrent murder conviction - Prosecution relied upon the recovery of the alleged weapon of offence at the instance of the appellant and the fact that the appellant disclosed the place where he had thrown the dead bodies - the recovery was allegedly made one month and four days after the occurrence - the recovery was made from open space in a garden -the place was easily accessible to many - Prosecution Witnesses did not state that the weapon and cartridges were buried underground and were recovered only after digging. Lastly, though independent witnesses were available, they were not made witnesses to the Panchnama made pursuant to the alleged statement made by the appellant - The evidence of recovery of the weapon at the instance of the appellant

cannot be accepted as reliable - A serious doubt about the truthfulness of the prosecution case - The benefit of the doubt must be extended to the appellant - Acquitted.

D Ganesan vs Union Of India 2024 INSC 61 – Disciplinary Proceedings

Disciplinary Proceedings - In the facts of the given case, the disciplinary proceeding could continue simultaneously with the criminal inquiry. There is no legal bar on running such parallel proceedings though in certain situations, this Court has not permitted continuance of dual proceedings.

Summary: High Court assumed the role of a disciplinary authority and imposed punishment also - Such a finding and the consequential decision were not warranted.

Bombay Mercantile Cooperative Bank Ltd vs U.P. Gun House 2024 INSC 62 – SARFAESI – Auction Purchase

Summary: Cooperative Bank will pay an amount of Rs.54,00,000/-12 (rupees fifty four lakhs only) to the respondent in full and final settlement of his claims.

Ajitsinh Chehuji Rathod vs State Of Gujarat 2024 INSC 63 – S 118,138,139 NI Act – S 73 Evidence Act – Bankers' Books Evidence Act – Specimen Signature – Cheque Bounce Case

Indian Evidence Act, 1872- Section 73 - Bankers' Books Evidence Act, 1891 - Certified

copy of a document issued by a Bank is itself admissible under the Bankers' Books Evidence Act, 1891 without any formal proof thereof. Hence, in an appropriate case, the certified copy of the specimen signature maintained by the Bank can be procured with a request to the Court to compare the same with the signature appearing on the cheque by exercising powers under Section 73 of the Indian Evidence Act, 1872.

Negotiable Instruments Act, 1881- Section 138,139, 118 - Presumption regarding indorsements made on the negotiable instrument being in order in which they appear thereupon- The presumption of the indorsements on the cheque being genuine operates in favour of the holder in due course of the cheque in question which would be the complainant herein. In case, the accused intends to rebut such presumption, he would be required to lead evidence to this effect - The presumptions under the NI Act albeit rebuttable operate in favour of the complainant. Hence, it is for the accused to rebut such presumptions by leading appropriate defence evidence and the Court cannot be expected to assist the accused to collect evidence on his behalf. (Para 13-17)

JN Puri vs State of Uttar Pradesh 2024 INSC 64 – Restoration Application

Summary: High Court of Uttarakhand dismissed an application for restoration of the writ petition holding that it was submitted with a delay of seven years -Allowing appeal, the SC observed: As a matter of fact, the application for restoration was filed within a period of one month-the appellant still claims to be in possession of the land under acquisition, we feel that the writ petition preferred by the appellant should have been heard and decided on merit.

Director General, CSIR vs JK Prashar 2024 INSC 65 – Service Law

Summary: HC reversed the promotion of some persons on the post of Under Secretary on

the ground that their promotion was in violation of the Council of Scientific and Industrial Research Administrative Services (Recruitment & Promotion) Rules, 1982 - Appeal dismissed.

Sanjay Upadhyा vs Anand Dubey 2024 INSC 66 – Defamation Complaint Quashed

Summary : Defamation Case filed by Advocate Against newspaper owner for report titled: “Advocate ne pan masala vyavasayi par karaya jhuta mamla darj” - Supreme Court upheld Magistrate's order rejecting the complaint observing that the news article was published in good faith and in exercise of the Fundamental Right of Freedom of Speech and Expression enshrined under Article 19(1)(a) of the Constitution of India.

PC Jain vs Dr. RP Singh 2024 INSC 67 – Consumer Complaint – Medical Negligence

Medical Negligence - NCDRC upheld the compensation awarded by the DCDRC to the complainant (Rupees Two Lakhs) - However, the interest @ 12% was held to be excessive and accordingly, the same was reduced to 6% - Allowing appeal, SC directed that the appellant P.C. Jain shall be entitled to receive compensation of Rs. 2 Lakhs only with interest @ 12% per annum from the respondent Dr. R.P. Singh with effect from the date of filing of the complaint till actual payment is made.

Dasharat Sahu vs State Of Chhattisgarh 2024 INSC 68 – S 3 SC-ST Act – Outraging Modesty – Acquittal

Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989 -

Section 3(1)(xi) - Offence of outraging the modesty should be committed with the intention that the victim belonged to the Scheduled Caste categoryt the offence of outraging the modesty should be committed with the intention that the victim belonged to the Scheduled Caste category - As per the FIR and the sworn testimony of the prosecutrix, the prosecutrix/complainant was engaged for doing household jobs in the house of the accused appellant who tried to outrage her modesty while the prosecutrix/complainant was doing the household chores - Even from the highest allegations of the prosecutrix, the offending act was not committed by the accused with the intention that he was doing so upon a person belonging to the Scheduled Caste - Referred to Masumsha Hasanasha Musalman Vs. State of Maharashtra 2000(3) SCC 557 .

Rani Chander Kanta (D) vs Union Of India 2024 INSC 69 – Suit For Declaration

Summary: Suit for declaration to the effect that the appellants/plaintiffs are in possession of the suit property as absolute owners - Decreed by Trial Court - Dismissed by First Appellate Court and High Court- Dismissing Appeal, SC held: Merely with the identity of the property or its number, no title can be passed on any prospective buyer, once a conscious decision had been taken by the authority concerned to sell only a portion thereof and not the entire area.

Sheikh Arif vs State of Maharashtra 2024 INSC 70 – S 375 IPC – Rape By Giving Promise To Marry

Indian Penal Code, 1860- Section 375 -If the victim of the alleged offence of rape is not under 18 years of age, maintaining a sexual relationship with her consent, is not an offence - If the consent of the victim is based on misconception, such consent is immaterial as it is not a voluntary consent. If it is established that from the inception, the consent by the victim is a result of a false promise to marry, there will be no consent, and in such a case, the offence of rape will be made out - Referred to Anurag Soni v. State of Chhattisgarh (2019) 13 SCC 1 :: 2019 INSC 503 :: [2019] 6 S.C.R. 972.

Summary - Physical relationship between the appellant and the second respondent was consensual, at least from 2013 to 2017. The fact that they were engaged was admitted by the second respondent. The fact that in 2011, the appellant proposed to her and in 2017, there was engagement is accepted by the second respondent. In fact, she participated in the engagement ceremony without any protest. However, she has denied that her marriage was solemnized with the appellant. Taking the prosecution case as correct, it is not possible to accept that the second respondent maintained a physical relationship only because the appellant had given a promise of marriage. Thus, in our view, the continuation of the prosecution in the present case will be a gross abuse of the process of law - Criminal proceedings quashed.

Baitulla Ismail Shaikh vs Khatija Ismail Panhalkar 2024 INSC 71 – Maharashtra Rent Control Act

Maharashtra Rent Control Act, 1999- Section 16(1) - the Court trying an eviction proceeding under the aforesaid provision has very limited role in determining as to whether demolition is really necessary or not, but it does not automatically follow therefrom that the Court would mechanically adopt the view of municipal authority of there being urgent need of demolition. The conditions under which a landlord can bring an eviction action under clauses (i) and (k) of Section 16(1) are different in their operations. In respect of an eviction proceeding founded on the former provision, it contemplates a lesser

degree of immediacy or urgency - But the latter provision requires a greater degree of urgency and it is within the jurisdiction of the Court to test this factor. (Para 16)

Maharashtra Rent Control Act, 1999- Section 16 - Sub-section (6) of Section 16 also mandates satisfaction of the conditions stipulated in sub-clauses (a) to (d) thereof. Subclause (d) in particular, contemplates the landlord to give undertaking in terms of paragraphs (i), (ii), (iv) and (v) of that subclause, while dealing with landlord's eviction claim based on Section 16(1)(i) of the said statute. These are all mandatory requirements

Notice - Omission to label a notice with the provision under which it is issued would not make it nugatory, if substance thereof is clearly conveyed. (Para 14)

Sachin Garg vs State Of UP 2024 INSC 72 – Ss 204, 482 CrPC – Commercial Dispute Turned Into Criminal Case

Code of Criminal Procedure, 1973- Section 204 - While it is true that at the stage of issuing summons a magistrate only needs to be satisfied with a *prima facie* case for taking cognizance, the duty of the magistrate is also to be satisfied whether there is sufficient ground for proceeding- At the stage of issue of summons, detailed reasoning as to why a Magistrate is issuing summons, however, is not necessary - Referred to Pepsi Foods Ltd. vs Special Judicial Magistrate and Ors. [(1998) 5 SCC 749] - Jagdish Ram vs State of Rajasthan and Another [(2004) 4 SCC 432] (Para 18)

Code of Criminal Procedure, 1973- Section 482 - It is true that the appellant could seek discharge in course of the proceeding itself before the concerned Court, but here we find that no case at all has been made out that would justify invoking the machinery of the Criminal Courts. The dispute, *per se*, is commercial in nature having no element of criminality - Criminal Proceedings quashed. (Para 19)Rea

Amit Kumar Das vs Shrimati Hutheesingh Tagore Charitable Trust 2024 INSC 73 – Contempt Of Court

Constitution of India, 1950- Article 215 - Contempt of Courts Act, 1971 - In addition to punishing a contemnor for disobeying its orders, the Court can also ensure that such a contemnor does not continue to enjoy the benefits of his disobedience by merely suffering the punishment meted out to him. (Para 15)

Gulshan Bajwa vs Registrar, High Court of Delhi 2024 INSC 74 – Contempt – Apology

Contempt of Courts Act, 1971 - An apology must evidence remorse with respect to the contemptuous acts and is not to be used as a weapon to purge the guilty of their offence⁴. Further, an apology lacking in sincerity and not evidencing contriteness, cannot be accepted. (Para 22) - M.Y. Shareef v. Hon'ble Judges of High Court of Nagpur, (1955) 1 SCR 757 and Omesh Saigal and State v. R.K. Dalmia, 1968 SCC OnLine Del 179 and L. D. Jaikwal v. State of U.P., (1984) 3 SCC 405.

Shatrughna Atmaram Patil vs Vinod Dodhu Chaudhary 2024 INSC 75 – Police Officers Fined

Summary: Police Officers imposed costs for conspiring and in abetting the crime of the illegal detention of the tenants, coercing them to sign the document against their will, and getting the premises in question demolished without any order from a competent Court - Six police personnel will suffer a cost of Rs. 6.0 lacs for each of the two complainants. Out of the six police personnel, three are constables, one is a Head Constable, one is a Sub-Inspector, and one is an Inspector. They shall suffer a cost of Rs. 50,000/- per Constable, Rs.1,00,000/- by the Head Constable, Rs. 1.50 lacs by the Sub-Inspector, and Rs. 2.0 lacs

by the Inspector, totalling Rs. 6.0 lacs for each case with the above distribution.

Yagwati @ Poonam vs Ghanshyam 2024 INSC 76 – Hindu Adoption and Maintenance Act

Hindu Adoption and Maintenance Act, 1956 - Court enhanced the monthly maintenance payable under Section 18 of the Act from Rs.10,000/- (Rupees Ten Thousand) per month to Rs.20,000/- (Rupees Twenty Thousand) per month with effect from the date of the pronouncement of this Order.

Bharat Sher Singh Kalsia vs State of Bihar 2024 INSC 77 – S 482 CrPC – Contract

Code of Criminal Procedure, 1973- Section 482 - In the appropriate case, protection is to be accorded against unwanted criminal prosecution and from the prospect of unnecessary trial - Priyanka Mishra v State of Madhya Pradesh, 2023 SCC OnLine SC 978 and Vishnu Kumar Shukla v State of Uttar Pradesh, 2023 SCC OnLine SC 1582. (Para 35)

Contract Law - If in a deed an earlier clause is followed by a later clause which destroys altogether the obligation created by the earlier clause, the later clause is to be rejected as repugnant and the earlier clause prevails. In this case the two clauses cannot be reconciled and the earlier provision in the deed prevails over the later. Thus, if A covenants to pay 100 and the deed subsequently provides that he shall not be liable under his covenant, that later provision is to be rejected as repugnant and void, for it altogether destroys the

covenant. But if the later clause does not destroy but only qualifies the earlier, then the two are to be read together and effect is to be given to the intention of the parties as disclosed by the deed as a whole - *Forbes v Git*, [1922] 1 AC 2564 - *Radha Sundar Dutta v Mohd. Jahadur Rahim*, AIR 1959 SC 24.

In Re: TN Godavarman Thirumulpad vs UoI 2024 INSC 78 :: [2024] 1 S.C.R. 704 – Environment – Central Empowered Committee

Central Empowered Committee -Conception, constitution, functions, and institutionalization of the CEC- - Directions issued to the CEC to adopt the measures to promote institutional transparency, efficiency, and accountability in its functioning: i. The CEC shall formulate guidelines for the conduct of its functions and internal meetings. The CEC shall formulate the operating procedures delineating the roles of its members and the Secretary of the CEC. ii. The CEC shall formulate guidelines about the public meetings that it holds, ensure the publication of meeting agenda in advance on its website, maintain minutes of meetings, and set out rules regarding notice to parties. iii. The CEC shall formulate guidelines for site visits and, if necessary, hearing the public and affected parties therein. iv. The CEC shall formulate guidelines fixing time limits for site visits, preparation of reports, and also the manner of preparation of reports. v. These guidelines/regulations must be accessible for anyone to seek. They shall be posted on the official website of the CE.

Principles for the effective monitoring of various bodies, institutions, and regulators established for protecting our forests, wildlife, environment, and ecology - The bodies, authorities, regulators, and executive offices entrusted with environmental duties must function with the following institutional features: i. The composition, qualifications, tenure, method of appointment and removal of the members of these authorities must be clearly laid down. Further, the 30 appointments must be regularly made to ensure continuity and these bodies must be staffed with persons who

have the requisite knowledge, technical expertise, and specialization to ensure their efficient functioning. ii. The authorities and bodies must receive adequate funding and their finances must be certain and clear. iii. The mandate and role of each authority and body must be clearly demarcated so as to avoid overlap and duplication of work and the method for constructive coordination between institutions must be prescribed. iv. The authorities and bodies must notify and make available the rules, regulations, and other guidelines and make them accessible by providing them on the website, including in regional languages, to the extent possible. If the authority or body does not have the power to frame rules or regulations, it may issue comprehensive guidelines in a standardized form and notify them rather than office memoranda. v. These bodies must clearly lay down the applicable rules and regulations in detail and the procedure for application, consideration, and grant of permissions, consent, and approvals. vi. The authorities and bodies must notify norms for public hearing, the process of decision making, prescription of right to appeal, and timelines. vii. These bodies must prescribe the method of accountability by clearly indicating the allocation of duties and responsibilities of their officers. viii. There must be a regular and systematic audit of the functioning of these authorities.

Vithal vs State Of Karnataka 2024 INSC 79 – S 34 IPC

Summary : Supreme Court to consider this argument: if section 34 IPC was applied, then, each one of the accused should have been convicted under the same provision and awarded the same sentence -List for hearing on 13.03.2024.

Authorised Officer , Central Bank Of India vs Shanmugavelu 2024 INSC 80 :: [2024] 2 S.C.R. 12 -R 9(5) SARFAESI Rules – Ss 73,74 Contract Act

SARFAESI Act- Section 37 - - SARFAESI Rules- Rule 9(5) - Indian Contract Act, 1872- Sections 73,74 - Whether, the underlying principle of Section(s) 73 & 74 respectively of the 1872 Act is applicable to forfeiture of earnest-money deposit under Rule 9(5) of the SARFAESI Rules? In other words, whether the forfeiture of the earnest-money deposit under Rule 9(5) of the SARFAESI Rules can be only to the extent of loss or damages incurred by the Bank? SARFAESI Act is a special legislation with an overriding effect on the general law, and only those legislations which are either specifically mentioned in Section 37 or deal with securitization will apply in addition to the SARFAESI Act. Being so, the underlying principle envisaged under Section(s) 73 & 74 of the 1872 Act which is a general law will have no application, when it comes to the SARFAESI Act more particularly the forfeiture of earnest-money deposit which has been statutorily provided under Rule 9(5) of the SARFAESI Rules as a consequence of the auction purchaser's failure to deposit the balance amount - Section(s) 73 and 74 of the 1872 Act will have no application whatsoever, when it comes to forfeiture of the earnest-money deposit under Rule 9 sub-rule (5) of the SARFAESI Rules. (Para 68, 91)

SARFAESI Rules- Rule 9(5) - Whether, the forfeiture of the entire amount towards the earnest-money deposit under Rule 9(5) of the Rules amounts to unjust enrichment? In other words, whether the quantum of forfeiture under the SARFAESI Rule is limited to the extent of debt owed? The consequence of forfeiture of 25% of the deposit under Rule 9(5) of the SARFAESI Rules is a legal consequence that has been statutorily provided in the event of default in payment of the balance amount. The consequence envisaged under Rule 9(5) follows irrespective of whether a subsequent sale takes place at a higher price or not, and this forfeiture is not subject to any recovery already made or to the extent of the debt owed. In such cases, no extent of equity can either substitute or dilute the statutory consequence of forfeiture of 25% of deposit under Rule 9(5) of the SARFAESI Rules - High Court erred in law by holding that forfeiture of the entire deposit under Rule 9 sub-rule (5) of the SARFAESI Rules by the appellant bank after having already recovered its dues from the subsequent sale amounts to unjust enrichment.. (Para 105-113)

Principle of Reading Down - The principle of "reading down" a provision refers to a legal

interpretation approach where a court, while examining the validity of a statute, attempts to give a narrowed or restricted meaning to a particular provision in order to uphold its constitutionality. This principle is rooted in the idea that courts should make every effort to preserve the validity of legislation and should only declare a law invalid courts while examining the validity of a particular statute should always endeavour towards upholding its validity, and striking down a legislation should always be the last resort - When a court encounters a provision that, if interpreted according to its plain and literal meaning, might lead to constitutional or legal issues, the court may opt to read down the provision. Reading down involves construing the language of the provision in a manner that limits its scope or application, making it consistent with constitutional or legal principles. 95. The rationale behind the principle of reading down is to avoid striking down an entire legislation. Courts generally prefer to preserve the intent of the legislature and the overall validity of a law by adopting an interpretation that addresses the specific constitutional concerns without invalidating the entire statute. 96. It is a judicial tool used to salvage the constitutionality of a statute by giving a provision a narrowed or limited interpretation, thereby mitigating potential conflicts with constitutional or legal principles.- “Reading Down” a provision is one of the many methods, the court may turn to when it finds that a particular provision if for its plain meaning cannot be saved from invalidation and so by restricting or reading it down, the court makes it workable so as to salvage and save the provision from invalidation. Rule of “Reading Down” is only for the limited purpose of making a provision workable and its objective achievable - However, harshness of a provision is no reason to read down the same, if its plain meaning is unambiguous and perfectly valid. (93-101) [Referred to B.R. Enterprises v. State of U.P. & Ors. (1999) 9 SCC 700 and Calcutta Gujarati Education Society & Anr. v. Calcutta Municipal Corp. & Ors. (2003) 10 SCC 533,

Words and Phrases - Unjust Enrichment - Concept of ‘Unjust Enrichment’ is a by-product of the doctrine of equity - It means retention of a benefit by a person that is unjust or inequitable. “Unjust enrichment” occurs when a person retains money or benefits which in justice, equity and good conscience, belong to someone else - Referred to Sahakari Khand Udyog Mandal Ltd. v. Commissioner of Central Excise & Customs (2005) 3 SCC 738 (Para 108-109)

Difference between an earnest or deposit and an advance part payment of price - Earnest is

something given by the Promisee to the Promisor to mark the conclusiveness of the contract. This is quite apart from the price. It may also avail as a part payment if the contract goes through. But even so it would not lose its character as earnest, if in fact and in truth it was intended as mere evidence of the bargain. An advance is a part to be adjusted at the time of the final payment. If the Promisee defaults to carry out the contract, he loses the earnest but may recover the part payment leaving untouched the Promisor's right to recover damages. Earnest need not be money but may be some gift or token given. It denotes a thing of value usually a coin of the realm given by the Promisor to indicate that the bargain is concluded between them and as tangible proof that he means business. (Para 83)

Haalesh @ Haleshi @ Kurubara Haleshi vs State Of Karnataka 2024 INSC 81 – Ss 149,302 IPC – A 136 Constitution – Criminal Trial

Indian Penal Code, 1860- Section 149, 302 - An overt act of some of the accused persons of an unlawful assembly with the common object to kill the deceased and to cause grievous hurt to the other family members is enough to rope in all of them for an offence under Section 302 IPC in aid with Section 149 IPC

Constitution of India, 1950- Article 136 - Criminal Appeal - This Court in exercise of its appellate jurisdiction is always slow in interfering with the concurrent findings of the courts below recorded on the basis of the evidence until and unless such findings are shown to be perverse. (Para 22)

Criminal Trial - the suggestion or opinion of the doctor cannot prevail as the opinion based upon probability is a weak evidence in comparison to the ocular evidence of eyewitnesses. (Para 21)

Bhaggi @ Bhagirath @ Naran vs State of Madhya Pradesh 2024 INSC 82 :: [2024] 2 S.C.R. 111

Indian Penal Code, 1860- Section 376AB - Once the conviction is sustained under Section 376 AB, IPC the fixed term punishment could not be for a period of less than 20 years - when a sentence of imprisonment for a term not less than 20 years which may extend upto life imprisonment is imposed, the convict is also liable to suffer a sentence of fine which shall be just and reasonable to meet the medical expenses and rehabilitation of the victim. (Para 14,17)

Words and Phrases - Barbaric and Brutal -when the words 'barbaric' and 'brutal' are used simultaneously they are not to take the character of synonym, but to take distinctive meanings - the fact that the accused had not done the crime brutally will not make its commission non-barbaric. (Para 10)

Summary : According to prosecution, Victim, aged 7 years, was taken to a temple by the convict and there upon making her and himself nude he committed rape - Capital punishment awarded for the conviction under Section 376 AB, IPC was not confirmed by the High Court and it was commuted to imprisonment for life - Partly allowing SLP, SC held: The convict was aged 40 years on the date of occurrence and the victim was then only a girl, aged 7 years. Thus, the position is that he used a lass aged 7 years to satisfy his lust. For that the convict took the victim to a temple, unmindful of the holiness of the place disrobed her and himself and then committed the crime. We have no hesitation to hold that the fact he had not done it brutally will not make its commission non-barbaric -While maintaining the conviction of the petitioner-convict under Section 376 AB, IPC, the sentence imposed thereunder is modified to a sentence of rigorous imprisonment for a term of 30 years, making it clear that this will also include the period of sentence already undergone and the period, if any ordered by the Trial Court for set off. The imprisonment awarded for the conviction under Section 363, IPC shall run concurrently. The amount of fine imposed thereunder shall be added to the fine imposed by us viz., Rupees One Lakh - convict shall not be released from jail before completion of actual sentence of 30 years.

**Union Of India vs BT Patil And Sons Belgaum (Construction) Pvt. Ltd. 2024
INSC 83 :: [2024] 2 S.C.R. 91- Excise Duties and Service Tax Drawback Rules**

Excise Duties and Service Tax Drawback Rules, 1995 -Duty drawback, in relation to any goods manufactured in India and exported has been defined to mean the rebate of duty or tax chargeable on any imported materials or excisable materials used or taxable services used in the manufacture of such goods - a drawback may be allowed on the export of goods at such amount or at such rates as may be determined by the Central Government.

**Atamjit Singh vs State (NCT Of Delhi) 2024 INSC 84 – S 138 NI Act – S 482
CrPC – Cheque Bounce Complaint – Quashing**

Code of Criminal Procedure, 1973- Section 482 - Negotiable Instruments Act, 1881 - Section 138 - Classification of the underlying debt or liability as being barred by limitation is a question that must be decided based on the evidence adduced by the parties -The question regarding the time barred nature of an underlying debt or liability in proceedings under Section 138 of the NI Act is a mixed question of law and fact which ought not to be decided by the High Court exercising jurisdiction under Section 482 of the CrPC [Referred to Yogesh Jain v. Sumesh Chadha]

Vishal Noble Singh vs State Of Uttar Pradesh 2024 INSC 85 – S 482 CrPC, Ss 420, 467 IPC

Code Of Criminal Procedure, 1973- Section 482 - In recent years the machinery of

criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud - while entertaining an application for quashing an FIR at the initial stage, the test to be applied is whether the uncontested allegations prima facie establish the offence -Criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution should be quashed. [Referred to Madhavrao Jiwajirao Scindia vs. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692] (Para 22)

Non- Appearance of complainant - complainant has made grave allegations against the appellants herein and on whose behalf a charge-sheet has also been filed against such allegations has failed to appear before this Court to justify the same. Such acts would not only cause deep fissures and mistrust between people and also unnecessarily burden the law courts and the criminal justice system - The non-appearance of the second respondent before this Court is indicative of his prejudicial attitude and temperament and his inability to justify any of the allegations against the appellants herein and therefore his absence in this proceeding. (Para 22-23)

Indian Penal Code, 1860 - Section 467 - The following ingredients are essential for commission of the offence under Section 467 IPC: 1. the document in question so forged- 2. the accused who forged it- 3. the document is one of the kinds enumerated in the aforementioned section - Referred to Inder Mohan Goswami vs. State of Uttarakhand, (2007) 12 SCC 1 (Para 18)

Indian Penal Code, 1860 - Section 420 - There are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or

dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning - Referred to Inder Mohan Goswami vs. State of Uttarakhand, (2007) 12 SCC 1 (Para 18)

Jagmohan vs Badri Nath 2024 INSC 86 :: [2024] 2 S.C.R. 123 – Punjab Pre-emption Act, 1913

Punjab Pre-emption Act, 1913- Section 8(2)- The land and the immovable property have different meanings -The land and the immovable property are two different terms. The immovable property is more than the land on which certain construction has been made. (Para 15-16)

Velthepu Srinivas vs State Of Andhra Pradesh 2024 INSC 87 :: [2024] 2 S.C.R. 1 – Ss 34, 302, 304 IPC

Indian Penal Code, 1860- 304 Part II -The section provides for two kinds of punishment to two different situations: (1) if the act by which death is caused is done with the intention of causing death or causing such bodily injury as is likely to cause death. Here the important ingredient is the “intention”- (2) if the act is done with the knowledge that it is likely to cause death but without any intention to cause death or such bodily injury as is likely to cause death. When a person hits another with a danda on a vital part of the body with such force that the person hit meets his death, knowledge has to be imputed to the accused - Referred to Camilo Vaz v. State of Goa, (2000) 9 SCC 1 - This Court has considered factors such as lack of medical evidence to prove whether the act/injury was individually sufficient to cause death (Bawa Singh v. State of Punjab, 1993 Supp (2) SCC 754), a single blow on head with a hammer(Sarup Singh v. State of Haryana, (2009) 16 SCC 479) and lack of cogent evidence of the eye-witnesses that the accused shared a

common intention to commit murder (Ghana Pradhan & Ors. v. State of Orissa, 1991 Supp (2) SCC 451) as some factors to commute a sentence from Section 302 to Section 304 Part II IPC. (Para 28-29)

Indian Penal Code, 1860- Section 34, 302, 304 Part II -It is not the case of the prosecution that A-3 was along with the other accused while the deceased was dragged to the house. The deposition would reveal that after the other accused assaulted the deceased with sword, A-3 came thereafter and assaulted the deceased with stone lying there - Thus prosecution has not been in a position to establish that A-3 shared the common intention with the other accused to cause the murder of the deceased - Court acquitted A-3 of the conviction and sentence under Section 302 read with Section 34 and convict him under Section 304 Part II. (Para 31-32)

Govt. of Goa vs Maria Julieta D'Souza (D) 2024 INSC 88 – S 3 Evidence Act – Standard Of Proof

Indian Evidence Act, 1872- Section 3- . While inquiring into whether a fact is proved, the sufficiency of evidence is to be seen in the context of standard of proof, which in civil cases is by preponderance of probability - There is a clear distinction between burden of proof and standard of proof. This distinction is well-known to civil as well as criminal practitioners in common law jurisprudence. (Para 8)

Summary: The Trial Court dismissed the suit on two grounds: first, the plaintiff could not establish her title by way of a clear document of title in her favour. Second the suit is itself barred by limitation - High Court decreed the suit - Dismissing Appeal, the SC observed: Though no single document in itself concludes title in favour of the plaintiff, but this is not an issue of burden of proof, the High Court has correctly arrived at its conclusion regarding the existence of title in favour of the plaintiff on the basis of the evidence adduced.

Veena Gupta vs Central Pollution Control Board 2024 INSC 89 – NGT – Ex Parte Orders

National Green Tribunal - National Green Tribunal's recurrent engagement in unilateral decision making, provisioning ex post facto review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding - It is imperative for the Tribunal to infuse a renewed sense of procedural integrity, ensuring that its actions resonate with a harmonious balance between justice and due process. Only then can it reclaim its standing as a beacon of environmental protection, where well-intentioned endeavors are not simply washed away. (Para 4-5)

Summary: Appeal against NGT's ex parte order in suo motu proceedings holding the appellants to be guilty and directing payment of compensation - SC set aside the orders and remand the matter back to the Tribunal to issue notice to all the affected parties, hear them and pass appropriate orders.

Sudhir Vilas Kalel vs Bapu Rajaram Kalel 2024 INSC 90 :: [2024] 2 S.C.R 165 – No Confidence Motion

Summary : Validity of no -confidence motion against a Village Sarpanch upheld - the proceedings of the Tahsildar dated 19.06.2023 rejecting the No Confidence Motion on the ground that the voting requirement of three-fourth of the members “entitled to sit and vote”, was not fulfilled, cannot be sustained.

Kishore vs State Of Punjab 2024 INSC 91 – Unlawful Assembly – Test Identification Parade

Indian Penal Code, 1860- Section 141, 148,149 - Condition precedent for attracting Section 148 of the IPC is that there has to be an unlawful assembly. Under Section 141 of the IPC, the unlawful assembly must be of five or more persons -In this case, High Court has acquitted two out of five accused of all charges. Therefore there was no unlawful assembly within the meaning of Section 141 of the IPC. Thus, the conviction under Section 148 of the IPC of other three accused cannot be sustained. (Para 7)

Test Identification Parade -A test identification parade is not mandatory. The test identification parade is a part of the investigation. It is useful when the eyewitnesses do not know the accused before the incident. The test identification parade is usually conducted immediately after the arrest of the accused. Perhaps, if the test identification parade is properly conducted and is proved, it gives credence of the identification of the accused by the concerned eyewitnesses before the Court. The effect of the prosecution's failure to conduct a test identification parade will depend on the facts of each case. (Para 8)

Gurwinder Singh vs State Of Punjab 2024 INSC 92 :: [2024] 2 S.C.R. 134- S 43D(5) UAPA – Test For Rejection Of Bail

Unlawful Activities (Prevention) Act, 1967 - Section 43 D(5) -The conventional idea in bail jurisprudence vis-à-vis ordinary penal offences that the discretion of Courts must tilt in favour of the oft-quoted phrase - ‘bail is the rule, jail is the exception’ – unless circumstances justify otherwise - does not find any place while dealing with bail applications under UAP Act. The ‘exercise’ of the general power to grant bail under the UAP Act is severely restrictive in scope - Bail must be rejected as a ‘rule’, if after hearing the public prosecutor and after perusing the final report or Case Diary, the Court arrives at a conclusion that there are reasonable grounds for believing that the accusations are *prima facie* true. It is only if the test for rejection of bail is not satisfied – that the Courts would

proceed to decide the bail application in accordance with the ‘tripod test’ (flight risk, influencing witnesses, tampering with evidence). (Para 18-20)

Unlawful Activities (Prevention) Act, 1967 - Section 43 D(5) - The inquiry that a bail court must undertake while deciding bail applications summarised in the form of a twin-prong test : 1) Whether the test for rejection of the bail is satisfied? - 1.1 Examine if, *prima facie*, the alleged ‘accusations’ make out an offence under Chapter IV or VI of the UAP Act -1.2 Such examination should be limited to case diary and final report submitted under Section 173 CrPC- 2) Whether the accused deserves to be enlarged on bail in light of the general principles relating to grant of bail under Section 439 CrPC (‘tripod test’)? On a consideration of various factors such as nature of offence, length of punishment (if convicted), age, character, status of accused etc., the Courts must ask itself : 2.1 Whether the accused is a flight risk? 2.2. Whether there is apprehension of the accused tampering with the evidence? 2.3 Whether there is apprehension of accused influencing witnesses? 22. The question of entering the ‘second test’of the inquiry will not arise if the ‘first test’is satisfied. And merely because the first test is satisfied, that does not mean however that the accused is automatically entitled to bail. The accused will have to show that he successfully passes the ‘tripod test’ . (Para 21-22)

Unlawful Activities (Prevention) Act, 1967 - Section 43 D(5) - Test for Rejection of Bail - Guidelines as laid down by Supreme Court in Watali’s [NIA v. Zahoor Ahmad Shah Watali (2019) 5 SCC 1] Case - Meaning of ‘*Prima facie* true’ [para 23]: On the face of it, the materials must show the complicity of the accused in commission of the offence. The materials/evidence must be good and sufficient to establish a given fact or chain of facts constituting the stated offence, unless rebutted or contradicted by other evidence. • Degree of Satisfaction at Pre-Chargesheet, Post Chargesheet and PostCharges – Compared [para 23]: Once charges are framed, it would be safe to assume that a very strong suspicion was founded upon the materials before the Court, which prompted the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged against the accused, to justify the framing of charge. In that situation, the accused may have to undertake an arduous task to satisfy the Court that 15 despite the framing of charge, the materials presented along with the chargesheet (report under Section 173

CrPC), do not make out reasonable grounds for believing that the accusation against him is prima facie true. Similar opinion is required to be formed by the Court whilst considering the prayer for bail, made after filing of the first report made under Section 173 of the Code, as in the present case.

- Reasoning, necessary but no detailed evaluation of evidence [para 24]: The exercise to be undertaken by the Court at this stage--of giving reasons for grant or non-grant of bail--is markedly different from discussing merits or demerits of the evidence. The elaborate examination or dissection of the evidence is not required to be done at this stage.
- Record a finding on broad probabilities, not based on proof beyond doubt [para 24]: “The Court is merely expected to record a finding on the basis of broad probabilities regarding the involvement of the accused in the commission of the stated offence or otherwise.”
- Duration of the limitation under Section 43D(5) [para 26]: The special provision, Section 43-D of the 1967 Act, applies right from the stage of registration of FIR for the offences under Chapters IV and VI of the 1967 Act until the conclusion of the trial thereof.
- Material on record must be analysed as a ‘whole’- no piecemeal analysis [para 27]: The totality of the material gathered by the investigating agency and presented along with the report and including the case diary, is required to be reckoned and not by analysing individual pieces of evidence or circumstance.
- Contents of documents to be presumed as true [para 27]: The Court must look at the contents of the document and take such document into account as it is.
- Admissibility of documents relied upon by Prosecution cannot be questioned [para 27]: The materials/evidence collected by the investigation agency in support of the accusation against the accused in the first information report must prevail until contradicted and overcome or disproved by other evidence.....In any case, the question of discarding the document at this stage, on the ground of being inadmissible in evidence, is not permissible. (Para 23-26)

Omdeo Baliram Musale vs Prakash Ramchandra Mamidwar 2024 INSC 93 – Civil Suits

Summary : Civil Suit - Suit that was filed in 1982 never took off as even summons were not issued. It might not be surprising for lawyers, judges and those who are acquainted with civil court proceedings. The real danger is when we accept this position and continue with it as part of a systematic problem. Until and unless we believe that this situation is

unacceptable and act accordingly, the power, authority and jurisdiction of Courts to address simple reliefs of citizens will be consumed and destroyed by passage of time. This is not acceptable at all- There must be a solution, idea and resolve to rectify this situation and ensure that simple, quick and easy remedies are available to correct an illegality for a rightful restitution.

**Naresh Chandra Agrawal vs Institute Of Chartered Accountants Of India 2024
INSC 94 :: [2024] 2 S.C.R. 194 – Subordinate Legislation – Grounds To Challenge**

Subordinate Legislation - Legal principles that may be relevant in adjudicating cases where subordinate legislation are challenged on the ground of being ‘ultra vires’ the parent Act: (a) The doctrine of ultra vires envisages that a Rule making body must function within the purview of the Rule making authority, conferred on it by the parent Act. As the body making Rules or Regulations has no inherent power of its own to make rules, but derives such power only from the statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act. (b) Ultra vires may arise in several ways- there may be simple excess of power over what is conferred by the parent Act- delegated legislation may be inconsistent with the provisions of the parent Act- there may be noncompliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires. (c) If a rule is challenged as being ultra vires, on the ground that it exceeds the power conferred by the parent Act, the Court must, firstly, determine and consider the source of power which is relatable to the rule. Secondly, it must determine the meaning of the subordinate legislation itself and finally, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated. (d) Delegated rule-making power in statutes generally follows a standardized pattern. A broad section grants authority with phrases like ‘to carry out the provisions’ or ‘to carry out the purposes.’ Another sub-section specifies areas for

delegation, often using language like ‘without prejudice to the generality of the foregoing power.’ In determining if the impugned rule is intra vires/ultra vires the scope of delegated power, Courts have applied the ‘generality vs enumeration’ principle. (e) The “generality vs enumeration” principle lays down that, where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power, and do not in any way restrict the general power. In that sense, even if the impugned rule does not fall within the enumerated heads, that by itself will not determine if the rule is ultra vires/intra vires. It 24 must be further examined if the impugned rule can be upheld by reference to the scope of the general power. (f) The delegated power to legislate by making rules ‘for carrying out the purposes of the Act’ is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so framed as to fall within the scope of such general power confirmed. (g) However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorize the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself. (h) If the rule making power is not expressed in such a usual general form but are specifically enumerated, then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act. (Para 32)

Chartered Accountants Act, 1949- Section 29A - Chartered Accountants' (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007- Rule 9(3)(b) - Whether Rule 9(3)(b) of the Rules, 2007 is inconsistent with and beyond the rule-making power of the Central Government? Even if we accept, for the sake of argument, that Rule 9(3) cannot be saved under Section 29A(2)(c), as it directly relates to furthering the purposes of the Act in ensuring that a genuine complaint of professional misconduct against the member is not wrongly thrown out at the very threshold, it can be easily

concluded that the impugned Rule falls within the scope of the general delegation of power under Section 29A(1). (Para 37)

Subordinate Legislation - A subordinate legislation can be challenged under any of the following grounds: (a) Lack of legislative competence to make the subordinate legislation. (b) Violation of fundamental rights guaranteed under the Constitution of India. (c) Violation of any provision of the Constitution of India. (d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act. (e) Repugnancy to the laws of the land, that is, any enactment. (f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules) - Referred to State of Tamil Nadu and Anr. v. P. Krishnamurthy and Ors. (2006) 4 SCC 517. (Para 21)

Principle of 'generality vs enumeration' - When a general power to make regulations is followed by a specific power to make regulations, the latter does not limit the former - even if specific topics are not explicitly listed in the statute, the formulation of rules can be justified if it falls within the general power conferred, provided it stays within the overall scope of the Act. (Para 24-28)

No.2809759H Ex-Recruit Babanna Machched vs UoI 2024 INSC 95 :: [2024] 2 S.C.R. 242 – Army – Dismissal From Service

Summary: Discharge/dismissal of the appellants from service is vitiated for non-consideration of their specific case that they have actually not produced any relationship certificate for selection/recruitment as they never applied in the reserved category - An order passed without consideration of the material evidence or the plea would be violative of Principles of Natural Justice and would stand vitiated for non-consideration of the relevant material, plea or the evidence.

Practice and Procedure - Validity of the order impugned has to be tested on the basis

of the reasoning contained therein and that the authorities are not supposed to supplement the same by means of extraneous material or affidavit before the courts - Referred to Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi (1978) 1 SCC 405. (Para 22)

Rajasekar vs State 2024 INSC 96 :: [2024] 2 S.C.R. 152- POCSO

Summary: Appellant Accused convicted for offences u/S. 3(a) r/w Sec. 4 of POCSO Act - Conviction confirmed. However, the sentence imposed by the Sessions Court and confirmed by the High Court is hereby modified and reduced to the period already undergone by the Appellant.

Sushil Kumar Pandey vs High Court Of Jharkhand 2024 INSC 97 :: [2024] 2 S.C.R. 217 – Judicial Service -No Change In The Rule Midway

Judicial Service - Selection process of District Judge Cadre in the State of Jharkhand initiated in the year 2022 - Full Court resolution introduces securing 50 per cent marks in aggregate (combination of marks obtained in main examination and viva-voce) as the qualifying criteria for being recommended to the said posts - Writ Petition Allowed - High Court to make recommendation for those candidates who have been successful as per the merit or select list, for filing up the subsisting notified vacancies without applying the Full Court Resolution that requires each candidate to get 50 per cent aggregate marks. The part of the Full Court Resolution of the Jharkhand High Court dated 23.03.2023 by which it was decided that only those candidates who have secured at least 50% marks in aggregate shall be qualified for appointment to the post of District Judge is quashed - if the High Court is permitted to alter the selection criteria after the performance of individual candidates is assessed, that would constitute alteration of the laid down Rules - Referred to Sivanandan C.T. & Ors. Vs. High Court of Kerala [(2023) INSC 709)]

Jharkhand Superior Judicial Service (Recruitment, Appointment and Conditions of Service) Rules, 2001- Rule 14 - empowers the High Court administration in specific cases to reassess the suitability and eligibility of a candidate in a special situation by calling for additional documents - High Court administration cannot take aid of this Rule to take a blanket decision for making departure from the selection criteria specified in the 2001 Rules. The content of Rule 14 has the tenor of a verification process of an individual candidate in assessing the suitability or eligibility. (Para 24)

Service Law - "no change in the rule midway" dictum has become an integral part of the service jurisprudence -K.Manjusree -vs- State of Andhra Pradesh and Anr. [(2008) 3 SCC 512] in which the change of recruitment criteria mid-way through the selection process has been held to be impermissible still holds the field. (Para 19)

**Priyanka Prakash Kulkarni vs Maharashtra Public Service Commission 2024
INSC 98 – Public Employment**

Summary - the Appellant is a meritorious candidate who has cleared the main examination under the 'Open General Category' despite being deserving of the benefit of female reservation - Respondent directed to forthwith treat the Appellant as a candidate under the 'Reserved Female Category' - Appellant cannot be unfairly deprived of the benefit of female reservation merely on account of the Appellant's honesty and restraint which did not allow her to mark 'yes' against a column inquiring about a prospective candidates' status as a person belonging to the NCL, in the absence of the underlying supporting document.

Abdul Jabbar vs State Of Haryana 2024 INSC 99 :: [2024] 2 S.C.R. 162 – Ss 323,325 IPC Conviction Upheld – Sentence Reduced

Summary : Appellant convicted by Trial Court in relation to offences punishable under (i) Section 323 read with Section 34- and (ii) Section 325 read with Section 34 of the IPC -The appeal is allowed in part and the Impugned Order is modified to the extent that the Appellants' sentence is reduced to the period already undergone i.e., 1 (one) month- and 3 (three) days

Vinod Kanjibhai Bhagora vs State of Gujarat 2024 INSC 100 :: [2024] 2 S.C.R. 155 – Gujarat Civil Services (Pension) Rules

Pension - Pension is earned by a government servant in lieu of tireless service rendered by him / her (as the case may be) during the course of their employment- and often is an important consideration for person(s) seeking government employment -Raison d'etre qua the grant of pension by the State Government would inextricably be linked to a concentrated effort by the State Government to enable its former employee(s) to tide over the vagaries and vicissitudes associated with old age vide a pension scheme. Pension scheme(s) floated by the State Government form a part of delegated beneficial legislation- and ought to be interpreted widely subject to such interpretation not running contrary to the express provisions of the Pension Rules¹ . Furthermore, it would be relevant to underscore that the State Government is a model employer- and ought to uphold principles of fairness and clarity. (Para 10, 17)

Gujarat Civil Services (Pension) Rules, 2022 - Rule 25(ix)- Qualifying service for the purpose of calculating terminal benefits / pensionary benefits under the Pension Rules would include prior services rendered by such a person under inter alia the Central Government provided that (i) the employment of such person under the Central

Government encompassed an underlying pension scheme- and (ii) such person came to be absorbed by the State Government - whether the Appellants' subsequent employment with the State Government could be construed to mean that the Appellant had been 'absorbed' by the State Government, such that the Appellants' prior service with the Central Government would be considered as a part of 'qualifying service in terms of Rule 25(ix) of the Pension Rules -the interpretation sought to be advanced by respondent is narrow and restrictive so as to limit the benefit of Rule 25(ix) of the Pension Rules only to such person(s) who may have explicitly been absorbed by the State Government as against persons such as the Appellant herein who has most certainly, implicitly been absorbed by the State Government i.e., the Appellants' participation in the selection process was prefaced by an NOC from the Central Government.

Mamidi Anil Kumar Reddy vs State Of Andhra Pradesh 2024 INSC 101 :: [2024] 2 S.C.R. 252 – S 482 CrPC – False Implication – Matrimonial Disputes

Code of Criminal Procedure, 1973- Section 482 -Appeal against HC order refusing to quash criminal proceedings against the Appellants for offences u/s. 420, 498A, 506 of the IPC & u/s. 3, 4 of the Dowry Prohibition Act, 1961 , allowed - The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court - The material on record neither discloses any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences - High Court in this case has failed to exercise due care and has mechanically permitted the criminal proceedings to continue despite specifically finding that the allegations are general and omnibus in nature - High Court had a duty to consider the allegations with great care and circumspection so as to protect against the danger of unjust prosecution -Referred to Kakhshan Kausar alias Sonam v. State of Bihar (2022) 6 SCC 599] and Mahmood Ali v. State of U.P.

**Greater Noida Industrial Development Authority vs Prabhjot Singh Soni 2024
INSC 102 :: [2024] 2 S.C.R. 258 – IBC – Recall Applications – Resolution Plan**

Practice and Procedure - A Tribunal or a Court is invested with such ancillary or incidental powers as may be necessary to discharge its functions effectively for the purpose of doing justice between the parties and, in absence of a statutory prohibition, in an appropriate case, it can recall its order in exercise of such ancillary or incidental powers - A Court or a Tribunal, in absence of any provision to the contrary, has inherent power to recall an order to secure the ends of justice and/or to prevent abuse of the process of the Court - Ordinarily, an application for recall of an order is maintainable on limited grounds, *inter alia*, where (a) the order is without jurisdiction- (b) the party aggrieved with the order is not served with notice of the proceedings in which the order under recall has been passed- and (c) the order has been obtained by misrepresentation of facts or by playing fraud upon the Court /Tribunal resulting in gross failure of justice. (Para 48- 50)

Insolvency and Bankruptcy Code, 2016- Section 60 - NCLT Rules, 2016- Rule 11- Whether in exercise of powers under sub-section (5) of Section 60, the Adjudicating Authority (i.e., NCLT) can recall an order of approval passed under sub-section (1) of Section 31 of the IBC? Recall application was maintainable notwithstanding that an appeal lay before the NCLAT against the order of approval passed by the Adjudicating Authority - Even in absence of a specific provision empowering the Tribunal to recall its order, the Tribunal has power to recall its order - Section 60(5)(c) of the IBC, which opens with a non-obstante clause, empowers the NCLT (the Adjudicating Authority) to entertain or dispose of any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under the IBC. Further, Rule 11 of the NCLT Rules, 2016 preserves the inherent power of the Tribunal. (Para 50-52)

Insolvency and Bankruptcy Code, 2016 - Resolution Professional is under a statutory obligation to collate the data obtained from (a) the claim(s) made before it and (b) information gathered from the records including those maintained by the CD. The data so collated forms part of the information memorandum. Based on that information, the

resolution applicant(s) submit(s) plan. In consequence, even if a claim submitted by a creditor against the CD is in a Form not as specified in the CIRP Regulations, 2016, the same has to be given due consideration by the IRP or the RP, as the case may be, if it is otherwise verifiable, either from the proof submitted by the creditor or from the records maintained by the CD. A fortiori, if a claim is submitted by an operational creditor claiming itself as a financial creditor, the claim would have to be accorded due consideration in the category to which it belongs provided it is verifiable. (Para 30)

Insolvency and Bankruptcy Code, 2016 - Resolution Plans - Ordinarily, feasibility and viability of a plan are economic decisions best left to the commercial wisdom of the COC. However, where the plan envisages use of land not owned by the CD but by a third party, such as the appellant, which is a statutory body, bound by its own rules and regulations having statutory flavour, there has to be a closer examination of the plan's feasibility - Where on the part of the CD there were defaults in payment of instalments which, allegedly, resulted in raising of demand and issuance of pre-cancellation notice. In these circumstances, whether the resolution plan envisages necessary approvals of the statutory authority is an important aspect on which feasibility of the plan depends. (Para 54(c))

Insolvency and Bankruptcy Code, 2016- Section 30(2) - Though commercial wisdom of the COC in approving a resolution plan may not be justiciable in exercise of the power of judicial review, the Adjudicating Authority can always take notice of any shortcoming in the resolution plan in terms of the parameters specified in sub-section (2) of Section 30 of the IBC coupled with Regulations 37 and 38 of the CIRP Regulations 2016. If any such shortcoming appears in the resolution plan, it may send the resolution plan back to the COC for re-submission after satisfying the parameters so laid down. Likewise, the appellate authority can also interfere upon noticing any shortcoming in the resolution plan while exercising its powers under Section 32 read with Section 61 (3) of the IBC. (Para 33)

Summary: Appeal against NCLAT order dismissing appeal against order passed by the NCLT approving the resolution plan - Appeal allowed and resolution plan shall be sent back to the COC for re-submission - Neither NCLT nor NCLAT while deciding the application /appeal of the appellant took note of the fact that,- (a) the appellant had not been served notice of the meeting of the COC- (b) the entire proceedings up to the stage of approval of the resolution plan were ex parte to the appellant- (c) the appellant had

submitted its claim, and was a secured creditor by operation of law, yet the resolution plan projected the appellant as one who did not submit its claim- and (d) the resolution plan did not meet all the parameters laid down in sub-section (2) of Section 30 of the IBC read with Regulations 37 and 38 of the CIRP Regulations, 2016. (Para 55)

K Babu vs M Swaraj 2024 INSC 103 – Representation of the People Act – Election Petitions

Representation of the People Act, 1951- Section 83 - Non-compliance with the requirements of Section 83 of the Act of 1951 is not fatal, as Section 86(1) thereof only speaks of non-compliance with Sections 81, 82 or 117 being the basis for dismissal of an election petition at the outset. Defects in an election petition that constitute non-compliance with Section 83 of the Act of 1951 have been held to be curable defects. (Para 11)

Interpretation of Statutes - When the statutory provision unequivocally stipulates as to what is required to be done to comply with the mandate thereof, it is not permissible in law to read something more into that provision. (Para 15)

Rules of the High Court of Kerala, 1971- Rule 212 - three authenticated copies are for the use of the Court only. Further, copies of petitions to be furnished under this Rule are clearly in addition to what is required to be filed under Section 81(3) of the Act of 1951 - Rule 212 of the Rules of 1971 introduces additional requirements prescribed by the High Court and the same cannot, by any stretch of imagination, be read into and be made part and parcel of Section 81(3) of the Act of 1951. (Para 12-15)

Mallappa vs State Of Karnataka 2024 INSC 104 :: [2024] 2 S.C.R. 288 – Criminal Trial – Presumption Of Innocence – Two Views Theory – Circumstantial Evidence

Criminal Trial - Presumption of Innocence - There is a presumption of innocence in favour of the accused, unless proven guilty. The presumption continues at all stages of the trial and finally culminates into a fact when the case ends in acquittal. The presumption of

innocence gets concretized when the case ends in acquittal. It is so because once the Trial Court, on appreciation of the evidence on record, finds that the accused was not guilty, the presumption gets strengthened and a higher threshold is expected to rebut the same in appeal. (Para 24)

Code of Criminal Procedure, 1973- Section 378, 386 - Criminal Appeal against Acquittal - Principles summarized: (i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive – inclusive of all evidence, oral or documentary- (ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge- (iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed- (iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal- (v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts- (vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court. (Para 36) - In the exercise of appellate powers, there is no inhibition on the High Court to re-appreciate or re-visit the evidence on record. However, the power of the High Court to re-appreciate the evidence is a qualified power, especially when the order under challenge is of acquittal. The first and foremost question to be asked is whether the Trial Court thoroughly appreciated the evidence on record and gave due consideration to all material pieces of evidence. The second point for consideration is whether the finding of the Trial Court is illegal or affected by an error of law or fact. If not, the third consideration is whether the view taken by the Trial Court is a fairly possible view. A decision of acquittal is not meant to be reversed on a mere difference of opinion. What is required is an illegality or perversity - Two-views theory - it comes into play when the appreciation of evidence results into two equally plausible views. However, the controversy is to be resolved in favour of the accused. For, the very existence of an equally plausible view in favour of innocence of the accused is in itself a reasonable doubt in the case of the prosecution. Moreover, it reinforces the presumption of innocence. And therefore, when two views are possible, following the one in favour of innocence of the accused is the safest

course of action. Furthermore, it is also settled that if the view of the Trial Court, in a case of acquittal, is a plausible view, it is not open for the High Court to convict the accused by reappreciating the evidence. If such a course is permissible, it would make it practically impossible to settle the rights and liabilities in the eyes of law. In *Selvaraj v. State of Karnataka* (2015) 10 SCC 230 : [2015] 9 S.C.R. 381 and *Sanjeev v. State of H.P.* (2022) 6 SCC 294. (Para 25-26) - Setting aside an order of acquittal, which signifies a stronger presumption of innocence, on a mere change of opinion is not permissible. A low standard for turning an acquittal into conviction would be fraught with the danger of failure of justice. (Para 34)

Criminal Trial - In normal circumstances, where a testimony is duly explained and inspires confidence, the Court is not expected to reject the testimony of an interested witness, however, when the testimony is full of contradictions and fails to match evenly with the supporting evidence (the wound certificate, for instance), a Court is bound to sift and weigh the evidence to test its true weight and credibility. (Para 33)

Criminal Trial - Circumstantial Evidence - "Panchsheel" or five principles of circumstantial evidence -the following conditions must be fulfilled before a case against an accused can be said to be fully established: (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in *Shivaji Sahabroo Bobade v. State of Maharashtra* [(1973) 2 SCC 793] where the observations were made: "Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions." (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty, (3) the circumstances should be of a conclusive nature and tendency, (4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the

accused." - Referred to Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116: [1985] 1 S.C.R. 88. (Para 37-38)

Axis Bank Limited vs Naren Sheth 2024 INSC 105

Clarification - The word "unsecured creditor" referred to in paragraph 20 of the judgment (Axis Bank Limited vs Naren Sheth 2023 INSC 820) be now read as "secured creditor".

Order

Judgme

Directorate Of Enforcement vs Niraj Tyagi 2024 INSC 106 :: [2024] 2 S.C.R.

311 – S 482 CrPC – Stay Of Investigation

Code of Criminal Procedure, 1973- Section 482 -Without undermining the powers of the High Court under Section 482 of Cr.PC to quash the proceedings if the allegations made in the FIR or complaint prima facie do not constitute any offence against the accused, or if the criminal proceedings are found to be manifestly malafide or malicious, instituted with ulterior motive etc., we are of the opinion that the inherent powers under Section 482 of Cr.PC do not confer any arbitrary jurisdiction on the High Court to act according to whims or caprice. The statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In a way, by passing such orders of staying the investigations and restraining the investigating agencies from taking any coercive measure against the accused pending the petitions under Section 482 Cr.PC, the High Court has granted blanket orders restraining the arrest without the accused applying for the anticipatory bail under Section 438 of Cr.PC - The direction not to arrest the accused or not to take coercive action against the accused in the proceedings under Section 482 Cr.PC, would amount to an order under Section 438 Cr.PC, albeit without satisfaction of the conditions of the said provision, which is legally unacceptable - Referred to State of Telangana vs. Habib Abdullah Jeelani 2017 (2) SCC 779- Strongly deprecates practice of the High Courts in staying the investigations or directing not to take coercive action against the accused pending petitions under Section 482 of Cr.PC - Referred to Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra (2021) SCC Online SC 315. (Para 20-22)

Precedent - Judicial comity and judicial discipline demands that higher courts should

follow the law. The extraordinary and inherent powers of the court do not confer any arbitrary jurisdiction on the court to act according to its whims and caprice.

Directorate of Enforcement vs Bablu Sonkar 2024 INSC 107 – Practice & Procedure – Roster

Practice and Procedure - Roster notified by the Chief Justice is not an empty formality. All Judges are bound by the same - No Bench can hear a case, unless as per the prevailing roster, the particular case is assigned to the Bench or that the case is specially assigned to the Bench by the Chief Justice. (Para 8)

Summary: A Bombay HC Bench finally heard the writ petition and the judgment was reserved - After some months, the Bench directed that the case was released and it should be heard afresh - But on that day, the roster of the writ petition was with another Bench on that day- However, after releasing the case, when admittedly there was no prayer made by the first respondent for grant of bail on 26.06.2023, the Bench granted bail - Supreme Court set aside that part of the impugned order by which bail was granted and permitted first respondent to move the roster Bench by filing an application for interim relief/grant of bail.

Tejashwi Prasad Yadav vs Hareshbhai Pranshankar Mehta 2024 INSC 108 – Defamation –

Indian Penal Code, 1860- Section 499, 500 - Code of Criminal Procedure, 1973- Section 482- Prosecution for defamation for the offence under Section 499, which is punishable under Section 500 of the IPC, cannot be quashed on the ground that the offending allegations have been withdrawn.

Summary: Defamation case against accused- for allegedly making Defamatory statement against the Gujarati people and the entire society of Gujarat by describing all Gujarati people as "thugs' - In the facts of the present case, not only that the statements have been unconditionally withdrawn, but the petitioner has also explained the circumstances and the context in which the statements were made - after the petitioner has explained the context in which he made the statements and after withdrawal of those statements, in the

facts of the case, it is unjust to continue the prosecution. No purpose will be served by continuing the prosecution - Invoking Article 142 powers, the Court quashed the criminal proceedings.

Vasantha (D) vs Rajalakshmi @ Rajam (D) 2024 INSC 109 :: [2024] 2 S.C.R. 326 – Adverse Possession – Limitation Act- S 34 Specific Relief Act – Amendment Of Plaintiff

Adverse possession - the physical fact of exclusive possession and the *animus possidendi* to hold as owner in exclusion to the actual owner are the most important factors that are to be accounted in cases related to adverse possession. Plea of adverse possession is not a pure question of law but a blend of fact and law. Therefore, a person who claims adverse possession should show : (a) on what date he came into possession- (b) what was the nature of his possession- (c) whether the factum of possession was known to the other party- (d) how long his possession has continued- and (e) his possession was open and undisturbed. A person pleading adverse possession has no equities in his favour. Since he is trying to defeat the rights of the true owner, it is for him to clearly plead and establish all facts necessary to prove his adverse possession - Referred to Saroop Singh v. Banto (2005) 8 SCC 330 , Karnataka Board of Wakf v. Govt. of India (2004) 10 SCC 779, Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan (2009) 16 SCC 517 and P.T. Munichikkanna Reddy v. Revamma (2007) 6 SCC 59. (Para 20-21)

Limitation Act, 1961- Section 27 - The lapse of limitation bars only the remedy but does not extinguish the title. (Para 32)

Code of Civil Procedure, 1908 - Order VI Rule 17 - Amendment of a plaint can be made at any stage of a suit , even at the second appellate stage - Referred to Harcharan v. State of Haryana, (1982) 3 SCC 408 and Rajender Prasad v. Kayastha Pathshala, (1981) Supp 1 SCC 56. (Para 33)

Special Relief Act, 1963- Section 34 - When the plaintiff was aware that the defendant was in possession of the suit property and therefore it was incumbent upon him to seek the relief which follows - Not permissible to claim the relief of declaration without seeking consequential relief. [Referred to Union of India v. Ibrahim Uddin (2012) 8 SCC 148] -

(Para 30-33)

Palani vs Tamil Nadu State 2024 INSC 110 – Drugs and Cosmetics Act

Drugs and Cosmetics Act, 1940- Section 18A ,28 - Both these provisions concern the disclosure or non-disclosure respectively of the name of the manufacturer - In this case, the quantities of the 29 kinds of medicines recovered from the clinic run by the Appellant, were of small quantity. In such a situation, non-disclosure of the name of the manufacturer/person from whom the said medicines were acquired, cannot be said to be endangering public interest (which obviously, is the primary object of the prohibition in law) by allowing the circulation of such substances unauthorizedly -Imposing a sentence of imprisonment would be unjustified, particularly when the intent to sell/distribute under Section 18(c) of the Act has been held unproven. Therefore, we find it fit to modify the impugned judgment, set aside the sentence of imprisonment as awarded, and instead thereof, impose a fine of Rs.1,00,000/- on the Appellant.

Criminal Trial - Sentencing - A proper sentence is an amalgam of many factors pertaining to the offence itself as also others such as prior record if any, age, record of employment, education, home life, social adjustment and emotional and mental conditions of the offender etc. - Referred to Mohammad Giassudin v. State of Andhra Pradesh (1977) 3 SCC 287. (Para 8}

Rajesh Viren Shah vs Redington (India) Limited 2024 INSC 111 – Ss 138,141 NI Act – Resignation Of Directors

Negotiable Instruments Act, 1881- Section 138, 141 - Whether a Director who has resigned from such position and which fact stands recorded in the books as per the relevant rules and statutory provisions, can be held liable for certain negotiable instruments, failing realization ? In this case, resignations have taken place on 9 th December 2013 and 12th March 2014 -Cheques issued on 22nd March 2014. The latter is clearly, after the accused have severed their ties with the Company and, therefore, can in no way be responsible for

the conduct of business at the relevant time. Therefore, they ought to be then entitled to be discharged from prosecution.

Haryana Staff Selection Commission vs Subhash Chand 2024 INSC 112

Summary : A direction was issued by the High Court to grant appointment to the first respondent in General Caste (EBPGC) category - Appeal filed against this by t to Haryana Staff Selection Commission dismissed -Directed that the appointment order be issued to the first respondent in terms of the impugned judgment dated 10th December, 2018 of the learned Single Judge within a period of one month from the date.

Association For Democratic Reforms vs Union Of India 2024 INSC 113 ::

[2024] 2 S.C.R. 420 – Electoral Bonds Unconstitutional

Electoral Bond Scheme - The Electoral Bond Scheme, the proviso to Section 29C(1) of the Representation of the People Act 1951 (as amended by Section 137 of Finance Act 2017), Section 182(3) of the Companies Act (as amended by Section 154 of the Finance Act 2017), and Section 13A(b) (as amended by Section 11 of Finance Act 2017) are violative of Article 19(1)(a) and unconstitutional- and b. The deletion of the proviso to Section 182(1) of the Companies Act permitting unlimited corporate contributions to political parties is arbitrary and violative of Article 14 - We direct the disclosure of information on contributions received by political parties under the Electoral Bond Scheme to give logical and complete effect to our ruling - Directions: The issuing bank shall herewith stop the issuance of Electoral Bonds- b. SBI shall submit details of the Electoral Bonds purchased since the interim order of this Court dated 12 April 2019 till date to the ECI. The details shall include the date of purchase of each Electoral Bond, the name of the purchaser of the bond and the denomination of the Electoral Bond purchased- c. SBI shall submit the details of political parties which have received contributions through Electoral Bonds since the interim order of this Court dated 12 April 2019 till date to the ECI. SBI must disclose details of each Electoral Bond encashed by political parties which shall include the date of encashment and the denomination of the Electoral Bond- d. SBI shall submit the above information to the ECI within three weeks from the date of this judgment, that is, by 6 March 2024- e. The ECI shall publish the information shared by the SBI on its official website within one week of the receipt of the information, that is, by 13 March 2024- and f.

Electoral Bonds which are within the validity period of fifteen days but that which have not been encashed by the political party yet shall be returned by the political party or the purchaser depending on who is in possession of the bond to the issuing bank. The issuing bank, upon the PART H 152 return of the valid bond, shall refund the amount to the purchaser's account. [Para 216-219 of CJI's judgment]

Constitution of India, 1950 - Article 14 - Whether a legislative enactment can be challenged on the sole ground of manifest arbitrariness? - The doctrine of manifest arbitrariness can be used to strike down a provision where: (a) the legislature fails to make a classification by recognizing the degrees of harm- and (b) the purpose is not in consonance with constitutional values - A statute can be challenged on the ground it is manifestly arbitrary - A provision lacks an "adequate determining principle" if the purpose is not in consonance with constitutional values. In applying this standard, Courts must make a distinction between the "ostensible purpose", that is, the purpose which is claimed by the State and the "real purpose", the purpose identified by Courts based on the available material such as a reading of the provision - A provision is manifestly arbitrary even if the provision does not make a classification - In situations where a subordinate legislation is challenged on the ground of manifest arbitrariness, this Court will proceed to determine whether the delegate has failed "to take into account very vital facts which either expressly or by necessary implication are required to be taken into consideration by the statute or, say, the Constitution." - In contrast, application of manifest arbitrariness to a plenary legislation passed by a competent legislation requires the Court to adopt a different standard because it carries greater immunity than a subordinate legislation - A legislative action can also be tested for being manifestly arbitrary - There is, and ought to be, a distinction between plenary legislation and subordinate legislation when they are challenged for being manifestly arbitrary - Referred to *Shayara Bano v. Union of India*, (2017) 9 SCC 1- *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1- *Joseph Shine v. Union of India* (2019) 3 SCC 39. (Para 209, 180-198)

Presumption of constitutionality - Presumption of constitutionality is based on two premises. First, it is based on democratic accountability, that is, legislators are elected representatives who are aware of the needs of the citizens and are best placed to frame policies to resolve them. Second, legislators are privy to information necessary for policy making which the Courts as an adjudicating authority are not. However, the policy

underlying the legislation must not violate the freedoms and rights which are entrenched in Part III of the Constitution and other constitutional provisions - The presumption is rebutted when a *prima facie* case of violation of a fundamental right is established. The onus then shifts on the State to prove that the violation of the fundamental right is justified. - Applicability to challenge against Electoral Laws - Courts cannot carve out an exception to the evidentiary principle which is available to the legislature based on the democratic legitimacy which it enjoys. In the challenge to electoral law, like all legislation, the petitioners would have to *prima facie* prove that the law infringes fundamental rights or constitutional provisions, upon which the onus would shift to the State to justify the infringement. (Para 42-45)

Fundamental Rights - Standard which must be followed by Courts to balance the conflict between two fundamental rights is as follows: a. Does the Constitution create a hierarchy between the rights in conflict? If yes, then the right which has been granted a higher status will prevail over the other right involved. If not, the following standard must be PART F 113 employed from the perspective of both the rights where rights A and B are in conflict: b. Whether the measure is a suitable means for furthering right A and right B- c. Whether the measure is least restrictive and equally effective to realise right A and right B- and d. Whether the measure has a disproportionate impact on right A and right B? (Para 157)

Proportionality standard to determine if the violation of the fundamental right is justified: a. The measure restricting a right must have a legitimate goal (legitimate goal stage)- b. The measure must be a suitable means for furthering the goal (suitability or rational connection stage)- c. The measure must be least restrictive and equally effective (necessity stage)- and d. The measure must not have a disproportionate impact on the right holder (balancing stage) - . The legitimate goal stage requires this Court to analyze if the objective of introducing the law is a legitimate purpose for the infringement of rights. At this stage, the State is required to discharge two burdens. First, the State must demonstrate that the objective is legitimate. Second, the State must establish that the law is indeed in furtherance of the legitimate aim that is contended to be served. (Para 106)

Right To Information of Voters - Right to information of the voter includes the right to information of financial contributions to a political party because of the influence of money in electoral politics (through electoral outcomes) and governmental decisions (through a seat at the table and quid pro quo arrangements between the contributor and the political

party). (Para 167)

Companies Act 2013 - Section 182(3) - Section 182(3) as amended by the Finance Act 2017 is unconstitutional - This provision mandates the disclosure of total contributions made by political parties. This requirement would ensure that the money which is contributed to political parties is accounted for. However, the deletion of the mandate of disclosing the particulars of contributions violates the right to information of the voter since they would not possess information about the political party to which the contribution was made which is necessary to identify corruption and PART F 123 quid pro quo transactions in governance. Such information is also necessary for exercising an informed vote. - The amendment to Section 182 is manifestly arbitrary for (a) treating political contributions by companies and individuals alike- (b) permitting the unregulated influence of companies in the governance and political process violating the principle of free and fair elections- and (c) treating contributions made by profit-making and loss-making companies to political parties alike. The observations made above must not be construed to mean that the Legislature cannot place a cap on the contributions made by individuals. The exposition is that the law must not treat companies and individual contributors alike because of the variance in the degree of harm on free and fair elections.(Para 199-215)

Political Party - a 'political party' is a relevant political unit in the democratic electoral process in India for the following three reasons: a. Voters associate voting with political parties because of the centrality of symbols in the electoral process- b. The form of government where the executive is chosen from the legislature based on the political party or coalition of political parties which has secured the majority- and c. The prominence accorded to political parties by the Tenth Schedule of the Constitution. (Para 94)

State vs B Ramu 2024 INSC 114 :: [2024] 2 S.C.R. 357 – S 37 NDPS – Bail

Narcotic Drugs and Psychotropic Substances Act, 1985 - Section 37 - For entertaining a prayer for bail in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act. - In the event, the Public Prosecutor opposes the prayer for bail either regular or anticipatory, as the case may be, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence

while on bail. (Para 8-12)

Summary: HC granted anticipatory bail to an accused in NDPS Case on the condition that the appellant would deposit a sum of Rs. 30,000/ to the credit of the registered Tamil Nadu Advocate Clerk Association, Chennai along with various other conditions - Setting aside the order, the SC observed: In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents - The condition so imposed by the High Court is totally alien to the principles governing bail jurisprudence and is nothing short of perversity - The fact that after investigation, the chargesheet has been filed against the accused along with other accused persons, fortifies the plea of the State counsel that the Court could not have recorded a satisfaction that the accused was prima facie not guilty of the offences alleged. As a consequence, the impugned order is cryptic and perverse on the face of the record and cannot be sustained.

Chatrapal vs State Of Uttar Pradesh 2024 INSC 115 :: [2024] 2 S.C.R. 348-Disciplinary Proceedings

Disciplinary Proceedings - ordinarily the findings recorded by the Inquiry Officer should not be interfered by the appellate authority or by the writ court. However, when the finding of guilt recorded by the Inquiry Officer is based on perverse finding the same can always be interfered - Referred to Union of India vs. P. Gunasekaran (2015) 2 SCC 610 , State of Haryana vs. Rattan Singh (1977) 2 SCC 491 and Chennai Metropolitan Water Supply and Sewerage Board vs. T.T. Murali Babu (2014) 4 SCC 108 (Para 12)

Summary: Appellant dismissed from service after departmental inquiry on two charges of misconduct and insubordination - the appellant is a Class-IV employee against whom charge no. 1 was found proved on the basis of perverse finding and charge no. 2 is only about sending the representation to the High Court directly without availing the proper channel -the order whereby the appellant was terminated from service set aside.

Navin Kumar Rai vs Surendra Singh 2024 INSC 116 – S 482 CrPC – Registration Act

Code of Criminal Procedure, 1973- Section 482 - While exercising such inherent powers what is required to be examined is only the *prima facie* existence of the offence sought to be quashed -t the Court was required to consider was whether any of the well-established grounds that are enumerated in judgments in State of Haryana v. Bhajan Lal 1992 Suppl. (1) SCC 335- Neeharika Infrastructure v. State of Maharashtra 2021 SCC OnLine 315 and Peethambaran v. State of Kerala 2023 SCC OnLine 553 , were made out or not. (Para 11) Registration Act, 1908- Section 82 and 83 - Prosecution may be lodged by or with the permission of the Sub-Registrar in whose territory the offence has been committed. (Para 12)

Deepak Kumar Shrivs vs State Of Chhattisgarh 2024 INSC 117 :: [2024] 2 S.C.R. 364- S 482 CrPC – Criminal Case – Civil Dispute – Police

Code Of Criminal Procedure, 1973- Section 482 - Appeal against HC judgment that refused to quash FIR allowed - Criminal prosecution should not be allowed to continue where the object to lodge the FIR is not for criminal prosecution and for punishing the offender for the offence committed but for recovery of money under coercion and pressure. (Para 16) Police - As a law enforcement agency, the police force shoulders the vital responsibility of preserving public order, guarding social harmony, and upholding the foundations of justice -Police finds itself entangled in the irrelevant and trivial details of such unethical private issues, diverting the resources away from the pursuit of more consequential matters. The valuable time of the police is consumed in investigating disputes that seem more suited for civil resolution - The need for a judicious allocation of law enforcement resources, emphasizing the importance of channelling their efforts towards matters of greater societal consequence - Police should exercise heightened caution when drawn into dispute pertaining to such unethical transactions between private parties which appear to be *prima facie* contentious in light of previous inquiries or investigations. The need for vigilance on the part of the police is paramount, and a discerning eye should be cast upon cases where unscrupulous conduct appears to eclipse the pursuit of justice. This case exemplifies the need for a circumspect approach in discerning the genuine from the spurious and thus

ensuring that the resources of the state are utilised for matters of true societal import. (Para 1,15)

Farhana vs State Of Uttar Pradesh 2024 INSC 118 – UP Gangsters and Anti-Social Activities(Prevention) Act

Uttar Pradesh Gangsters and Anti-Social Activities(Prevention) Act, 1986 - Section 2(b)(i) - The person alleged to be the member of the gang should be found indulging in anti-social activities which would be covered under the offences punishable under Chapters XVI, or XVII or XXII IPC -For framing a charge for the offence under the Gangsters Act and for continuing the prosecution of the accused under the above provisions, the prosecution would be required to clearly state that the appellants are being prosecuted for any one or more offences covered by anti-social activities as defined under Section 2(b). (Para 13,14)

Chandigarh Housing Board vs Tarsem Lal 2024 INSC 119 :: [2024] 2 S.C.R. 371 -Article 342 Constitution – Schedule Tribe – Presidential Notification

Constitution Of India, 1950- Article 342 - The Presidential notification of a tribe or tribal community as a Scheduled Tribe by the President of India under Article 342 is a sine qua non for extending any benefits to the said community in any State or U.T. - This implies that a person belonging to a group that is recognized as a Scheduled Tribe in a State would be recognized a Scheduled Tribe only within the said State and not in a U.T. where he migrates if no such Presidential notification exists in the said U.T - insofar as a person claiming benefit having regard to his status as a Scheduled Tribe in a State, when he migrates to a Union Territory where a Presidential Order has not been issued at all insofar Scheduled Tribe is concerned, or even if such a Notification is issued, such an identical Scheduled Tribe does not find a place in such a Notification, the person cannot claim his status on the basis of his being noted as a Scheduled Tribe in the State of his origin. (Para 26,29)

State vs Naresh Prasad Agarwal 2024 INSC 120 – Judge Retaining Case File After Demitting Office – Impropriety

Practice and Procedure - On 17th April, 2017, the Single Judge Of High Court pronounced only one line order declaring the operative part. The Judge demitted office on 26th May, 2017 and a detailed judgment was made available only on 23rd October, 2017, nearly 5 months after the Judge demitted the office- SC observed: even after the Judge demitted the office, he assigned reasons and made the judgment ready - Retaining file of a case for a period of 5 months after demitting the office is an act of gross impropriety on the part of the Judge- "justice must not only be done, but must also be seen to be done" -Cases remitted to the High Court for a fresh decision.

Tehsildar, Urban Improvement Trust vs Ganga Bai Menariya (D) 2024 INSC 121 :: [2024] 2 S.C.R. 650 – Civil Suit- S 90 Evidence Act

Indian Evidence Act, 1872- Section 90- If the document is more than 30 years old and is being produced from proper custody, a presumption is available to the effect that signatures and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting and in case a document is executed or attested, the same was executed and attested by the persons by whom it purports to be executed and attested. This does not lead to a presumption that recitals therein are correct. (Referred to Union of India v. Brahim Uddin (2012) 8 SCC 148) (Para 17)

Civil Suit -A suit simpliciter for injunction may not be maintainable when the title of the property of the plaintiff was disputed by the defendants. In such a situation it was required for the plaintiff to prove the title of the property while praying for injunction- Referred to Anathula Sudhakar v. P. Buchi Reddy (Dead) (2008) 4 SCC 594. (Para 21.1)

Babasaheb Dhondiba Kute vs Radhu Vithoba Barde 2024 INSC 122 – Specific Performance Suit – Maharashtra Land Revenue Code

Specific Relief Act, 1961 - When an agreement to sale is executed but it cannot be

specifically performed without permission or sanction of any authority, the suit can be decreed and decree for specific performance can be granted subject to obtaining such permission/sanction from the competent authority - Referred to Nathulal v. Fulchand 1969(3) SCC 120 and distinguished Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde, 1995 (Supp.) 2 SCC 549.

Maharashtra Land Revenue Code, 1966- Section 36A- Registration Act, 2008- Section 17- There is no bar for a tribal to enter into an agreement to sell and seeking advance sale consideration. However, before conveying the land by the tribal in favour of a non-tribal, the requisites of Section 36A must be complied with by the non-tribal before the State Government in terms of Section 36A of the Land Revenue Code - The conveyance by way of sale would take place only at the time of registration of a sale deed in accordance with Section 17 of the Registration Act, 2008. Till then, there is no conveyance.

Jamshid Kersi Dalal vs Union Of India 2024 INSC 123 – NGT – Ex Parte Orders

National Green Tribunal - Appeal against ex parte directions of the Tribunal to remove 'encroachments' on the ground that the constructions are in violation of Forest (Conservation) Act, 1980- Setting aside these directions, SC noted: NGT not following judicial culture of giving an opportunity of hearing to the parties who may be affected by its directions. Referred to Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey (2023) 8 SCC 35 Veena Gupta v. Central Pollution Control Board 5 2024 INSC 89. (Para 10)

Kalinga @ Kushal vs State Of Karnataka 2024 INSC 124 :: [2024] 2 S.C.R. 391 – Extra Judicial Confession – Appeal Against Acquittal- Circumstantial Evidence

Criminal Trial - Extra Judicial Confession - A weak type of evidence and is generally used as a corroborative link to lend credibility to the other evidence on record - Extra judicial confession must be accepted with great care and caution. If it is not supported by other evidence on record, it fails to inspire confidence and in such a case, it shall not be treated as a strong piece of evidence for the purpose of arriving at the conclusion of guilt.

Furthermore, the extent of acceptability of an extra judicial confession depends on the trustworthiness of the witness before whom it is given and the circumstances in which it was given. The prosecution must establish that a confession was indeed made by the accused, that it was voluntary in nature and that the contents of the confession were true. The standard required for proving an extra judicial confession to the satisfaction of the Court is on the higher side and these essential ingredients must be established beyond any reasonable doubt. The standard becomes even higher when the entire case of the prosecution necessarily rests on the extra judicial confession.- Referred to Chandrapal v. State of Chattisgarh (2022) SCC On Line SC 705. (Para 14-15)

Code Of Criminal Procedure, 1973- Section 378,386- The High Court, in exercise of appellate powers, may reappreciate the entire evidence. However, reversal of an order of acquittal is not to be based on mere existence of a different view or a mere difference of opinion. To permit so would be in violation of the two views theory - In order to reverse an order of acquittal in appeal, it is essential to arrive at a finding that the order of the Trial Court was perverse or illegal- or that the Trial Court did not fully appreciate the evidence on record- or that the view of the Trial Court was not a possible view- The anomaly of having two reasonably possible viewsin a matter isto be resolved in favour of the accused. For, after acquittal, the presumption of innocence in favour of the accused gets reinforced - Referred to Sanjeev v. State of H.P. (2022) 6 SCC 294 (Para 25)

Criminal Trial - Circumstantial Evidence - “Panchsheel” principles - Essentially, circumstantial evidence comes into picture when there is absence of direct evidence. For proving a case on the basis of circumstantial evidence, it must be established that the chain of circumstances is complete. It must also be established that the chain of circumstances is consistent with the only conclusion of guilt. The margin of error in a case based on circumstantial evidence is minimal. For, the chain of circumstantial evidence is essentially meant to enable the court in drawing an inference. The task of fixing criminal liability upon a person on the strength of an inference must be approached with abundant caution. (Para 27)

Criminal Trial -A reasonable doubt is essentially a serious doubt in the case of the prosecution and minor inconsistencies are not to be elevated to the status of a reasonable doubt. A reasonable doubt is one which renders the possibility of guilt as highly doubtful. It is also noteworthy that the purpose of criminal trial is not only to ensure that an

innocent person is not punished, but it is also to ensure that the guilty does not escape unpunished. A judge owes this duty to the society and effective performance of this duty plays a crucial role in securing the faith of the common public in rule of law. Every case, wherein a guilty person goes unpunished due to any lacuna on the part of the investigating agency, prosecution or otherwise, shakes the conscience of the society at large and diminishes the value of the rule of law. (Para 29)

Mohd Abaad Ali vs Directorate Of Revenue Prosecution Intelligence 2024 INSC 125 :: [2024] 2 S.C.R. 638 – S 5 Limitation Act- Applicability In Criminal Appeal Against Acquittal

Code of Criminal Procedure, 1973- Section 378 - Limitation Act, 1963- Sections 2,3,5 ,29- The benefit of Section 5 read with Sections 2 and 3 of the Limitation Act, 1963 can be availed in an appeal against acquittal - Under Section 378 of the new CrPC read with Section 29(2) of the Limitation Act, 1963 though a limitation is prescribed, yet Section 29(2) of 1963 Act, does not exclude the application of Section 5. (Para 11)

Limitation Act, 1963- Sections 2,3,5, 29 - Where a special law prescribes a period of limitation, Section 5 of the Limitation Act would have no application, subject only to the language used in the special statute. The language prescribing a period of limitation is an important factor as well. (Para 10)

Representation of Peoples Act, 1951- Section 81 - Limitation Act, 1963- Sections 2,3,5, 29- The election statute thus expressly bars filing of an election petition beyond 45 days. The language of the statute, leaves no ambiguity in this regard. “The High Court shall dismiss an election petition”, is the language given in the statute. Simply put the Court has no choice but to dismiss an election petition, which is filed beyond a period of 45 days. There is no scope for condoning the delay in an election matter - Referred to Hukumdev Narain Yadav v. Lalit Narain Mishra [AIR 1974 SC 480]. (Para 10)

Manoj Kumar vs Union Of India 2024 INSC 126 :: [2024] 2 S.C.R. 409 – Article 226 Constitution – Writ Jurisdiction – Arbitrariness In Executive Action

Constitution of India, 1950- Article 14,226- When a citizen alleges arbitrariness in executive action, the High Court must examine the issue, of course, within the context of

judicial restraint in academic matters. While respecting flexibility in executive functioning, courts must not let arbitrary action pass through - while the primary duty of constitutional courts remains the control of power, including setting aside of administrative actions that may be illegal or arbitrary, it must be acknowledged that such measures may not singularly address repercussions of abuse of power. It is equally incumbent upon the courts, as a secondary measure, to address the injurious consequences arising from arbitrary and illegal actions. This concomitant duty to take reasonable measures to restore the injured is our overarching constitutional purpose- In public law proceedings, when it is realised that the prayer in the writ petition is unattainable due to passage of time, constitutional courts may not dismiss the writ proceedings on the ground of their perceived futility. In the life of litigation, passage of time can stand both as an ally and adversary. Our duty is to transcend the constraints of time and perform the primary duty of a constitutional court to control and regulate the exercise of power or arbitrary action. By taking the first step, the primary purpose and object of public law proceedings will be subserved. The second step relates to restoration. This operates in a different dimension. Identification and application of appropriate remedial measures poses a significant challenge to constitutional courts, largely attributable to the dual variables of time and limited resources. (Para 13-22)

Suman V Jain vs Marwadi Sammelan 2024 INSC 127 :: [2024] 2 S.C.R. 617- Service Law – Withdrawal Of Resignation

Service Law - Withdrawal Of Resignation - In the absence of anything contrary in the provisions governing the terms and conditions of the office or post and in the absence of any legal contractual or constitutional bar, a prospective resignation can be withdrawn at any time before it becomes effective - the prospective or intending resignation would be complete and operative on arrival of the indicated future date in the absence of anything contrary in the terms and conditions of the employment or contract. The intimation sent in writing to the Competent Authority by the incumbent employee of his intention or proposal to resign from his office/post from a future specified date can be withdrawn at any time before it becomes effective- Referred to Union of India and Others Vs. Gopal Chand Misra and Others, (1978) 2 SCC 301 (Para 12,28)

Ram Singh vs State Of UP 2024 INSC 128 :: [2024] 2 S.C.R. 668 – Criminal Trial – Non Recovery Of Weapon

Criminal Trial - non-recovery of the weapon of crime- By itself non-recovery of the weapon of crime would not be fatal to the prosecution case. When there is such non-recovery, there would be no question of linking the empty cartridges and pellets seized during investigation with the weapon allegedly used in the crime. Obtaining of ballistic report and examination of the ballistic expert is again not an inflexible rule. It is not that in each and every case where the death of the victim is due to gunshot injury that opinion of the ballistic expert should be obtained and the expert be examined. When there is direct eye witness account which is found to be credible, omission to obtain ballistic report and nonexamination of ballistic expert may not be fatal to the prosecution case but if the evidence tendered including that of eyewitnesses do not inspire confidence or suffer from glaring inconsistencies coupled with omission to examine material witnesses, the omission to seek ballistic opinion and examination of the ballistic expert may be fatal to the prosecution case. (Para 29)

Criminal Trial -when there is similar or identical evidence of eyewitnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other - Referred to Javed Shaukat Ali Qureshi Vs. State of Gujarat, (2023) 9 SCC 164. (Para 32)

Kuldeep Kumar vs UT Chandigarh 2024 INSC 129 :: [2024] 2 S.C.R. 693 – Mayor Elections –

Summary : Challenge against electoral malpractices by the presiding officer who conducted the election to the post of Mayor at the Chandigarh Municipal Corporation - Result of the election as declared by the Presiding Officer shall stand quashed and set aside -The appellant, Kuldeep Kumar, is declared to be the validly elected candidate for election as Mayor of the Chandigarh Municipal Corporation- Registrar (Judicial) directed to issue a notice to show cause to Shri Anil Masih (returning officer) as to why steps should not be initiated against him under Section 340 of the Code of Criminal Procedure 1973.

Elections - Free and fair elections are a part of the basic structure of the Constitution. Elections at the local participatory level act as a microcosm of the larger democratic structure in the country. Local governments, such as municipal corporations, engage with

issues that affect citizens' daily lives and act as a primary point of contact with representative democracy. The process of citizens electing councillors, who in turn, elect the Mayor, serves as a channel for ordinary citizens to ventilate their grievances through their representatives – both directly and indirectly elected. Ensuring a free and fair electoral process throughout this process, therefore, is imperative to maintain the legitimacy of and trust in representative democracy -In order to maintain the purity of the electoral process, the "little cross" on the "little bit of paper" must be made only by the metaphorical "little man" walking into the "little booth" and no one else.

N Manogar vs Inspector Of Police 2024 INSC 130 :: [2024] 2 S.C.R. 685 – Scope Of S 319 CrPC

Code of Criminal Procedure, 1973- Section 319 -Discretionary powers under Section 319 of the CrPC ought to have been used sparingly where circumstances of the case so warrant - crucial test to be applied is one which is more than *prima facie* case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction - Referred to Sagar v. State of Uttar Pradesh & Anr., (2022) 6 SCC 389 and Hardeep Singh v State of Punjab & Ors., (2014) 3 SCC 92.

Ravindra Kumar vs State Of UP 2024 INSC 131 :: [2024] 2 S.C.R. 722 -Public Employment – Non Disclosure Of Criminal Case

Public Employment - Non Disclosure Of Criminal Case -Broad-brushing every non-disclosure as a disqualification, will be unjust and the same will tantamount to being completely oblivious to the ground realities obtaining in this great, vast and diverse country. Each case will depend on the facts and circumstances that prevail thereon, and the court will have to take a holistic view, based on objective criteria, with the available precedents serving as a guide. It can never be a one size fits all scenario. - Referred to Avtar Singh Vs. Union of India and Others, (2016) 8 SCC 471: Though a person who has suppressed the material information cannot claim unfettered right for appointment, he or she has a right not to be dealt with arbitrarily. The exercise of power has to be in a reasonable manner with objectivity and having due regard to the facts. In short, the ultimate action should be based upon objective criteria after due consideration of all relevant aspects- The nature of the office, the timing and nature of the criminal case- the

overall consideration of the judgement of acquittal- the nature of the query in the application/verification form- the contents of the character verification reports- the socio economic strata of the individual applying- the other antecedents of the candidate- the nature of consideration and the contents of the cancellation/termination order are some of the crucial aspects which should enter the judicial verdict in adjudging suitability and in determining the nature of relief to be ordered. (Para 21-30)

**Venkataraman Krishnamurthy vsLodha Crown Buildmart Pvt. Ltd. 2024 INSC
132 – Contract – NCDRC – Builder-Buyer Agreements**

Contract Law - Interpretation of Contractual Terms - Once the parties committed themselves to a written contract, whereby they reduced the terms and conditions agreed upon by them to writing, the same would be binding upon them. In the event such a written contract provided for the consequences that are to follow in the event of breach of the conditions by one or the other of the parties thereto, such consequences must necessarily follow and if resisted, they would be legally enforceable.- In interpreting documents relating to a contract of insurance, the duty of the Court is to interpret the words in which the contract is expressed by the parties because it is not for the Court to make a new contract, however reasonable, if the parties have not made it themselves - a contract, being a creature of an agreement between two or more parties, is to be interpreted giving the actual meaning to the words contained in the contract and it is not permissible for the Court to make a new contract, however reasonable, if the parties have not made it themselves - through its interpretative process, the Court cannot rewrite or create a new contract between the parties and has to simply apply the terms and conditions of the agreement as agreed between the parties- Courts cannot substitute their own view of the presumed understanding of commercial terms by the parties, if the terms are explicitly expressed - the explicit terms of a contract are always the final word with regard to the intention of the parties. [In this case, date for delivery of possession of the apartment for fit outs, with the grace period, was 30.06.2017. Admittedly, the respondent-company did not offer delivery of possession of the apartment for fit outs by that date. The ‘date of offer of possession’, under Clause 1.14, linked with issuance of the ‘Occupation Certificate’ was

distinct and separate from the ‘date of delivery of possession for fit outs’ and Clause 11.3 unequivocally provided the consequences in the event of delay in that regard. The right of election given thereunder to the appellants 14 to either continue or to terminate the Agreement within ninety days from the expiry of the grace period was absolute and it was not open to the NCDRC to apply its own standards and conclude that, though there was delay in handing over possession of the apartment, such delay was not unreasonable enough to warrant cancellation of the Agreement. It was not for the NCDRC to rewrite the terms and conditions of the contract between the parties and apply its own subjective criteria to determine the course of action to be adopted by either of them] (Para 15-17)

Refund - When the Agreement itself provided for the interest component on the refund amount and stipulated the rate thereof as 12% p.a. That being so, the respondent-company cannot seek reduction of the rate of interest contrary to the agreed rate.

Domco Smokeless Fuels Pvt Ltd vs State Of Jharkhand 2024 INSC 133 – Contempt

Contempt application preferred by the appellant alleging non-compliance of order was dismissed by Jharkhand HC - Allowing appeal, SC held: The respondents have failed to faithfully comply with the orders passed by the Jharkhand High Court as well as this Court. 30. As a consequence, it is hereby directed that the appellant shall be entitled to interest @ 12% per annum on the refund 15 amount for the period running from 1st January, 2005 to 11th December, 2005. The interest @ 3.5% per annum, already paid, shall be deducted from the differential amount. The appellant shall also be entitled to receive refund of the excess amount paid for the period between 1st January, 2007 till March, 2008 with interest @ 12% per annum in the same terms as directed by this Court vide order dated 9th September, 2010.

Satender Kumar Antil vs Central Bureau Of Investigation 2024 INSC 134

Directions issued by in the Judgment reported in Satender Kumar Antil v. Central Bureau

of Investigation, (2022) 10 SCC 51 - States, Union Territories, High Courts, Union of India, CBI and NALSA to file their updated compliance affidavits on the above referred aspects within a period of 8 weeks from today, and the learned Amicus upon perusal of the same shall file a report on these compliances in 2 weeks thereafter

Read Order

Lucknow Nagar Nigam vs Kohli Brothers Colour Lab Pvt Ltd 2024 INSC 135 – Enemy Property – Article 285 Constitution

Enemy Property - The Custodian for Enemy Property in India, in whom the enemy properties vest including the subject property, does not acquire ownership of the said properties. The enemy properties vest in the Custodian as a trustee only for the management and administration of such properties -The Central Government may, on a reference or complaint or on its own motion initiate a process of divestment of enemy property vested in the Custodian to the owner thereof or to such other person vide Rule 15 of the Rules. Hence, the vesting of the enemy property in the Custodian is only as a temporary measure and he acts as a trustee of the said properties - Union of India cannot assume ownership of the enemy properties once the said property is vested in the Custodian. This is because, there is no transfer of ownership from the owner of the enemy property to the Custodian and consequently, there is no ownership rights transferred to the Union of India. Therefore, the enemy properties which vest in the Custodian are not Union properties.

Constitution of India, 1950- Article 285- As the enemy properties are not Union properties, clause (1) of Article 285 does not apply to enemy properties. Clause (2) of Article 285 is an exception to clause (1) and would apply only if the enemy properties are Union properties and not otherwise.

Constitution of India, 1950- Article 300A - No person shall be deprived of his property save by authority of law. The word “law” is with reference to an Act of Parliament or of a State Legislature, a rule or a statutory order having the force of law. Although, to hold property is not a fundamental right, yet it is a constitutional right. The expression person in Article 300-A covers not only a legal or juristic person but also a person who is not a citizen of India. The expression property is also of a wide scope and includes not only tangible or intangible property but also all rights, title and interest in a property. Deprivation of property may take place in various ways, but where there is only control of

property short of deprivation would not entail payment of compensation . However, deprivation of property is to be distinguished from restriction of the rights following from ownership, which falls short of dispossession of the owner from those rights. Deprivation also takes within its nomenclature acquisition in accordance with law and not without any sanction of law. Before a person can be deprived of his right to property, the law must expressly and Civil Appeal explicitly state so. Thus, the expression by authority of law means by or under a law made by the competent Legislature - Referred to vide Indian Handicrafts Emporium vs. Union of India, (2003) 7 SCC 589 and Chandigarh Housing Board vs. Major-General Devinder Singh (Retd.), (2007) 9 SCC 67. (Para 18)

Possession and Ownership -Possession is the objective realisation of ownership". It is in fact what ownership is in right. Ownership is the guarantee of the law, while the possession is the guarantee of the fact. Normally, ownership and possession co-exist but not always. (14.16)

Anun Dhawan vs Union Of India 2024 INSC 136 :: [2024] 2 S.C.R. 812 – Judicial Review Of Policy Matters – Community Kitchen

Judicial Review - The scope of judicial review in examining the policy matters is very limited. The Courts do not and cannot examine the correctness, suitability or appropriateness of a policy, nor are the courts advisors to the executive on the matters of policy which the executive is entitled to formulate. The Courts cannot direct the States to implement a particular policy or scheme on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, would be the subject of judicial review [Court refused to direct the States/UTs to implement the concept of Community Kitchens]

Vidya K vs State Of Karnataka 2024 INSC 137 :: [2024] 2 S.C.R. 713- Service Law

Service Law - Service jurisprudence must begin and end with rules that govern the process of qualification, recruitment, selection, appointment and conditions of service. Appointments to these posts are in the nature of 'status', which means that the service and its conditions can be unilaterally changed by the amendment of the Rules. The first duty of

the Tribunal is to verify and examine the claims made by a party in the context of the Rule that governs the field. If the Rule does not prescribe a subject-wise speciality, there is no justification for the Tribunal or the High Court to examine the propriety, or for that matter, the beneficial effect of the rule. [In this case, Karnataka Administrative Tribunal quashed the notification for filling up 18 posts of lecturers of Home Science in First Grade College run by State of Karnataka on the ground that specifying the subject categories is necessary for advertising the vacant posts - KAT Order set aside]

Ram Nath vs State Of Uttar Pradesh 2024 INSC 138 :: [2024] 2 S.C.R. 743 – S 59 FSSA Overrides Ss 272,273 IPC

Food Safety and Standards Act, 2006- Section 89,59 - Indian Penal Code, 1860- Section 272,273 - Section 89 of the FSSA, Section 59 will override the provisions of Sections 272 and 273 of the IPC. (Para 21)

Interpretation Of Statutes- If the main Section is unambiguous, the aid of the title of the Section or its marginal note cannot be taken to interpret the same. Only if it is ambiguous, the title of the section or the marginal note can be looked into to understand the intention of the legislature. (Para 20)

Himanshu Sharma vs State Of Madhya Pradesh 2024 INSC 139 – Cancellation of Bail

Bail - Cancellation of Bail - Considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail, (a) the accused has misused the liberty granted to him- (b) flouted the conditions of bail order- (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail- (d) or that the bail was procured by misrepresentation or fraud - Under normal circumstances, the application for cancellation of bail filed on merits as opposed to violation of the conditions of the bail order should have been placed before the same learned Single Judge who had granted bail to the accused. (Para 12-14)

K Balasubramani vs Tamil Nadu Government 2024 INSC 140 – Landlord Tenant Dispute – Settled

Landlords are managing the affairs of a temple, i.e., Arulmighu Dhandayuthpani Swamy Temple, Palani - Tenants conduct business in the land - HC directed the tenants to hand over the vacant and peaceful possession of the premises, individually occupied by each one of the tenants, to the landlord - In appeal, they reached to settlement - Directions issued by SC in terms of settlement.

Swami Goverdhan Rangachariji vs AJ Printers 2024 INSC 141 – Tenancy Matters

Tenancy dispute settled - Directions issued.

Shiv Jatia vs Gian Chand Malick 2024 INSC 142

Code Of Criminal Procedure, 1973- Section 204-For issuing the order of summoning, the Magistrate could not have relied upon the same material which was before him when he passed the order calling for the report under Section 202 of the Cr.PC -The reason is that, obviously, he was not satisfied that the material was sufficient to pass the summoning order - The order issuing process has drastic consequences. Such orders require the application of mind. Such orders cannot be passed casually. (Para 11)

Shailesh Kumar vs State Of UP 2024 INSC 143 :: [2024] 2 S.C.R. 776 – S 172 CrPC – Case Diary – Ss 145,161,165 Evidence Act

Code Of Criminal Procedure, 1973- Section 172 - Indian Evidence Act, 1872- Section 145,161 - When a police officer uses case diary for refreshing his memory, an accused automatically gets a right to peruse that part of the prior statement as recorded in the police officer's diary by taking recourse to Section 145 or Section 161, as the case may be, of the Evidence Act -The accused has a right to cross-examine a police officer as to the recording made in the case diary whenever the police officer uses it to refresh his memory. Though Section 161 of the Evidence Act does not restrict itself to a case of refreshing memory by perusing a case diary alone, there is no exclusion for doing so. Similarly, in a

case where the court uses a case diary for the purpose of contradicting a police officer, then an accused is entitled to peruse the said statement so recorded which is relevant, and cross-examine the police officer on that count. What is relevant in such a case is the process of using it for the purpose of contradiction and not the conclusion. To make the position clear, though Section 145 read with Section 161 of the Evidence Act deals with the right of a party including an accused, such a right is limited and restrictive when it is applied to Section 172 of CrPC. Suffice it is to state, that the said right cannot be declined when the author of a case diary uses it to refresh his memory or the court uses it for the purpose of contradiction - Referred to Balakram v. State of Uttarakhand and Others, (2017) 7 SCC 668 (Para 26,27)

Code Of Criminal Procedure, 1973- Section 172 - It is the responsibility and duty of the Investigating Officer to make a due recording in his case diary, there is no corresponding right under subsection (3) of Section 172 of CrPC for accused to seek production of such diaries, or to peruse them, except in a case where they are used by a police officer maintaining them to refresh his memory, or in a case where the court uses them for the purpose of contradicting the police officer. In such a case, the provision of Section 145 or Section 161, as the case may be, of the Evidence Act, shall apply - An improper maintenance of a case diary by the Investigating Officer will not enure to the benefit of the accused. Prejudice has to be shown and proved by the accused despite non-compliance of Section 172 of CrPC in a given case. However, this does not take away the mandatory duty of the police officer to maintain it properly. As the court is the guardian of truth, it is the duty of the Investigating Officer to satisfy the court when it seeks to contradict him. The right of the accused is, therefore, very restrictive and limited. Bhagwant Singh v. Commissioner of Police, (1983) 3 SCC 344, Baleshwar Mandal v. State of Bihar, (1997) 7 SCC 219, Manoj and Others v. State of Madhya Pradesh, (2023) 2 SCC 353. (Para 22- 25)

Code Of Criminal Procedure, 1973- Section 172 , 154 -Information disclosing commission of a cognizable offence shall first be entered in a book kept by the officer in charge of police station and not in the General Diary. Therefore, it is amply clear that a General Diary entry cannot precede the registration of FIR, except in cases where preliminary inquiry is needed. While an FIR is to be registered on an information disclosing the commission of a cognizable offence, so also a recording is thereafter required to be made in the case diary - Referred to Lalita Kumari v. Government of Uttar Pradesh & Others, (2014) 2 SCC 1 (Para

28)

Indian Evidence Act, 1872- Section 165 -Power of the court to put questions and order production of documents in the course of trial. -This is a general and omnibus power given to the court when in search of the truth. Such a power is to be exercised against any witness before it, both in a civil as well as a criminal case. The object is to discover adequate proof of a relevant fact and, therefore, for that purpose, the Judge is authorised and empowered to ask any question of his choice. When such a power is exercised by the court, there is no corresponding right that can be extended to a party to cross-examine any witness on an answer given in reply to a question put forth by it, except with its leave - Referred to Ram Chander v. State of Haryana, (1981) 3 SCC 191 (Para 29-30)

Criminal Investigation - Role of Investigating Officer - An investigation of a crime is a lawful search of men and materials relevant in reconstructing and recreating the circumstances of an offence said to have been committed. With the evidence in possession, an Investigating Officer shall travel back in time and, therefore tick off the time zone to reach the exact time and date of the occurrence of the incident under investigation. The goal of investigation is to determine the truth which would help the Investigating Officer to form a correct opinion on the culpability of the named accused or suspect. Once such an opinion is formed on a fair assessment of the evidence collected in the investigation, the role of the court comes into play when the evidence i.e. oral, documentary, circumstantial, scientific, electronic, etc. is presented for and on behalf of the prosecution. In its journey towards determining the truth, a court shall play an active role while acknowledging the respective roles meant to be played by the prosecution and the defence. During the entire play, the rules of evidence ought to be honoured, sprinkled with the element of fairness through due procedure. Adequate opportunities would have to be given to challenge every assumption. Administration of criminal justice lies in determining the guilt of the accused beyond reasonable doubt. The power of the State to prosecute an accused commences with investigation, collection of evidence and presentation before the Court for acceptance.

18. The investigating agency, the prosecutor and the defence are expected to lend ample assistance to the court in order to decipher the truth. As the investigating agency is supposed to investigate a crime, its primary duty is to find out the plausible offender through the materials collected. It may or may not be possible for the said agency to collect every material, but it has to form its opinion with the available material. There is no need

for such an agency to fix someone as an accused at any cost. It is ultimately for the court to decide who the culprit is. Arvind Kumar @ Nemichand & Ors. v. State of Rajasthan, (2021) 11 SCR 237, Common Cause and Others v. Union of India, (2015) 6 SCC 332. (Para 17-18)

Joshine Antony vs Asifa Sultana 2024 INSC 144 – Karnataka Cow Slaughter Prevention Act

Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964- sample of the meat was admittedly collected by the Assistant Director, who had no authority in law to collect the sample. He did not collect the sample after notice t - the act of collection of sample by the Assistant Director was completely illegal. It is this sample which was sent for chemical analysis. Thus, the entire case of the prosecution is based on unauthorizedly and illegally collected sample of the meat -Upheld HC judgment that quashed FIR.

Brahmaputra Concrete Pipe Industries vs Assam State Electricity Board 2024 INSC 145 :: [2024] 2 S.C.R. 758 – Curative Jurisdiction – Registry's Power To Dismiss

Supreme Court Rules, 2013 - Order XLVIII- Curative Petition- Whether Registry has the power to dismiss a curative petition solely on the ground that no averment has been made to the effect that the review petition was dismissed by circulation? This is a matter which ought to be decided by a Bench of this Court and not by the Registry - Registry cannot be vested with power to decide whether a review petition, after being dismissed in open Court hearing, merited relook through the curative jurisdiction -a curative petition arising from an order dismissing a review petition upon hearing in open Court must contain a plea or prayer seeking excuse from compliance of making averment as contained in Order XLVIII Rule 2(1) of the 2013 Rules. The proper course for the Registry on receiving such a petition with a prayer to be excused from the above requirement would be to obtain instructions from the Judge in chambers and thereafter communicate such instructions to the parties. In the second part of Rule 2 it is provided that the Registrar herself can direct the applicant

to serve the other party with a notice of motion returnable before the Court while she opines that it is desirable that the application should be dealt with in the open Court. The said part of the Rule would not apply in a case where the applicant seeking to invoke curative jurisdiction approaches this Court after the review petition is dismissed in open court hearing. The applicant for invoking curative jurisdiction, in such a situation, , must file an application praying to be excused from compliance with Rule 2(1) of Order XLVIII of the 2013 Rules and such application shall also contain a request for the matter to be placed before the chamber judge for proper instructions. In other cases pertaining to curative petitions, in which the review plea is dismissed by circulation, the curative petition has to be circulated first to a Bench of three senior-most Judges of this Court and the Judges who passed the judgment complained of, if available. Thereafter, the course prescribed in sub-clauses (2), (3) and (4) of Rule 4 of Order XLVIII of the 2013 Rules shall be followed as may be applicable. (Para 18-21)

Supreme Court Rules, 2013 - Order XLVIII- Curative Petition- the curative jurisdiction being a special jurisdiction derived from inherent power or jurisdiction of this Court, the limitation prescribed for filing of review petition cannot be extended to apply in the cases of curative petition- Curative jurisdiction of this Court does not flow from its power to review, but this jurisdiction is derived from Articles 129 and 142 of the Constitution of India. Moreover, Rule 3 of Order XLVIII of the 2013 Rules specifically stipulates that curative petition has to be filed within reasonable time from the date of judgment or order passed in a review petition. No timeframe has been formulated in the 2013 Rules either for filing a curative petition. (Para 11)

Willian Stephen vs State Of Tamil Nadu 2024 INSC 146 – S 364A IPC – S 65B Evidence Act

Indian Penal Code, 1860- Section 364A - The first ingredient of Section 364A is that there should be a kidnapping or abduction of any person or a person should be kept in detention after such kidnapping or abduction. If the said act is coupled with a threat to cause death or hurt to such person, an offence under Section 364A is attracted. If the first act of kidnapping or abduction of a person or keeping him in detention after such kidnapping is coupled with such conduct of the person kidnapping which gives rise to a reasonable apprehension that the kidnapped or abducted person may be put to death or hurt, still

Section 364A will be attracted - In a given case, if the threats given to the parents or the close relatives of the kidnapped person by the accused are established, then a case can be made out that there was a reasonable apprehension that the person kidnapped may be put to death or hurt may be caused to him. (Para 10-15)

Indian Evidence Act, 1872- Section 65B- State Government must ensure that the Police Officers are imparted proper training on procedure to be followed for obtaining a certificate under Section 65B of the Evidence Act. (Para 17)

Cdr Seema Chaudhary vs Union of India 2024 INSC 147 :: [2024] 2 S.C.R. 820 – Grant Of Permanent Commission -Indian Navy

Summary: Review Petition against the judgment in Union of India vs Lieutenant Commander Annie Nagaraja (2020) 13 SCC 1 - Recalled judgment pertaining to Review Petitioner -Directed that in the peculiar facts and circumstances of this case, the case of the petitioner for the grant of PC shall be considered afresh by reconvening a Selection Board.

Bharti Cellular Limited vs Assistant Commissioner Of Income Tax 2024 INSC 148 – Principal & Agent – S 194H Income Tax Act

Income Tax Act, 1961- Section 194-H- Commission or brokerage - Cellular mobile telephone service providers would not be under a legal obligation to deduct tax at source on the income/profit component in the payments received by the distributors/franchisees from the third parties/customers, or while selling/transferring the pre-paid coupons or starter-kits to the distributors - the obligation to deduct tax at source in terms of Section 194-H of the Act arises when the legal relationship of principal-agent is established. (Para 6, 42)

Income Tax Act, 1961- Section 194-H- The payment/credit in the account should arise from the obligation of “the person responsible for paying”. The payee should be the person who has the right to receive the payment from “the person responsible for paying”. When this condition is satisfied, it does not matter if the payment is made “indirectly”. (Para 4)

Contract Act, 1872- Section 182 - Agency in terms of Section 182 exists when the principal employs another person, who is not his employee, to act or represent him in dealings with a third person. An agent renders services to the principal. The agent does what has been

entrusted to him by the principal to do. It is the principal he represents before third parties, and not himself. As the transaction by the agent is on behalf of the principal whom the agent represents, the contract is between the principal and the third party. Accordingly the agent, except in some circumstances, is not liable to the third party. 8. Agency is therefore a triangular relationship between the principal, agent and the third party. In order to understand this relationship, one has to examine the inter se relationship between the principal and the third party and the agent and the third party- whether a legal relationship of a principal and agent exists, the following factors/aspects should be taken into consideration: (a) The essential characteristic of an agent is the legal power vested with the agent to alter his principal's legal relationship with a third party and the principal's co-relative liability to have his relations altered.⁷ (b) As the agent acts on behalf of the principal, one of the prime elements of the relationship is the exercise of a degree of control by the principal over the conduct of the activities of the agent. This degree of control is less than the control exercised by the master on the servant, and is different from the rights and obligations in case of principal to principal and independent contractor relationship. (c) The task entrusted by the principal to the agent should result in a fiduciary relationship. The fiduciary relationship is the manifestation of consent by one person to another to act on his or her behalf and subject to his or her control, and the reciprocal consent by the other to do so. 8 (d) As the business done by the agent is on the principal's account, the agent is liable to render accounts thereof to the principal. An agent is entitled to remuneration from the principal for the work he performs for the principal. (Para 8)

Words and Phrases - Agent - the term 'agent' denotes a relationship that is very different from that existing between a master and his servant, or between a principal and principal, or between an employer and his independent contractor. Although servants and independent contractors are parties to relationships in which one person acts for another, and thereby possesses the capacity to involve them in liability, yet the nature of the relationship and the kind of acts in question are sufficiently different to justify the exclusion of servants and independent contractors from the law relating to agency. In other words, the term 'agent' should be restricted to one who has the power of affecting the legal position of his principal by the making of contracts, or the disposition of the principal's property- viz. an independent contractor who may, incidentally, also affect the legal position of his principal in other ways. (Para 41)

Words and Phrases - Difference between ‘power’ and ‘authority’- The two terms though connected, are not synonymous. Authority refers to a factual position, that is, the terms of contract between the two parties. The power of the agent however, is not, strictly speaking, conferred by the contract or by the principal but by the law of agency. When a person gives authority to another person to do the acts which bring the law of agency into play, then, the law vests power with the agent to affect the principal’s legal relationship with the third parties. The extent and existence of the power with the agent is determined by public policy. The authority, as observed above, refers to the factual situation. The second consideration is that the primary task of an agent is to enter into contracts on behalf of his principal, or to dispose of his principal’s property. The factors mentioned in clauses (b) to (d) in paragraph 8 above flow, and are indicia of this primary task. Clauses (b) to (d) of paragraph 8 are useful as tests or standards to examine the true nature or character of the relationship. Lastly, the substance of the relationship between the parties, notwithstanding the nomenclature given by the parties to the relationship, is of primary importance. The true nature of the relationship is examined by reference to the functions, responsibility and obligations of the so-called agent to the principal and to the third parties. (Para 9)

Words and Phrases - ‘acting on behalf of another person’ - It postulates the existence of a legal relationship of principal and agent, between the payer and the recipient/payee. ⁵ The law of agency is technical. Whether in law the relationship between the parties is that of principal-agent is answered by applying Section 182 of the Contract Act, 1872.

Words and Phrases - Agent and Servant- An agent is distinct from a servant, in that an agent is subject to less control than a servant, and has complete, or almost complete discretion as to how to perform an undertaking. As Seavey said, “a servant (...) is an agent under more complete control than is a nonservant”. The difference is “in the degree of control rather than in the acts performed. The servant sells primarily his services measured by time- the agent his ability to produce results.” ¹⁰ This distinction can be criticised, for servants may have very wide discretion, and may not really be subject to control at all in practice, while agents may have their power to act circumscribed by detailed instructions. (Para 10)

Tax Deduction at Source - Deduction of tax at source is a substantial source of the direct tax revenue. The ease of collection and recovery is obvious. Deduction and deposit of tax at source checks evasion and non-payment of tax. It expands the tax base. However, the

assessee as a deductor is not paying tax on his/her income, and collects and pays tax otherwise payable by the third party. Liability of the third party to pay tax when not deducted remains unaffected. Failure to deduct tax at source has serious and quasi-penal consequences for an assessee. The deduction of tax provisions should be programmatically and realistically construed, and not as enmeshes or by adopting catch-as-catch-can approach. In case of a legal or factual doubt in a given case, the assessee can rely on the doctrine of presumption against doubtful penalisation. Whether or not the said doctrine should be applied, will depend on facts and circumstances of the case, including the past practice followed by the assessee and accepted by the department. When there is apparent divergence of opinion, to avoid litigation and pitfalls associated, it may be advisable for the Central Board of Direct Taxes to clarify doubts by issuing appropriate instruction/circular after ascertaining view of the assesses and stakeholders. In addition to enhancing revenue and ensuring tax compliance, an equally important aim/objective of the Revenue is to reduce litigation. The instructions/circular, if and when issued, should be clear, and when justified – require the obligation to be made prospective. (Para 35)

Words and Phrases - independent contractor and agent - An independent contractor is free from control on the part of his employer, and is only subject to the terms of his contract. But an agent is not completely free from control, and the relationship to the extent of tasks entrusted by the principal to the agent are fiduciary. As contract with an independent agent depends upon the terms of the contract, sometimes an independent contractor looks like an agent from the point of view of the control exercisable over him, but on an overview of the entire relationship the tests specified in clauses (a) to (d) in paragraph 8 may not be satisfied. The distinction is that independent contractors work for themselves, even when they are employed for the purpose of creating contractual relations with the third persons. An independent contractor is not required to render accounts of the business, as it belongs to him and not his employer. (Para 40)

Words and Phrases - Distributer - The distributor buys goods on his account and sells them in his territory. The profit made is the margin of difference between the purchase price and the sale price. The reason is, that the distributor in such cases is an independent contractor. Unlike an agent, he does not act as a communicator or creator of a relationship between the principal and a third party. The distributor has rights of distribution and is akin to a franchisee. Franchise agreements are normally considered as *sui generis*, though

they have been in existence for some time. Franchise agreements provide a mechanism whereby goods and services may be distributed. In franchise agreements, the supplier or the manufacture, i.e. a franchisor, appoints an independent enterprise as a franchisee through whom the franchisor supplies certain goods or services. There is a close relationship between a franchisor and a franchisee because a franchisee's operations are closely regulated, and this possibly is a distinction between a franchise agreement and a distributorship agreement. Franchise agreements are extremely detailed and complex. They may relate to distribution franchises, service franchises and production franchises. Notwithstanding the strict restrictions placed on the franchisees – which may require the franchisee to sell only the franchised goods, operate in a specific location, maintain premises which are required to comply with certain requirements, and even sell according to specified prices – the relationship may in a given case be that of an independent contractor. Facts of each case and the authority given by 'principal' to the franchisees matter and are determinative. (Para 39)

Naresh Kumar vs State Of Haryana 2024 INSC 149 :: [2024] 2 S.C.R. 830 – S 306 IPC – Abetment Of Suicide – S 113A Evidence Act- Presumption

Indian Penal Code, 1860- Section 306 - Indian Evidence Act, 1872- Section 113A - The mere fact that the deceased committed suicide within a period of seven years of her marriage, the presumption under Section 113A of the Evidence Act would not automatically apply - Mere fact of suicide within seven years of marriage, one should not jump to the conclusion of abetment unless cruelty was proved. The court has the discretion to raise or not to raise the presumption, because of the words 'may presume'. It must take into account all the circumstances of the case which is an additional safeguard - The court should be extremely careful in assessing evidence under section 113A for finding out if cruelty was meted out. If it transpires that a victim committing suicide was hyper sensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court would not be satisfied for holding that the accused charged of abetting the offence of suicide was guilty - In the absence of any cogent evidence of harassment or cruelty, an accused cannot be held guilty for the offence under Section

306 of IPC by raising presumption under Section 113A - Referred to Lakhjit Singh v. State of Punjab, 1994 Suppl (1) SCC 173, Pawan Kumar v. State of Haryana, 1998(3) SCC 309, and Smt. Shanti v. State of Haryana, 1991(1) SCC 371. (Para 28-33)

Indian Penal Code, 1860- Section 306 - Mere demand of money from the wife or her parents for running a business without anything more would not constitute cruelty or harassment. (Para 11)

Indian Penal Code, 1860- Section 306 - in order to convict a person under Section 306 of the IPC there has to be a clear mens rea to commit the offence. Mere harassment is not sufficient to hold an accused guilty of abetting the commission of suicide. It also requires an active act or direct act which led the deceased to commit suicide. The ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous-In the case of accusation for abetment of suicide, the court should look for cogent and convincing proof of the act of incitement to the commission of suicide and such an offending action should be proximate to the time of occurrence. Appreciation of evidence in criminal matters is a tough task and when it comes to appreciating the evidence in cases of abetment of suicide punishable under Section 306 of the IPC, it is more arduous. The court must remain very careful and vigilant in applying the correct principles of law governing the subject of abetment of suicide while appreciating the evidence on record. Otherwise it may give an impression that the conviction is not legal but rather moral. (Para 22, 34)

Indian Evidence Act, 1872- Section 113A- the term 'the Court may presume having regard to all other circumstances of the case that such suicide had been abetted by her husband' would indicate that the presumption is discretionary, unlike the presumption under Section 113B of the Evidence Act, which is mandatory. Therefore, before the presumption under Section 113A is raised, the prosecution must show evidence of cruelty or incessant harassment in that regard. (Para 29)

Read Order

High Court Bar Association Allahabad vs State Of Uttar Pradesh 2024 INSC 150- Automatic Vacation Of Stay Directions Issued In Asian Resurfacing

Judgment Overruled

Summary: Automatic Vacation of Stay Orders Direction in Asian Resurfacing Of Road Agency Pvt. Ltd. vs CBI [2018] 2 S.C.R. 1045 Overruled - A direction that all the interim orders of stay of proceedings passed by every High Court automatically expire only by reason of lapse of time cannot be issued in the exercise of the jurisdiction of this Court under Article 142 of the Constitution of India- in the cases in which trials have been concluded as a result of the automatic vacation of stay based only on the decision in the case of Asian Resurfacing¹, the orders of automatic vacation of stay shall remain valid- the directions of the Court that provide for automatic vacation of the order of stay and the disposal of all cases in which a stay has been granted on a day-to-day basis virtually amount to judicial legislation. The jurisdiction of this Court cannot be exercised to make such a judicial legislation. Only the legislature can provide that cases of a particular category should be decided within a specific time - By a blanket direction in the exercise of power under Article 142 of the Constitution of India, Court cannot interfere with the jurisdiction conferred on the High Court of granting interim relief by limiting its jurisdiction to pass interim orders valid only for six months at a time. Putting such constraints on the power of the High Court will also amount to making a dent on the jurisdiction of the High Courts under Article 226 of the Constitution, which is an essential feature that forms part of the basic structure of the Constitution. (Para 24, 37-38, 28)

Constitution of India, 1950- Article 142 -Important parameters for the exercise of the jurisdiction under Article 142 of the Constitution of India which are relevant for deciding the reference are as follows: (i) The jurisdiction can be exercised to do complete justice between the parties before the Court. It cannot be exercised to nullify the benefits derived by a large number of litigants based on judicial orders validly passed in their favour who are not parties to the proceedings before this Court- (ii) Article 142 does not empower this Court to ignore the substantive rights of the litigants- (iii) While exercising the jurisdiction under Article 142 of the Constitution of India, this Court can always issue procedural directions to the Courts for streamlining procedural aspects and ironing out the creases in the procedural laws to ensure expeditious and timely disposal of cases. However, while doing so, this Court cannot affect the substantive rights of those litigants who are not parties to the case before it. The right to be heard before an adverse order is passed is not a matter of procedure but a substantive right- and (iv) The power of this Court under Article

142 cannot be exercised to defeat the principles of natural justice, which are an integral part of our jurisprudence- (Para 37)

Interim Relief - The High Courts are always empowered to vacate or modify an order of interim relief passed after hearing the parties on the following, amongst other grounds: -
 (a) If a litigant, after getting an order of stay, deliberately prolongs the proceedings either by seeking adjournments on unwarranted grounds or by remaining absent when the main case in which interim relief is granted is called out for hearing before the High Court with the object of taking undue advantage of the order of stay- (b) The High Court finds that the order of interim relief is granted as a result of either suppression or misrepresentation of material facts by the party in whose favour the interim order of stay has been made- and
 (c) The High Court finds that there is a material change in circumstances requiring interference with the interim order passed earlier. In a given case, a long passage of time may bring about a material change in circumstances. These grounds are not exhaustive. There can be other valid grounds for vacating an order of stay - Guidelines for dealing with the prayers for the grant of interim relief, the High Courts -To avoid any prejudice to the opposite parties, while granting ex-parte ad-interim relief without hearing the affected parties, the High Courts should normally grant ad-interim relief for a limited duration. After hearing the contesting parties, the Court may or may not confirm the earlier ad-interim order. Ad-interim relief, once granted, can be vacated or affirmed only after application of mind by the concerned Court. Hence, the Courts must give necessary priority to the hearing of the prayer for interim relief where ad-interim relief has been granted. Though the High Court is not expected to record detailed reasons while dealing with the prayer for the grant of stay or interim relief, the order must give sufficient indication of the application of mind to the relevant factors.- An interim order passed after hearing the contesting parties cannot be vacated by the High Court without giving sufficient opportunity of being heard to the party whose prayer for interim relief has been granted. Even if interim relief is granted after hearing both sides, the aggrieved party is not precluded from applying for vacating the same on the available grounds. In such a case, the High Court must give necessary priority to the hearing of applications for vacating the stay, if the main case cannot be immediately taken up for hearing. Applications for vacating interim reliefs cannot be kept pending for an inordinately long time. The High Courts cannot take recourse to the easy option of directing that the same should be heard along

with the main case. The same principles will apply where ad-interim relief is granted. If an ad-interim order continues for a long time, the affected party can always apply for vacating ad-interim relief. The High Court is expected to take up even such applications on a priority basis. If an application for vacating ex-parte ad interim relief is filed on the ground of suppression of facts, the same must be taken up at the earliest. (Para 15,34-35, 37)

Ad Interim Orders -When a High Court grants a stay of the proceedings while issuing notice without giving an opportunity of being heard to the contesting parties, it is not an interim order, but it is an ad-interim order of stay. It can be converted into an interim order of stay only after an opportunity of being heard is granted on the prayer for interim relief to all the parties to the proceedings. Ad-interim orders, by their very nature, should be of a limited duration.

Practice and Procedure - Constitutional Courts, in the ordinary course, should refrain from fixing a time-bound schedule for the disposal of cases pending before any other Courts. Constitutional Courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritising the disposal of cases should be best left to the decision of the concerned Courts where the cases are pending. (Para 37)

Constitution of India, 1950- Article 226(3) - Clause (3) of Article 226 is applicable only when an interim relief is granted without furnishing a copy of the writ petition along with supporting documents to the opposite party and without hearing the opposite party. Even assuming that clause (3) is not directory, it provides for an automatic vacation of interim relief only if the aggrieved party makes an application for vacating the interim relief and when the application for vacating stay is not heard within the time specified. Clause (3) will not apply when an interim order in a writ petition under Article 226 is passed after the service of a copy of the writ petition on all concerned parties and after giving them an opportunity of being heard. It applies only to ex-parte ad interim orders. (Para 26)

Legal Maxim - "Actus curiae neminem gravabit"- No litigant should be allowed to suffer due to the fault of the Court. If that happens, it is the bounden duty of the Court to rectify its mistake. (Para 16)

High Court- High Court is also a constitutional Court. It is well settled that it is not judicially subordinate to Supreme Court - A High Court is constitutionally independent of the Supreme Court of India and is not subordinate to this Court. (Para 23)

Constitution of India, 1950- Article 227 - The power of the High Court under Article 227 of

the Constitution to have judicial superintendence over all the Courts within its jurisdiction will include the power to stay the proceedings before such Courts. (Para 24)

Basavaraj vs Indira 2024 INSC 151 – Amendment Of Pleadings – Consent Decree

Code Of Civil Procedure, 1908- Order XXIII Rule 3 (i) appeal is not maintainable against a consent decree- (ii) no separate suit can be filed- (iii) consent decree operates as an estoppel and binding unless it is set aside by the court by an order on an application under the proviso to 10 (2006) 5 SCC 566 Page 8 of 15 Order XXIII Rule 3 C.P.C.- and (iv) the only remedy available to a party to a consent decree is to approach the Court which recorded the compromise as it was opined to be nothing else but a contract between the parties superimposed with the seal of approval of the Court - Referred to Pushpa Devi Bhagat (Dead) through L.R. Sadhna Rai (Smt.) v. Rajinder Singh (2006) 5 SCC 566 (Para 7)

Code Of Civil Procedure, 1908- Proviso to Order VI Rule 17 CPC -No application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. When it is not even the pleaded case in the application for amendment that due diligence was there at the time of filing of the suit in not seeking relief prayed for by way of amendment. All what was pleaded was oversight. The same cannot be accepted as a ground to allow any amendment in the pleadings at the fag end of the trial especially when admittedly the facts were in knowledge of the plaintiffs. (Para 8)

Code Of Civil Procedure, 1908- Order VI Rule 17 CPC -When initially, the suit was filed for partition and separate possession. By way of amendment, relief of declaration of the compromise decree being null and void was also sought. The same would certainly change the nature of the suit, which may be impermissible - An application for amendment may be rejected if it seeks to introduce totally different, new and inconsistent case or changes the fundamental character of the suit. Order VI Rule 17 C.P.C. prevents an application for amendment after the trial has commenced unless the Court comes to the conclusion that despite due diligence the party could not have raised the issue. The burden is on the party seeking amendment after commencement of trial to show that in spite of due diligence

such amendment could not be sought earlier-One of the important factor is as to whether the amendment would cause prejudice to the other side or it fundamentally changes the nature and character of the case or a fresh suit on the amended claim would be barred on the date of filing the application.- M. Revanna v. Anjanamma (Dead) (2019) 4 SCC 3321 (Para 9-11)

Savitri Bai vs Savitri Bai 2024 INSC 152 – Will

Will - When evidence was adduced in terms of Section 68 of the Evidence Act, 1872, and the mandatory requirements prescribed under Section 63 of the Indian Succession Act, 1925, were duly satisfied, the Will stood proved in the eye of law and the same ought not to have been brushed aside lightly - Referred to H.Venkatachala Iyengar vs. B.N.Thimmajamma AIR 1959 SC 443 (Para 15)

Saraswathi (D) vs SA Palanisamy 2023 INSC 153 – Civil Case Settled

Summary: Suit filed in 1986 - Decreed by Sub Court in 1994 - Madras HC set aside decree by allowing appeal in 2008 - Parties arrive at settlement before SC.

State of Punjab vs Gurpreet Singh 2024 INSC 154 – Article 136 Constitution – Criminal Appeal – Close Relative Witness – FIR

Constitution of India, 1950- Article 136 - Criminal Appeal - Once the appellate court acquits the accused, the presumption of innocence as it existed before conviction by the Trial Court, stands restored, and this Court, while scrutinizing the evidence, will proceed with great circumspect and will not routinely interfere with an order of acquittal, save when the impeccable prosecution evidence nails the accused beyond any doubt - Where on consideration of the material on record, even if two views are possible, yet this Court, while exercising powers under Article 136 of the Constitution, will not tinker with an order of acquittal - principles guiding its intervention in acquittal orders under Article 136: (i) An intervention is warranted when the High Court's approach or reasoning is deemed perverse. This occurs when the High Court, based on suspicion and surmises, rejects

evidence or when the acquittal is primarily rooted in an exaggerated adherence to the rule of giving the benefit of doubt in favour of the accused. (ii) Another circumstance for intervention arises when the acquittal would lead to a significant miscarriage of justice. This refers to situations where the High Court, through a cursory examination of evidence, severs the connection between the accused and the crime - An erroneous or perverse approach to the proven facts of a case and/or ignorance of some of the vital circumstances would amount to a grave and substantial miscarriage of justice. In such a case, this Court will be justified in exercising its extraordinary jurisdiction to undo the injustice mete out to the victims of a crime. (Para 15-18) [In this case, SC restored conviction of one of the appellants]

Criminal Trial - Typically, a close relative is unlikely to shield the actual culprit and falsely implicate an innocent person. While it is acknowledged that emotions can run high and personal animosity may exist, merely being related does not provide a valid basis for criticism- instead, familial ties often serve as a reliable assurance of truth. (Para 29)

FIR - prompt lodging of an FIR helps dispel suspicions related to the potential exaggeration of the involvement of individuals and adds credibility to the prosecution's argument. A promptly lodged FIR reflects the firsthand account of what happened and who was responsible for the offence in question. (Para 30)

Arif Azim Co. Ltd. APTECH Ltd 2024 INSC 155 :: [2024] 3 S.C.R. 73 – S 11(6)

Arbitration Act – Appointment Of Arbitrator – Limitation

Arbitration and Conciliation Act, 1996- Section 11(6) - Limitation Act, 1963 - Whether the Limitation Act, 1963 is applicable to an application for appointment of arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996? There is no doubt as to the applicability of the Limitation Act, 1963 to arbitration proceedings in general and that of Article 137 of the Limitation Act, 1963 to a petition under Section 11(6) of the Act, 1996 in particular. (Para 50) -When does the right to apply under Section 11(6) accrue? the limitation period for filing a petition under Section 11(6) of the Act, 1996 can only

commence once a valid notice invoking arbitration has been sent by the applicant to the other party, and there has been a failure or refusal on part of that other party in complying with the requirements mentioned in such notice. (Para 56) - Whether the court may refuse to make a reference under Section 11 of Act, 1996 where the claims are ex-facie and hopelessly time-barred? The applicability of Section 137 to applications under Section 11(6) of the Act, 1996 is a result of legislative vacuum as there is no statutory prescription regarding the time limit - the period of three years is an unduly long period for filing an application under Section 11 of the Act, 1996 and goes against the very spirit of the Act, 1996 which provides for expeditious resolution of commercial disputes within a time-bound manner. Various amendments to the Act, 1996 have been made over the years so as to ensure that arbitration proceedings are conducted and concluded expeditiously - the Parliament should consider bringing an amendment to the Act, 1996 prescribing a specific period of limitation within which a party may move the court for making an application for appointment of arbitrators under Section 11 of the Act, 1996. (Para 94)- Whether the court may refuse to make a reference under Section 11 of Act, 1996 where the claims are ex-facie and hopelessly time-barred? While considering the issue of limitation in relation to a petition under Section 11(6) of the Act, 1996, the courts should satisfy themselves on two aspects by employing a two-pronged test – first, whether the petition under Section 11(6) of the Act, 1996 is barred by limitation- and secondly, whether the claims sought to be arbitrated are ex-facie dead claims and are thus barred by limitation on the date of commencement of arbitration proceedings. If either of these issues are answered against the party seeking referral of disputes to arbitration, the court may refuse to appoint an arbitral tribunal.(Para 89)

Limitation Act, 1963- Article 137- limitation period under Article 137 of the Limitation Act, 1963 will commence only after the right to apply has accrued in favour of the applicant. (Para 56)

Legal Maxim - “Vigilantibus non dormientibus jura subveniunt”-the law assists those who are vigilant and not those who sleep over their right. (Para 44)

Limitation Act, 1963 - The object behind having a prescribed limitation period is to ensure

that there is certainty and finality to litigation and assurance to the opposite party that it will not be subject to an indefinite period of liability. Another object achieved by a fixed limitation period is to only allow those claims which are initiated before the deterioration of evidence takes place. The law of limitation does not act to extinguish the right but only bars the remedy. (Para 44)

Kumar @ Shiva Kumar vs State Of Karnataka 2024 INSC 156 – Abetment Of Suicide – S 306 IPC – Death By Poisoning

Indian Penal Code, 1860- Section 306 - to ‘instigate’ means to goad, urge, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of ‘instigation’, it is not necessary that actual words must be used to that effect or that the words or act should necessarily and specifically be suggestive of the consequence. But, a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused by his act or omission or by his continued course of conduct creates a situation that the deceased is left with no other option except to commit suicide, then instigation may be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation - Caselaws discussed (Para 34-40) - There can be myriad reasons for a man or a woman to commit or attempt to commit suicide: it may be a case of failure to achieve academic excellence, oppressive environment in college or hostel, particularly for students belonging to the marginalized sections, joblessness, financial difficulties, disappointment in love or marriage, acute or chronic ailments, depression, so on and so forth. Therefore, it may not always be the case that someone has to abet commission of suicide. Circumstances surrounding the deceased in which he finds himself are relevant (Para 47)

Death by poisoning- In a case of death by poisoning, be it homicidal or suicidal and which is based on circumstantial evidence, recovery of the trace of poison consumed by or administered to the deceased is of critical importance. It forms a part of the chain- rather it would complete the chain to prove homicide or suicide. (Para 46)

Major Gen. Darshan Singh vs Brij Bhushan Chaudhary (D) 2024 INSC 157 – Specific Relief Act

Specific Relief Act, 1963- Section 20 - The grant of a decree for specific performance is always discretionary. The exercise of discretion depends on several factors. One of the factors is the conduct of the plaintiff. The reason is that relief of a decree of specific performance is an equitable relief. A person who seeks equity must do equity. [In this case, the plaintiffs' conduct of making false and/or incorrect statements in the plaint, which were very material, the Court held that the plaintiffs are disentitled to relief of specific performance] (Para 9-14)

Mohammed Khalid vs State Of Telangana 2024 INSC 158 :: [2024] 3 S.C.R. 23 – Ss 52A, 43,49 NDPS Act

Narcotic Drugs and Psychotropic Substances Act, 1985- Section 52A - When no proceedings under Section 52A of the NDPS Act were undertaken by the Investigating Officer for preparing an inventory and obtaining samples in presence of the jurisdictional Magistrate. In this view of the matter, the FSL report is nothing but a waste paper and cannot be read in evidence . (Para 22)

Narcotic Drugs and Psychotropic Substances Act, 1985- Section 43,49 - When the case is regarding recovery of narcotics from a vehicle which was stopped during transit. Thus, the procedure of search and seizure would be governed by Section 43 read with Section 49 of the NDPS Act. (Para 17) [Conviction of the accused appellants for the charge under Section 8(c) read with 20(b)(ii)(c) of the NDPS Act is hereby quashed and set aside.]

Vinayak Purushottam Dube (D) vs Jayashree Padamkar Bhat 2024 INSC 159 :: [2024] 3 S.C.R. 127 – Contract Law – Obligations Of Builder – Liability Of LRs

Summary: NCDRC held that the death of a developer has no effect upon the obligations of the developer under the Development Agreement and the same have to be executed by the legal heirs of the developer - Allowing appeal, SC held: the legal representatives of the deceased developer are not liable to discharge the obligation which had to be discharged by the deceased opposite party in his personal capacity (Para 31)- in the case of a personal obligation imposed on a person under the contract and on the demise of such person, his estate does not become liable and therefore, the legal representatives who represent the estate of a deceased would obviously not be liable and cannot be directed to discharge the contractual obligations of the deceased. (Para 27)

Indian Contract Act, 1872- Section 37,40 - Legal representatives are liable for the debts of their predecessor, but their liability is limited to the extent of the estate of the deceased inherited by them. Therefore, the representatives of a promisor are bound to perform the promisor's contract to the extent of the assets of the deceased falling in their hands. But they are not personally liable under the contracts of the deceased and are also not liable for personal contracts of the deceased. Therefore, when personal considerations are the basis of a contract they come to an end on the death of either party, unless there is a stipulation express or implied to the contrary. This is especially so when the contracts involve exercise of special skills such as expressed in Section 40 of the Indian Contract Act, 1872. (Para 20) -a contract can be performed vicariously by the legal representatives of the promisor depending upon the subject matter of the contract and the nature of performance that was stipulated thereto. But a contract involving exercise of an individual's skills or expertise of the promisor or which depends upon his/her personal qualification or competency, the promisor has to perform the contract by himself and not by his/her representatives. A contract of service is also personal to the promisor. This is because when a person contracts with another to work or to perform service, it is on the basis of the individual's

skills, competency or other qualifications of the promisor and in circumstances such as the death of the promisor he is discharged from the contract. (Para 21)

Legal Maxim - “actio personalis moritur cum persona” - a personal right of action dies with the person . (Para 18)

Code Of Civil Procedure, 1908- Section 2(11) - the legal representatives of a deceased are liable only to the extent of the estate which they inherit. (Para 23)

Code Of Civil Procedure, 1908- Section 50 - any decree which is relatable to the extent of the property of the deceased which has come to the hands of the legal representatives and has not been duly disposed of, the same would be liable for execution by a decree holder so as to compel the legal representatives to satisfy the decree. In this context, even a decree for preventive injunction can also be executed against the legal representatives of the deceased judgment-debtor if such a decree is in relation to the property or runs with the property if there is a threat from such legal representatives. (Para 29)

Solar Energy Corporation Of India Limited (SECI) vs Wind Four Renergy Private Limited 2024 INSC 160

Summary: APTEL allowed appeal preferred by respondent Wind Four Renergy Private Limited directing that the period of 132 days, for which delay was to be condoned, would commence from the date of the impugned judgment, that is, 11.01.2022 - Allowing appeal, SC held: direction that the period of 132 days shall commence from the date the APTEL order is irrational. The objective and purpose of timelines is to ensure early supply of green energy and reduction of carbon footprint. Tariffs of green energy, it is well known, have come down substantially.

Sita Soren vs Union Of India 2024 INSC 161-Cash For Votes – Immunity Of Legislators

Constitution of India, 1950- Article 105(2) and 194(2) - P.V. Narasimha Rao vs. State (CBI/SPE) [1998] 2 S.C.R. 870 overruled. (7-0) : The judgment of the majority in PV Narasimha Rao, which grants immunity from prosecution to a member of the legislature who has allegedly engaged in bribery for casting a vote or speaking has wide ramifications on public interest, probity in public life and parliamentary democracy.- An individual member of the legislature cannot assert a claim of privilege to seek immunity under Articles 105 and 194 from prosecution on a charge of bribery in connection with a vote or speech in the legislature. (Para 188)

Constitution of India, 1950- Article 80, 194(2) -Whether votes cast by elected members of the state legislative assembly in an election to the Rajya Sabha are protected by Article 194(2) of the Constitution ? - Voting for elections to the Rajya Sabha falls within the ambit of Article 194(2) - Elections to the Rajya Sabha are not part of the law-making functions and do not take place during a sitting of the House. However, the text of Article 194 consciously uses the term ‘Legislature’ instead of ‘House’ to include parliamentary processes which do not necessarily take place on the floor of the House or involve ‘lawmaking’ in its pedantic sense - the role played by elected members of the state legislative assemblies in electing members of the Rajya Sabha under Article 80 is significant and requires utmost protection to ensure that the vote is exercised freely and without fear of legal persecution. The free and fearless exercise of franchise by elected members of the legislative assembly while electing members of the Rajya Sabha is undoubtedly necessary for the dignity and efficient functioning of the state legislative assembly. Any other interpretation belies the text of Article 194(2) and the purpose of parliamentary privilege. Indeed, the protection under Articles 105 and 194 has been colloquially called a “parliamentary privilege” and not “legislative privilege” for a reason. It cannot be restricted to only law-making on the floor of the House but extends to other

powers and responsibilities of elected members, which take place in the Legislature or Parliament, even when the House is not sitting. (Para 168-87)

Precedents - Doctrine of Stare Decisis -The doctrine of stare decisis provides that the Court should not lightly dissent from precedent -But this Doctrine is not an inflexible rule of law, and it cannot result in perpetuating an error to the detriment of the general welfare of the public. - A larger bench may reconsider a previous decision in appropriate cases, bearing in mind the tests which have been formulated in the precedents. -A decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength. A Bench of lesser strength cannot disagree with or dissent from the view of the law taken by the bench of larger strength. However, a bench of the same strength can question the correctness of a decision rendered by a co-ordinate bench. In such situations, the case is placed before a bench of larger strength. - SC may review its earlier decisions if it believes that there is an error, or the effect of the decision would harm the interests of the public or if "it is inconsistent with the legal philosophy of the Constitution". In cases involving the interpretation of the Constitution, it would do so more readily than in other branches of law because not rectifying a manifest error would be harmful to public interest and the polity. -The period of time over which the case has held the field is not of primary consequence. SC has overruled decisions which involve the interpretation of the Constitution despite the fact that they have held the field for long periods of time when they offend the spirit of the Constitution.(Para 33, 188.1)

Constitution of India, 1950- Article 105(2) and 194(2) - The assertion of a privilege by an individual member of Parliament or Legislature would be governed by a twofold test. First, the privilege claimed has to be tethered to the collective functioning of the House, and second, its necessity must bear a functional relationship to the discharge of the essential duties of a legislator. (Para 91)

Prevention of Corruption Act, 1988 - Section 7 - Bribery - The offence of bribery is complete on the acceptance of the money or on the agreement to accept money being concluded. The offence is not contingent on the performance of the promise for which money is given or is agreed to be given - the mere "obtaining", "accepting" or "attempting"

to obtain an undue advantage with the intention to act or forbear from acting in a certain way is sufficient to complete the offence. It is not necessary that the act for which the bribe is given be actually performed. (Para 107, 117)

Interpretation of Statutes - Illustrations appended to a section are of value and relevance in construing the text of a statutory provision and they should not be readily rejected as repugnant to the section. (Para 118)

Precedents - A decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength. A Bench of lesser strength cannot disagree with or dissent from the view of the law taken by the bench of larger strength. However, a bench of the same strength can question the correctness of a decision rendered by a coordinate bench. In such situations, the case is placed before a bench of larger strength. (Para 24)

Rajesh Monga vs Housing Development Finance Corporation Limited 2024 INSC 162 :: [2024] 3 S.C.R. 1- Consumer Case

Summary: NCDRC dismissed a complaint filed against bank holding that the appellant-complainant is bound by the terms and conditions of the agreement dated 11.01.2006, while the respondent bank was bound by various instructions of the Reserve Bank of India at the time of signing the agreement - Dismissing Appeal, SC held: NBFC and as a corporate body would be bound by its policies and procedures with regard to lending and recovery. In that regard, the applicability of the rate of interest to be charged is also a matter of policy and cannot be case-specific unless the individual agreement entered into between the parties indicate otherwise- Having executed the agreement- having agreed to the terms and conditions- having received the loan amount, the appellant cannot raise any objection for the first time when the rate of interest was increased after having acquiesced by signing the agreement. Further, the appellant having repaid the loan amount with

interest as per the terms of agreement cannot make out a grievance in hindsight and seek refund of the amount paid.

Shazia Aman Khan vs State Of Orissa 2024 INSC 163 :: [2024] 3 S.C.R. 10 Child Custody

Child Custody - Child cannot be treated as a chattel at the age of 14 years to hand over her custody to the biological father where she has not lived ever since her birth. Stability of the child is also of paramount consideration. Keeping in view her age at present, she is capable of forming an opinion in that regard.

Thangam vs Navamani Ammal 2024 INSC 164 :: [2024] 3 S.C.R. 146 – CPC – Written Statement – Will

Code Of Civil Procedure, 1908- Order VIII Rules 3 and 5 -Deprecated practice of not providing specific para-wise reply to the plaint in the written statement/counter affidavits - In the absence of para-wise reply to the plaint, it becomes a roving inquiry for the Court to find out as to which line in some paragraph in the plaint is either admitted or denied in the written statement filed, as there is no specific admission or denial with reference to the allegation in different paras- Order VIII Rules 3 and 5 CPC clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order VIII Rule 5 CPC provides that even the admitted facts may not be treated to be admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General rule is that the facts admitted, are not required to be proved -The requirement of Order VIII Rules 3 and 5 CPC are specific admission and denial of the pleadings in the plaint. The same would necessarily mean dealing with the allegations in the plaint para-wise. In the absence thereof, the respondent can always try to read one line from one paragraph and another from different paragraph in the written statement to make out his case of denial of the

allegations in the plaint resulting in utter confusion - In case, the defendant/respondent wishes to take any preliminary objections, the same can be taken in a separate set of paragraphs specifically so as to enable the plaintiff/petitioner to respond to the same in the replication/rejoinder, if need be. The additional pleadings can also be raised in the written statement, if required. These facts specifically stated in a set of paragraphs will always give an opportunity to the plaintiff/petitioner to respond to the same. This in turn will enable the Court to properly comprehend the pleadings of the parties instead of digging the facts from the various paragraphs of the plaint and the written statement- Referred to Badat and Co. Bombay Vs. East India Trading Co AIR 1964 SC 538 and Lohia Properties (P) Ltd., Tinsukia, Dibrugarh, Assam Vs. Atmaram Kumar (1993) 4 SCC 6. (Para 15)

Summary: Trial Court held the Will to be genuine and High Court upheld the finding - Dismissing Appeal, SC held: the Will was not surrounded by the suspicious circumstances as the scribe and one of the witnesses were unison.

Srinivas Raghavendrarao Desai (D) vs V Kumar Vamanrao @ Alok 2024 INSC 165 :: [2024] 3 S.C.R. 46 – No Evidence Beyond Pleadings

Pleadings - No evidence could be led beyond pleadings. [It is not a case in which there was any error in the pleadings and the parties knowing their case fully well had led evidence to enable the Court to deal with that evidence. In the case in hand, specific amendment in the pleadings was sought by the plaintiffs with reference to 1965 partition but the same was rejected. In such a situation, the evidence with reference to 1965 partition cannot be considered - The Trial Court had rightly ignored the plea taken in the replication by the plaintiffs regarding oral partition of 1965, as amendment sought to that effect had already been declined. What was not permitted to be done directly cannot be permitted to be done indirectly.]

Safia Bano Alias Shakira vs State Of UP 2024 INSC 166 – S 498A IPC – Criminal Case Quashed Against Husband's Relatives

Indian Penal Code, 1860- Section 498A -The allegations against appellants, who are the husband's relatives are general in nature, wherein it is stated that the appellants harassed her and demanded dowry. No specific allegation of ill treatment is made against any of the appellants -Apart from the general and bald allegations, there is not even a whisper as to how the ingredients to constitute an offence under Section 498A of IPC are made out against the present appellants - Criminal proceedings quashed.

Dattatraya vs State Of Maharashtra 2024 INSC 167 – S 302 IPC Converted To S 304 IPC

Indian Penal Code, 1860- Section 300, 302,304 - Appellant's conviction under Section 302 IPC modified to Section 304 IPC - SC held: Though the appellant had knowledge that such an act can result in the death of the deceased, but there was no intention to kill the deceased - There is sufficient evidence to prove that the burn injury was caused to the deceased by an act done at the hands of the appellant and it was the appellant who had come to his house under the influence of liquor and poured kerosene on his wife while she was cooking food for him on a stove, which resulted in bursting of the stove and causing burn injuries on the deceased. There is also sufficient proof of the fact that the husband and wife were having frequent fights even earlier -It is a case where a sudden fight took place between the husband and wife. The deceased at that time was carrying a pregnancy of nine months and it was the act of pouring kerosene on the deceased that resulted in the fire and the subsequent burn injuries and the ultimate death of the deceased. -This act at the hands of the appellant will be covered under the fourth exception given under Section 300 of the IPC, i.e., "Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner"- The

act of the appellant is not premeditated, but is a result of sudden fight and quarrel in the heat of passion.

Murari Lal Chhari vs Munishwar Singh Tomar 2024 INSC 168 – Complaint Against SAF Officers Quashed

Summary: Complaint against Special Armed Forces (SAF) Officers - Complainant was declared as the owner of the suit property - Complainant alleged that the accused officers broke the fencing and when he objected, they verbally abused him and he was pushed several times and even a death threat was given - Magistrate passed an order directing the cognizance to be taken under Sections 294, 323, 427, 447, and 506 of IPC - High Court dismissed petition challenging this order - In appeal, SC noted that a Contempt Petition was already filed in 2016, the said fact has not been mentioned in the complaint filed in the year 2017. The complainant did not challenge the dismissal of the Contempt Petition. In view of the finding recorded in the Contempt Petition by the High Court, taking the cognizance of the said complaint was surely an abuse of the process of law- Criminal proceedings quashed.

Naeem vs State Of Uttar Pradesh 2024 INSC 169 :: [2024] 3 S.C.R. 36- Evidence Act- Dying Declaration

Indian Evidence Act, 1873- Section 32- Dying Declaration - Dying declaration can be the sole basis of the conviction if it inspires the full confidence of the court. The Court is required to satisfy itself that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination - Where the Court is satisfied about the dying declaration being true and voluntary, it can base its conviction without any further corroboration - There cannot be an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. It

has been held that the rule requiring corroboration is merely a rule of prudence.- If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration. (Para 7)

Suman L Shah vs The Custodian 2024 INSC 170 – Special Court (Trial of Offences relating to transactions in Securities) Act

Special Court (Trial of Offences relating to transactions in Securities) Act, 1992- Section 3- The properties of the person notified under Section 3(2) would stand attached automatically with effect from the date of notification by virtue of Section 3(3)

Vinod Katara vs State Of UP 2024 INSC 171 – S 94 Juvenile Justice Act

Juvenile Justice (Care and Protection of Children) Act, 2015- Section 94 - Section 94(2) of the JJ Act provides for the mode of determination of age. In the order of priorities, the date of birth certificate from the school stands at the highest pedestal whereas ossification test has been kept at the last rung to be considered, only in the absence of the criteria Nos. 1 and 2, i.e. in absence of both certificate from school and birth certificate issued by a Corporation/Municipal Authority/Panchayat. (Para 20)

Prabhat Kumar Mishra @ Prabhat Mishra vs State Of UP 2024 INSC 172 :: [2024] 3 S.C.R. 157 – Abetment Of Suicide Case Quashed

Indian Penal Code, 1860- Section 306 - Suicide note shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties. He was also feeling the pressure of working in two different districts. However, such apprehensions expressed in the suicide note, by no stretch of imagination, can be considered sufficient to attribute to the appellant, an act or omission constituting the elements of abetment to commit suicide. (Para 23)

Summary - Criminal Proceedings against appellant under Section 3(2)(v) of the SC/ST Act and Section 306 IPC set aside - Allowing appeal, SC held: - prosecution of the appellant herein for the offence under Section 3(2)(v) of the SC/ST Act is ex facie illegal and unwarranted because it is nowhere the case of the prosecution in the entire charge-sheet that the offence under IPC was committed by the appellant upon the deceased on the basis of his caste- Prosecution case is entirely based on the suicide note left behind by the deceased before committing suicide. On a minute perusal of the suicide note, we do not find that the contents thereof indicate any act or omission on the part of the accused appellant which could make him responsible for abetment as defined under Section 107 IPC.

District Appropriate Authority Under PNDT Act vs Jashmina Dilip Devda 2024 INSC 173 :: [2024] 3 S.C.R. 60 – S 20 Pre Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act

Pre Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994- Section 20- Power of subsection (3) of Section 20 of PC&PNDT Act is notwithstanding the power of subsections (1) & (2) of Section 20. The said power can only be exercised when the appropriate authority forms an opinion that it is necessary or expedient in public interest to do so. It is incumbent upon the appropriate authority to form its opinion based on reasons expedient or necessary to exercise the power of suspension - if the appropriate authority finds breach of provisions of PC&PNDT Act or the Rules it may, after issuing

notice and giving a reasonable opportunity of being heard, without prejudice to any criminal action against the licensed entity, suspend its registration for such period as it may think fit or cancel the same as the case maybe. The appropriate authority has also been conferred with a power under subsection (3) of Section 20 notwithstanding the power under subsection (1) & (2) of Section 20. In the said situation in case, the authority forms an opinion that it is necessary or expedient in public interest, then after recording reasons in writing, it may suspend the registration of the licensed entity without notice as specified in subsection (1) of Section 20. Thus, the power of subsection (3) is intermittent and in addition to the power of subsection (2) but it may be exercised sparingly, in exceptional circumstances in public interest. In our view, the power of suspension, if any exercised, by the appropriate authority deeming it necessary or expedient in public interest for the reasons so specified, it should be for interim period and not for an inordinate duration.

Sangam Milk Producer Company Ltd. vs Agricultural Market Committee 2024 INSC 174 :: [2024] 3 S.C.R. 174 – Andhra Pradesh (Agricultural Produce and Livestock) Markets Act

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 - Section 2(v)- Argument that “ghee” is not a product of livestock is baseless, and bereft of any logic. The contrary argument that “ghee” is indeed a product of livestock is logically sound. Livestock has been defined under Section 2(v) of the Act, where Cows and buffalos are the livestock. Undisputedly, “ghee” is a product of milk which is a product of the livestock. (Para 10)

Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966- Section 3,4- Whereas a draft notification is mandatory under Section 3 and so is the hearing of objections to the draft notification, there is no similar provision under Section 4 of the Act - a prior hearing or prior publication of the draft notification is not a requirement under Section 4 of the Act. (Para 11)

Vedanta Limited vs State of Tamil Nadu 2024 INSC 175 – Environmental Law

Environmental Law - The polluter pays principle, a widely accepted norm in international and domestic environmental law, asserts that those who pollute or degrade the environment should bear the costs of mitigation and restoration. This principle serves as a reminder that economic activities should not come at the expense of environmental degradation or the health of the population- The public trust doctrine, recognized in various jurisdictions, including India, establishes that the state holds natural resources in trust for the benefit of the public. It reinforces the idea that the State must act as a steward of the environment, ensuring that the common resources necessary for the well-being of the populace are protected against exploitation or degradation. These principles underscore the importance of balancing economic interests with environmental and public welfare concerns. While the industry has played a role in economic growth, the health and welfare of the residents of the area is a matter of utmost concern. In the ultimate analysis, the State Government is responsible for preserving and protecting their concerns -Concept of intergenerational equity suggests that “present residents of the earth hold the earth in trust for future generations and at the same time the present generation is entitled to reap benefits from it.” The planet and its invaluable resources must be conscientiously conserved and responsibly managed for the use and enjoyment of future generations, emphasising the enduring obligation to safeguard the environmental heritage for the well-being of all - all persons have the right to breathe clean air, drink clean water, live a life free from disease and sickness, and for those who till the earth, have access to uncontaminated soil. These rights are not only recognized as essential components of human rights but are also enshrined in various international treaties and agreements, such as the Universal Declaration of Human Rights, the Convention on Biological Diversity, and the Paris Agreement. As such, they must be protected and upheld by governments and institutions worldwide, even as we generate employment and industry. The ultimate aim of all our endeavours is for all people to be able to live ‘the good life.’ Without these basic rights, increased revenue and employment cease to have any real meaning. It is not merely about economic growth but about ensuring the well-being and dignity of every individual. As we pursue development, we must prioritize the protection of these rights, recognizing that

they are essential for sustainable progress. Only by safeguarding these fundamental rights can we truly create a world where everyone has the opportunity to thrive and prosper. (Para 25-28)

Constitution of India, 1950- Article 136 - SC may exercise its power under Article 136 sparingly and only when exceptional circumstances exist which justify the exercise of its discretion. (Para 18)

Summary - The copper smelter operated by the petitioner (Vedanta Limited) at the SIPCOT industrial complex in Thoothukudi in Tamil Nadu was directed to be closed for violations of numerous environmental norms - SC dismissed SLP - High Court was justified in making the observations in regard to the lack of alacrity on the part of the Pollution Control Board in discharging its duties. The observations of the High Court do not call to be either expunged or obliterated from the record.

Telangana Residential Educational Institutions Recruitment Board vs Saluvadi Sumalatha
2024 INSC 176 – Public Employment

Public Employment - Courts will have to be cautious and therefore slow in dealing with recruitment process adopted by the recruitment agency. A lot of thought process has gone into applying the rules and regulations. Merely because a recruitment agency is not in a position to satisfy the Court, a relief cannot be extended to a candidate deprived as it will have a cascading effect not only on the said recruitment, but also to numerous others as well. In such view of the matter, courts are duty bound to take into consideration the relevant orders, rules and enactments before finally deciding the case - Referred to Dalpat Abasaheb Solunke v. B.S. Mahajan, (1990) 1 SCC 305 (Para 14)

M Vijayakumar vs State Of Tamil Nadu 2024 INSC 177 -S 106 Evidence Act - S 306 IPC - Abetment Of Suicide

Indian Penal Code, 1860- Section 306- While considering the question as to whether a person can be convicted under Section 306, IPC or whether a conviction thereunder could be sustained, one has to consider the mens rea of the accused/convict to bring about suicide of the victim. Needless to say, that it requires an active act or direct act which led the victim to commit suicide seeing no option- and in other words, the act must have been of such a degree intending to push while considering the question as to whether a Crl. A. @ SLP(Crl.) No. 4684/2019 5 person can be convicted under Section 306, IPC or whether a conviction thereunder could be sustained, one has to consider the mens rea of the accused/ convict to bring about suicide of the victim. Needless to say, that it requires an active act or direct act which led the victim to commit suicide seeing no option- and in other words, the act must have been of such a degree intending to push the deceased into such a position that he/she committed suicide.

Indian Evidence Act, 1872- Section 106 - This Section is an exception to the general rule laid down in Section 101 which casts burden of proving a fact on the party who substantially asserts the affirmative of the issue. Section 106 is not intended to relieve any person of that duty or burden. On the contrary, it says that when a fact to be proved, either affirmatively or negatively, is especially within the knowledge of a person, it is for him to prove it. This Section, in its application to criminal cases, applies where the defence of the accused depends on his proving a fact especially within his knowledge and of nobody else. In short, Section 106 cannot be used to shift the burden of proving the offence from the prosecution to the accused. It can only when the prosecution led evidence, which, if believed, will sustain a conviction or which makes out a *prima facie* case, that the question of shifting the onus to prove such fact(s) on the accused would arise. (Para 18)

Mens Rea - 'Mens rea' means a guilty mind. As a general rule, every crime requires a mental element, the nature of which, will depend upon definition of the particular crime in question. Although it is impossible to ascribe any particular meaning to the term 'mens rea' as the circumstance to determine the existence of mens rea depends upon the ingredients

constituting the particular offence and the expression used in the definition of the particular offence to constitute such offence.

**Re: TN Godavarman Thirumulpad vs Union Of India (In Re: Gaurav Kumar Bansal) 2024
INSC 178 – Jim Corbett National Park – Tiger Safari**

Summary: SC directed the Constitution of a committee to give recommendations on effective management and protection of the Tiger Reserves.

Public Trust Doctrine - Executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership, or for commercial use. The aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use unless the courts find it necessary, in good faith, for the public good and in public interest to encroach upon the said resources - Referred to Tata Housing Development Company Limited v. Aalok Jagga (2020) 15 SCC 784=2019 INSC 1203 , Association for Environment Protection v. State of Kerala (2013) 7 SCC 226=2013 INSC 413 and M.C. Mehta v. Kamal Nath (1997) 1 SCC 388=1996 INSC 1482. (Para 134-137)

Principle of Ecological Restitution - A reversal of environmental damage in conformity with the principle under Article 8(f) of the CBD is what is required. At times, the compensatory afforestation permits forestation at some other site. However, the principle of restoration of damaged ecosystem would require the States to promote the recovery of threatened species. We are of the considered view that the States would be required to take steps for the identification and effective implementation of active restoration measures that are localized to the particular ecosystem that was damaged. The focus has to be on restoration of the ecosystem as close and similar as possible to the specific one that was damaged. (Para 156)

State of Jharkhand vs Sandeep Kumar 2024 INSC 179 – Bail – Police Officer As Accused

Bail - The considerations that would normally weigh with the Court while dealing with a bail petition are the nature and seriousness of the offence- the character of the evidence- circumstances which are peculiar to the accused- a reasonable possibility of the presence of the accused not being secured at the trial- reasonable apprehension of witnesses being tampered with- the larger interest of the public or the State and other similar factors relevant in the facts and circumstances of the case- Similar considerations would apply even for grant of anticipatory bail. Therefore, circumstances peculiar to the accused and the larger interest of the public or the State also have to be considered - Presumptions and other considerations applicable to a layperson facing criminal charges may not carry the same weight while dealing with a police officer who is alleged to have abused his office.

Vethambal vs Oriental Insurance Company 2024 INSC 180 – Motor Accident Compensation Claim

Motor Accident Compensation Claim - Assessment of compensation cannot be done with mathematical precision. The Motor Vehicles Act, 1988 also provides for assessment of just and fair compensation [Value of the labour being put in by the deceased in agriculture, it would be reasonable to assess his income at ₹35,000/- per month. Considering his age at the time of death as 52 years on the date of accident, the applicable multiplier would be 11]

XXX vs State Of Madhya Pradesh 2024 INSC 181 – Rape By Promise To Marry – Case Quashed

Indian Penal Code, 1860- Section 376 - Rape by giving promise to marry - Quashing the

case against appellant, SC noted: It is not a case where the complainant was of an immature age who could not foresee her welfare and take right decision. She was a grown up lady about ten years elder to the appellant. She was matured and intelligent enough to understand the consequences of the moral and immoral acts for which she consented during subsistence of her earlier marriage. In fact, it was a case of betraying her husband. It is the admitted case of the prosecutrix that even after the appellant shifted to Maharashtra for his job, he used to come and stay with the family and they were living as husband and wife.

Shah Enterprises vs Vaijayantiben Ranjitsingh Sawant 2024 INSC 182 – Contempt – Civil Suit

Summary: Appeal against dismissal of a Contempt Petition - the appellant sent legal notices to all the respondents herein and brought to their attention the consent decree passed in the year 1972 and, therefore, requested them to withdraw the suit - Since the respondents did not withdraw the suit, the appellant filed a Contempt Petition - Dismissing Appeal, SC held: by no stretch of imagination, it could be said that the filing of the suit for asserting the rights of the plaintiffs/respondents could be said to be amounting to contempt of the Court.

Travancore Devaswom Board vs Ayyappa Spices 2024 INSC 183 – Judicial Review-Tender

Constitution of India, 1950- Article 226 - Judicial Review- Tender - In cases where a party invoking writ jurisdiction has been a participant in the tender process, courts should be slow and cautious in exercising the power of judicial review - constitutional courts should exercise caution while interfering in contractual and tender matters, disguised as public

interest litigations - High Court should not have entertained the writ petition on behalf of an interested person who sought to convert a judicial review proceeding for enhancing personal gain.

Najrul Seikh vs Dr Sumit Banerjee 2024 INSC 184 – Consumer Cases – Medical Negligence

Medical Negligence -In cases of deficiency of medical services, duty of care does not end with surgery -While the report of the Medical Council can be relevant for determining deficiency of service before a consumer forum, it cannot be determinative, especially when it contradicts the evidentiary findings made by a consumer forum. In these circumstances, the appellate forum is tasked with the duty of undertaking a more thorough examination of the evidence on record. [3-year-old boy who lost complete vision in his right eye following an allegedly negligent cataract surgery- District Consumer Forum allowed consumer complaint, but SCDRC set it aside and NCDRC dismissed revision petition]

Jagjit Singh vs Central Bureau Of Investigation 2024 INSC 185

Summary: Accused concurrently convicted under Section(s) 120B, 420, 467 and 468 - Partly allowing appeal, SC observed: Keeping in mind the mitigating circumstances of the appellant convict e, we the sentence of the appellant reduced to the period already undergone.

AK Sarkar & Co vs State Of West Bengal 2024 INSC 186 – Article 20 Constitution

Constitution of India, 1950- Article 20 - A person cannot be punished for an offence which was not an offence at the time it was committed, nor can he be subjected to a sentence which is greater than the sentence which was applicable at the relevant point of time. All the same, the above provision does not prohibit this Court, to award a lesser punishment in a befitting case, when this Court is of the opinion that a lesser punishment may be

awarded since the new law on the penal provision provides a lesser punishment i.e. lesser than what was actually applicable at the relevant time. The prohibition contained in Article 20 of the Constitution of India is on subjecting a person to a higher punishment than which was applicable for that crime at the time of the commission of the crime. There is no prohibition, for this Court to impose a lesser punishment which is now applicable for the same crime - Whether the appellant can be granted the benefit of the new legislation and be awarded a lesser punishment as is presently prescribed under the new law? When an amendment is beneficial to the accused it can be applied even to cases pending in Courts where such a provision did not exist at the time of the commission of offence.

Javed Ahmad Hajam vs State of Maharashtra 2024 INSC 187 – Fundamental Right To Protest/Dissent

Constitution Of India, 1950 - Article 19(1)(a) - The right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed under Article 19(1)(a). Every individual must respect the right of others to dissent. An opportunity to peacefully protest against the decisions of the Government is an essential part of democracy. The right to dissent in a lawful manner must be treated as a part of the right to lead a dignified and meaningful life guaranteed by Article 21. But the protest or dissent must be within four corners of the modes permissible in a democratic set-up. It is subject to reasonable restrictions imposed in accordance with clause (2) of Article 19. (Para 10)

Indian Penal Code, 1860- Section 153-A -The promotion of disharmony, enmity, hatred or ill will must be on the grounds of religion, race, place of birth, residence, language, caste, community or any other analogous grounds - The test to be applied is not the effect of the words on some individuals with weak minds or who see a danger in every hostile point of view. The test is of the general impact of the utterances on reasonable people who are significant in numbers. Merely because a few individuals may develop hatred or ill will, it will not be sufficient to attract clause (a) of sub-section (1) of Section 153-A of the IPC. (Para 8,11) -[Accused Appellant shared WhatsApp status of photograph of two barbed

wires, below which it is mentioned that “AUGUST 5 – BLACK DAY – JAMMU & KASHMIR”, SC observed: This is an expression of his individual view and his reaction to the abrogation of Article 370 of the Constitution of India. It does not reflect any intention to do something which is prohibited under Section 153-A. At best, it is a protest, which is a part of his freedom of speech and expression guaranteed by Article 19(1)(a). Every citizen of India has a right to be critical of the action of abrogation of Article 370 and the change of status of Jammu and Kashmir. Describing the day the abrogation happened as a “Black Day” is an expression of protest and anguish- The appellant has posted that “Article 370 was abrogated, we are not happy”- Appellant intended to criticise the action of the abrogation of Article 370 of the Constitution of India. He has expressed unhappiness over the said act of abrogation. The aforesaid words do not refer to any religion, race, place of birth, residence, language, caste or community. It is a simple protest by the appellant against the decision to abrogate Article 370 of the Constitution of India and the further steps taken based on that decision. The Constitution of India, under Article 19(1)(a), guarantees freedom of speech and expression. Under the said guarantee, every citizen has the right to offer criticism of the action of abrogation of Article 370 or, for that matter, every decision of the State. He has the right to say he is unhappy with any decision of the State- Appellant shared the picture containing “Chand” and below that the words “14th August–Happy Independence Day Pakistan”- It will not attract clause (a) of subsection (1) of Section 153-A of the IPC. Every citizen has the right to extend good wishes to the citizens of the other countries on their respective independence days. If a citizen of India extends good wishes to the citizens of Pakistan on 14th August, which is their Independence Day, there is nothing wrong with it. It’s a gesture of goodwill. In such a case, it cannot be said that such acts will tend to create disharmony or feelings of enmity, hatred or ill-will between different religious groups. Motives cannot be attributed to the appellant only because he belongs to a particular religion.]

Anil Kishore Pandit vs State Of Bihar 2024 INSC 188 – Public Employment – Amendment Of Notification

Public Employment- It is not open for an employer to change the qualifications prescribed in the advertisement midstream, during the course of the ongoing selection process. Any such action would be hit by the vice of arbitrariness as it would tantamount to denial of an opportunity to those candidates who are eligible in terms of the advertisement but would stand disqualified on the basis of a change in the eligibility criteria after the same is announced by the employer. Having applied for appointment in accordance with the terms prescribed in the advertisement, a candidate acquires a vested right to be considered in accordance with the said advertisement. This consideration may not necessarily fructify into an appointment but certainly entitles the candidate to be considered for selection in accordance with the rules as they existed on the date of the advertisement. To put it differently, the right of a candidate for being considered in terms of the advertisement stands crystalized on the date of the publication of the advertisement. Any subsequent amendment to the advertisement during the course of the selection process unless retrospective, cannot be a ground to disqualify a candidate from the zone of consideration - Referred to N.T. Devin Katti and Others v. Karnataka Public Service Commission (1990) 3 SCC 157, Mohd. Sohrab Khan v. Aligarh Muslim University (2009) 4 SCC 555, Zonal Manager, Bank of India, Zonal Office, Kochi and Others v. Aarya K. Babu (2019) 8 SCC 587

Anil Mishra vs State Of UP 2024 INSC 189 – S 482 CrPC

Code of Criminal Procedure, 1973- Section 482- Principles governing the exercise of jurisdiction under Section 482 CrPC by High Courts vis-à-vis quashing of an FIR, criminal proceeding or complaint reiterated - Referred to Gian Singh v. State of Punjab, (2012) 10 SCC 303 [Appellant neither entered into any settlement with the Accused Persons nor was courting any such idea- High Court proceeded to quash the FIR- and the proceedings emanating thereof in exercise of its jurisdiction under Section 482 CrPC- HC judgment set aside]

State Of Haryana vs Ashok Khemka 2024 INSC 190-All India Services (Performance Appraisal Report) Rules

All India Services (Performance Appraisal Report) Rules, 2007 - the implication and / or outcome (if any) of a contravention of the timeline(s) prescribed under the Schedule- A contravention of the said timelines, neither render the underlying PAR invalid, nor would be met with any identified immediate consequence. (Para 19)

Constitution of India, 1950- Article 226 -Whether the High Court ought to have interfered with the CAT Order in exercise of its jurisdiction under Article 226 of the Constitution of India? - The High Court ought not to have ventured into the said domain particularly when the Accepting Authority is yet to pronounce its decision qua the Underlying Representation.

Shahid Ali vs State Of Uttar Pradesh 2024 INSC 191 – Ss 302,304 IPC – Celebratory firing

Indian Penal Code, 1860- Section 302, 304 -Whether the Appellant's act of engaging in celebratory firing during a marriage ceremony could be construed to be an act so imminently dangerous so as to, in all probability, cause death or such bodily injury as was likely to cause death? The act of celebratory firing during marriage ceremonies is an unfortunate yet prevalent practise in our nation. The present case is a direct example of the disastrous consequences of such uncontrolled and unwarranted celebratory firing. Be that as it may, in the absence of any evidence on record to suggest that either that the Appellant aimed at and / or pointed at the large crowd whilst engaging in such celebratory firing- or there existed any prior enmity between the Deceased and the Appellant, we find ourselves unable to accept the Prosecution's version of events as were accepted by the Trial Court and confirmed by the High Court - Conviction modified to Section 304 Part II IPC.

Kavita Kamboj vs High Court of Punjab and Haryana 2024 INSC 192- Judicial Service – Cut Off Marks For Viva Voce

Haryana Superior Judicial Service Rules 2007 - High Court Resolution that prescribing that candidates for appointment to the Higher Judicial Service should have a minimum of 50% both in the written test as well as in the viva voce independently- The wisdom of the prescription is clear. A candidate should not just demonstrate the ability to reproduce their knowledge by answering questions in the suitability test, but must also demonstrate both practical knowledge and the application of the substantive law in the course of the interview. The Rules being silent, it was clearly open to the High Court to prescribe such a criterion. (Para 65)

Haryana Superior Judicial Service Rules 2007- Rule 6(1)(a) -Promotion to 65% of the posts to the Higher Judicial Service on the basis of the principle of merit cum-seniority and the passing of a suitability test. The principle of merit-cum seniority is an approved method of selection where merit is the determinative factor and seniority plays a less significant role.¹⁹ Where the principle of ‘merit-cumseniority’ is the basis, the emphasis is primarily on the comparative merit of the judicial officers being considered for promotion. Resultantly, even a junior officer who demonstrates greater merit than a senior officer will be considered for promotion- Caution against using seniority as the sole criterion for promotion in such cases -The Higher or Superior Judicial Service is a gateway to eventual appointments to the High Court. Steps may legitimately be taken by the High Court to ensure that appointments to the higher echelons of the judiciary does not become a parade of mediocrity. (Para 45-46)

Constitution of India, 1950- Article 233- In matters of appointment of judicial officers, the opinion of the High Court is not a mere formality because the High Court is in the best position to know about the suitability of candidates to the post of District Judge. The Constitution therefore expects the Governor to engage in constructive constitutional

dialogue with the High Court before appointing persons to the post of District Judges under Article 233. (Para 62)

Administrative Law -The appropriate authority cannot amend or supersede statutory rules by administrative actions. However, it is open to it to issue instructions to fill up the gaps and supplement the rules where they are silent on any particular point. Such instructions have a binding force provided they are subservient to the statutory provisions and have been issued to fill up the gaps between the statutory provisions. (Para 50)

Nirmal Premkumar vs State 2024 INSC 193 – POCSO Accused Acquitted

Criminal Trial - Sexual Offences - Weight to be attached to the testimony of the victim in matters involving sexual offences where the prosecution's case hinges on the victim's evidence—in cases where witnesses are neither wholly reliable nor wholly unreliable, the Court should strive to find out the true genesis of the incident. The Court can rely on the victim as a “sterling witness” without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistencies excepted), from the initial statement to the oral testimony, without creating any doubt qua the prosecution's case. While a victim's testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded - Referred to Krishan Kumar Malik v. State of Haryana (2011) 7 SCC 130, Rai Sandeep v. State (NCT of Delhi)(2012) 8 SCC 21, Ganesan v. State (2020) 10 SCC 573. (Para 15) - When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version. However, an alleged offence of sexual harassment in a public place, as opposed to one committed within the confines of a room or a house, or even in a

public place but away from the view of the public, stands on somewhat different premise. If any doubt arises in the Court's mind regarding the veracity of the victim's version, the Court may, at its discretion, seek corroboration from other witnesses who directly observed the incident or from other attending circumstances to unearth the truth. (Para 17,18)

Summary: While setting aside concurrent conviction against two teachers, Supreme Court observed: Conviction undoubtedly can be recorded on the sole evidence of a victim of crime- however, it must undergo a strict scrutiny through the well settled legal principles as established by this Court in a catena of decisions. While the actions attributed to A-1, as sought to be demonstrated by the prosecution, may fall within the purview of 'sexual harassment' under section 11 of the POCSO Act, the evidence in this case has been marred by inadequacies from the outset, evident in contradictions within statements and testimonies- an act of sexual harassment of a girl student (who is also a minor) by any teacher would figure quite high in the list of offences of grave nature since it has far-reaching consequences, which impact more than just the parties to the proceeding. At the same time, it is axiomatic that reputation is earned by a teacher upon rendering service over the years and an accusation like the present would remain as an indelible mark marring his entire future life. Care has, therefore, to be taken so that his right to live a life of dignity and personal liberty are not put to jeopardy on the basis of half-baked evidence.

Suneeta Devi vs Avinash 2024 INSC 194 – Writ Petition

Summary: While setting aside Allahabad HC order, SC observed: the impugned order passed by the High Court smacks of arbitrariness and perversity. The writ petition filed claiming title on the disputed plot of land was taken up in hot haste and was allowed without issuing formal notice to all the respondents. Even the State authorities were not given the proper opportunity of filing a counter. The standing counsel was instructed to appear without any formal notice being issued and was given a single day's opportunity to present the factual report. Based on the factual report and noting the oral submissions of the standing counsel, the writ petition came to be allowed.

State Bank of India vs Association for Democratic Reforms 2024 INSC 195 – SBI's Time Extension Application Dismissed

Electoral Bonds Case -Miscellaneous Application filed by the SBI seeking an extension of time for the disclosure of details of the purchase and redemption of Electoral Bonds until 30 June 2024 is dismissed- the details of the Electoral Bonds which have been purchased and which have been directed to be disclosed in Association For Democratic Reforms vs Union Of India 2024 INSC 113 are readily available with SBI- SBI is directed to disclose the details by the close of business hours on 12 March 2024- ECI shall compile the information and publish the details on its official website no later than by 5 pm on 15 March 2024.

Naresh Kumar vs State Of Karnataka 2024 INSC 196 – S 482 CrPC – Quashing Of Criminal Proceedings Essentially Of Civil Nature

Code of Criminal Procedure, 19973- Section 482- Though inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature -Where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising 8 the inherent powers under Section 482 of the Code of Criminal Procedure Referred to Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673- Randheer Singh v. State of U.P. (2021) 14 SCC 626 and Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90. (Para 5-6)- Indian Penal Code, 1860- Section 415-420- A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case - Referred to Sarabjit Kaur v. State of Punjab and Anr. (2023) 5 SCC 360 - Every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the

accused had fraudulent or dishonest intention at the time of making the promise Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293. (Para 7) [In this case, quashing the criminal proceedings, SC observed: *The dispute between the parties was not only essentially of a civil nature but in this case the dispute itself stood settled later as we have already discussed above. We see no criminal element here and consequently the case here is nothing but an abuse of the process.*

Dablu Kujur vs State Of Jharkhand 2024 INSC 197 - S 173 CrPC

Code Of Criminal Procedure, 1973- Section 173 – Supreme Court expressed concern after it noticed that the investigating officers while submitting the chargesheet/Police Report do not comply with the requirements of Section 173 CrPC- Though it is true that the form of the report to be submitted under Section 173(2) has to be prescribed by the State Government and each State Government has its own Police Manual to be followed by the police officers while discharging their duty, the mandatory requirements required to be complied with by such officers in the Police Report/Chargesheet are laid down in Section 173, more particularly sub-section (2) thereof – Report of police officer on the completion of investigation shall contain the following: – (i) A report in the form prescribed by the State Government stating- (a) the names of the parties- (b) the nature of the information- (c) the names of the persons who appear to be acquainted with the circumstances of the case- (d) whether any offence appears to have been committed and, if so, by whom- (e) whether the accused has been arrested- (f) whether he has been released on his bond and, if so, whether with or without sureties- (g) whether he has been forwarded in custody under section 170. (h) Whether the report of medical examination of the woman has been attached where investigation relates to an offence under [sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB] or section 376E of the Indian Penal Code (45 of 1860)” (ii) If upon the completion of investigation, there is no sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, the Police officer in charge shall clearly state in the Report about the compliance of Section 169 Cr.PC. (iii) When the report in respect of a case to which Section 170 applies, the police officer shall

forward to the Magistrate along with the report, all the documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation- and the statements recorded under Section 161 of all the persons whom the prosecution proposes to examine as its witnesses. (iv) In case of further investigation, the Police officer in charge shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed and shall also comply with the details mentioned in the above sub para (i) to (iii) – The officer in charge of the police stations in every State shall strictly comply with the afore-stated directions, and the non-compliance thereof shall be strictly viewed by the concerned courts in which the Police Reports are submitted- Once from the material produced along with the chargesheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of chargesheet would neither vitiate the chargesheet, nor would it entitle the accused to claim right to get default bail on the ground that the chargesheet was an incomplete chargesheet or that the chargesheet was not filed in terms of Section 173(2) of Cr.P.C – Referred to CBI vs. Kapil Wadhwan (Para 12- 17)

Code Of Criminal Procedure, 1973- Section 173 – Though there are various reports required to be submitted by the police in charge of the police station before, during and after the investigation as contemplated in Chapter XII of Cr.P.C., it is only the report forwarded by the police officer to the Magistrate under sub-section (2) of Section 173 Cr.P.C. that can form the basis for the competent court for taking cognizance thereupon. A chargesheet is nothing but a final report of the police officer under Section 173(2) of Cr.P.C. It is an opinion or intimation of the investigating officer to the concerned court that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed- When such a Police Report concludes that an offence appears to have been committed by a particular person or persons, the Magistrate has three options: (i) he may accept the report and take cognizance of the offence and issue process, (ii) he may direct further investigation under sub-section (3) of Section 156 and require the police to

make a further report, or (iii) he may disagree with the report and discharge the accused or drop the proceedings. If such Police Report concludes that no offence appears to have been committed, the Magistrate again has three options: (i) he may accept the report and drop the proceedings, or (ii) he may disagree with the report and taking the view that there is sufficient ground for proceeding further, take cognizance of the offence and issue process, or (iii) he may direct further investigation to be made by the police under sub-section (3) of Section 156.

Thakore Umedsing Nathusing vs State Of Gujarat 2024 INSC 198 – Criminal Trial- Circumstantial Evidence- Appeal Against Acquittal- S 25 Evidence Act

Criminal Trial - Circumstantial Evidence - The principles required to bring home the charges in a case based purely on circumstantial evidence have been crystalized in the case of Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116 - “(1) the circumstances from which the conclusion of guilt is to be drawn must or should be and not merely “may be”, fully established. (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty, (3) the circumstances should be of a conclusive nature and tendency, (4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused. (Para 23)

Code Of Criminal Procedure, 1973- Section 378,386- The scope of interference by the High Court in exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378(1)(b) CrPC were reiterated in the case of H.D. Sundara and 10 Others v. State of Karnataka, (2023) 9 SCC 581- (a) The acquittal of the accused further strengthens

the presumption of innocence- (b) The appellate Court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence- (c) The appellate Court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the Trial Court is a possible view which could have been taken on the basis of the evidence on record- (d) If the view taken is a possible view, the appellate Court cannot overturn the order of acquittal on the ground that another view was also possible- and (e) The appellate Court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. (Para 24)

Indian Evidence Act, 1872- Section 25 -Confession of an accused in custody recorded by a police officer is inadmissible in evidence as the same would be hit by Section 25 of the Evidence Act. Thus, that part of the statement of A1 as recorded in the report/ communication (Exhibit96), wherein he allegedly confessed to the crime of murder of the jeep driver and looting the jeep and named the other accused persons as particeps criminis is totally inadmissible and cannot be read in evidence except to the extent provided under Section 27 of the Evidence Act.- disclosure statement of accused cannot be read in evidence against the other accused - Referred to Haricharan Kurmi v. State of Bihar reported in AIR 1964 SC 1184- The interrogation note of accused being hit by Section 25 of the Evidence Act cannot be read in evidence for any purpose whatsoever. (Para 29,36)

Criminal Trial -Referred to Mustkeem alias Sirajudeen v. State of Rajasthan (2011) 11 SCC 724 - the solitary circumstance of recovery of bloodstained weapons cannot constitute such evidence which can be considered sufficient to convict an accused for the charge of murder- Even if it is assumed for a moment that such recoveries were effected, the same did not lead to any conclusive circumstance in form of Serological report establishing the presence of the same blood group as that of the deceased and hence they do not further the cause of prosecution. In addition thereto, we find that the prosecution failed to lead the link evidence mandatorily required to establish the factum of safe keeping of the muddamal articles and hence, the recoveries became irrelevant (Para 35)

**Mahanadi Coalfields Ltd. vs Brajrajnagar Coal Mines Workers' Union 2024
INSC 199 – Labour Law- Regularization**

Summary: Industrial Tribunal allowed the industrial dispute and directed the regularization of the remaining 13 workmen - Upholding this order, SC held: a case of wrongful denial of employment and regularization, for no fault of the workmen and therefore, there will be no order restricting their wages- taking into account, the longdrawn litigation affecting the workmen as well as the appellant in equal measure and taking into account the public interest, we confine the backwages to be calculated from the decision of the Tribunal dated 23.05.2002. This is the only modification in the order of the Tribunal, and as was affirmed by the judgment of the High Court

Sri Pubi Lombi vs State Of Arunachal Pradesh 2024 INSC 200 – Judicial Review Of Transfer Orders

Constitution of India, 1950- Article 226 - Service Law - Transfer Orders - The scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by malafide, non-observation of executive instructions does not confer a legally enforceable right to an employee holding a transferable post- in absence of (i) pleadings regarding malafide, (ii) non-joining the person against whom allegation are made, (iii) violation of any statutory provision (iv) the allegation of the transfer being detrimental to the employee who is holding a transferrable post, judicial interference is not warranted. (Para 9-10) [Referred to Union of India and others Vs. S.L. Abbas- (1993) 4 SCC 357,Union of India and another Vs. N.P. Thomas- 1993 Supp (1) SCC 704 , N.K. Singh Vs. Union of India and others-(1994) 6 SCC 98 , Mohd. Masood Ahmad Vs. State of U.P. and others- (2007) 8 SCC 150, State of Punjab Vs. Joginder Singh Dhatt- AIR 1993 SC 2486, Ratnagiri Gas and Power Private Limited Vs. RDS Projects Limited and Ors.- (2013) 1 SCC 524]

Snehadeep Structures Pvt. Limited vs Maharashtra Small Scale Industries Development Corporation Ltd 2024 INSC 201- Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act

Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993- Section 3- After enactment of the proviso to Section 3, the contractual rights of the parties to agree to the date of payment, have been restricted in terms of the said proviso. In other words, if the contractual date of payment exceeds 120 days from the day of acceptance or the day of deemed acceptance, interest would be payable for the period beyond 120 days from the day of acceptance or the date of deemed acceptance. (Para 8)

Srikant Upadhyay vs State of Bihar 2024 INSC 202 – Ss 82,83, 438 – Anticipatory Bail – Proclamation

Code of Criminal Procedure, 1973- Section 438, 83- In the absence of any interim order, pendency of an application for anticipatory bail shall not bar the Trial Court in issuing/proceeding with steps for proclamation and in taking steps under Section 83, Cr.PC, in accordance with law. (Para 23)

Code of Criminal Procedure, 1973- Section 438 -Filing of an Anticipatory Bail Application by the petitioners-accused through their advocate cannot be said to be an appearance of the petitioners-accused in a competent Court, so far as proceeding initiated under Section 82/83 of the Code is concerned - Approved Savitaben Govindbhai Patel & Ors. v. State of Gujarat 2004 SCC OnLine Guj 345

Code of Criminal Procedure, 1973- Section 438 -Nothing prevents the court from adjourning such an application without passing an interim order - In view of the proviso under Section 438(1), Cr.PC, it cannot be contended that if, at the stage of taking up the matter for consideration, the Court is not rejecting the application, it is bound to pass an interim order for the grant of anticipatory bail- Approved Shrenik Jayantilal Jain and Anr. v. State of Maharashtra Through EOW Unit II, Mumbai 2014 SCC Online Bom 549. (Para 23)

Code of Criminal Procedure, 1973- Section 438 -The power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant. (Para 24)

Code of Criminal Procedure, 1973- Section 82-The sine qua non for initiation of an action under Section 82, Cr. PC is prior issuance of warrant of arrest by the Court concerned. (Para 10)

Baban Balaji More (D) vs Babaji Hari Shelar (D) 2024 INSC 203 – Maharashtra Hereditary Offices Act, 1874 – Maharashtra Tenancy and

Agricultural Lands Act, 1948, Maharashtra Revenue Patels (Abolition of Offices) Act, 1962

Maharashtra Hereditary Offices Act, 1874 - Maharashtra Tenancy and Agricultural Lands Act, 1948- Maharashtra Revenue Patels (Abolition of Offices) Act, 1962 - it was not open to the appellants to proceed against the tenants under the provisions of Sections 5, 11 and 11A of the 1874 Act after the death of Balaji Chimnaji More, the original Watandar, in February/March, 1958. This is because the provisions of the Tenancy Act were very much applicable to the subject lands by then and more so, Sections 29 and 31 thereof. Therefore, the legal heirs of the original Watandar could not have taken lawful possession of these lands from the tenants pursuant to the order dated 18.04.1961 passed under Sections 5, 11 and 11A of the 1874 Act. The same was rightly held to be invalid in the revisionary order dated 03.05.1982 and that finding was correctly held to be justified by the Bombay High Court. We also hold that the tenancy was lawfully subsisting on 01.04.1957, i.e., Tillers' Day, and the tenants were entitled to exercise their right of statutory purchase of these 27 tenanted agricultural Watan lands under Section 32 of the Tenancy Act in terms of Section 8 of the Abolition Act, after the exemption afforded by Section 88CA ceased to exist. That right became operational on 27.11.1964, when these Watan lands were regranted to the heirs of the original Watandar.

Global Technologies and Research vs Principal Commissioner of Customs, New Delhi (Import) 2024 INSC 204- S 129A Customs Act, 1962 – Limitation

Customs Act, 1962- Section 129A - There is no prescribed period of limitation for passing an order in exercise of the power under sub-section (2) of Section 129A -Even if the law does not provide for a specific period for taking a particular action, the authority vested with the power to take action must take the action within a reasonable time. (Para 7)

**Rakesh Ranjan Shrivastava vs State Of Jharkhand 2024 INSC 205 – S 143A NI
Act – Interim Compensation**

Negotiable Instruments Act, 1881- Section 143A - Grant of interim compensation - Considering the drastic consequences of exercising the power under Section 143A and that also before the finding of the guilt is recorded in the trial, the word “may” used in the provision cannot be construed as “shall”. The provision will have to be held as a directory and not mandatory- While deciding the prayer made under Section 143A, the Court must record brief reasons indicating consideration of all relevant factors - The broad parameters for exercising the discretion under Section 143A are as follows: i. The Court will have to *prima facie* evaluate the merits of the case made out by the complainant and the merits of the defence pleaded by the accused in the reply to the application. The financial distress of the accused can also be a consideration. ii. A direction to pay interim compensation can be issued, only if the complainant makes out a *prima facie* case. iii. If the defence of the accused is found to be *prima facie* plausible, the Court may exercise discretion in refusing to grant interim compensation. iv. If the Court concludes that a case is made out to grant interim compensation, it will also have to apply its mind to the quantum of interim compensation to be granted. While doing so, the Court will have to consider several factors such as the nature of the transaction, the relationship, if any, between the accused and the complainant, etc. v. There could be several other relevant factors in the peculiar facts of a given case, which cannot be exhaustively stated. The parameters stated above are not exhaustive. (Para 19)

Negotiable Instruments Act, 1881- Section 148- The word “may” used therein will have to be generally construed as “rule” or “shall”- when the Appellate Court decides not to direct the deposit by the accused, it must record the reasons - Referred to Surinder Singh Deswal v. Virender Gandhi (2019) 11 SCC 341 (Para 15) - Sub-section (1) of Section 148 confers on the Appellate Court a power to direct the appellant/accused to deposit 20 per cent of the compensation amount. It operates at a different level as the power

thereunder can be exercised only after the appellant/accused is convicted after a full trial.
(Para 13)

Interpretation of Statutes- The word “may” ordinarily does not mean “must”. Ordinarily, “may” will not be construed as “shall”. But this is not an inflexible rule. The use of the word “may” in certain legislations can be construed as “shall”, and the word “shall” can be construed as “may”. It all depends on the nature of the power conferred by the relevant provision of the statute and the effect of the exercise of the power. The legislative intent also plays a role in the interpretation of such provisions. Even the context in which the word “may” has been used is also relevant. (Para 9)

Susela Padmavathy Amma vs Bharti Airtel Limited 2024 INSC 206 – S 141 NI Act- Liability Of Director Averments

Negotiable Instruments Act, 1881- Section 141 - For making a Director of a Company liable for the offences committed by the Company under Section 141 of the Act, there must be specific averments against the Director showing as to how and in what manner the Director was responsible for the conduct of the business of the Company - merely reproducing the words of the section without a clear statement of fact as to how and in what manner a director of the company was responsible for the conduct of the business of the company, would not ipso facto make the director vicariously liable. [Referred to Pooja Ravinder Devidasani vs. State of Maharashtra (2014) 16 SCC 1, Lalankumar Singh vs. State of Maharashtra o 2022 SCC OnLine SC 1383 and Ashoke Mal Bafna vs. Upper India Steel Manufacturing and Engineering Company Limited (2018) 14 SCC 202 [In this case, there was no averment to the effect that the accused is in-charge of and responsible for the day-to-day affairs of the Company]

Jafar vs State Of Kerala 2024 INSC 207 – Criminal Trial – Test Identification Parade

Criminal Trial - Test Identification Parade - In the absence of proper identification parade being conducted, the identification for the first time in the Court cannot be said to be free from doubt [Concurrent Conviction for the offence punishable under Section 397 read with Section 395 IPC set aside] (Para 7)

Executive Engineer KNNL vs Subhashchandra 2024 INSC 208 – Land Acquisition

Summary: Civil appeals against the High Court of Karnataka judgment whereby compensation for the acquired land was enhanced - Allowing appeal, SC observed: We deem it appropriate to remand these cases also to the High Court so that a holistic view pertaining to the subject acquisition, at least project wise, can be taken by the High Court. The High Court will make an endeavour to infuse uniformity in the matter of award of compensation, to the extent it is possible, in accordance with law.

Association of Democratic Reforms vs Union of India 2024 INSC 209 – Electoral Bonds – ECI's Application

Electoral Bonds - Association For Democratic Reforms vs Union Of India 2024 INSC 113 :: [2024] 2 S.C.R. 420 - Further Directions issued: (i) The Registrar (Judicial) of this Court shall ensure that the data which has been filed by ECI in pursuance of the interim orders of this Court is scanned and digitized. This may be carried out preferably by 5 pm tomorrow (16 March 2024)- (ii) Once the above exercise is completed, the originals shall be returned to Mr Amit Sharma, counsel appearing on behalf of ECI- (iii) ECI shall then upload the data on its website on or before 5 pm on 17 March 2024- and (iv) A copy of the

scanned and digitized files shall also be made available to Mr Amit Sharma to obviate the replication of the process of digitization.- The judgment required the State Bank of India to furnish to the ECI all details of the Electoral Bonds purchased, and, as the case may, redeemed by political parties, including the date of purchase/redemption, name of the purchaser and the denomination of the Electoral Bond purchased. It has been submitted that SBI has not disclosed the alpha-numeric numbers of the Electoral Bonds- Registry to issue notice to SBI, returnable on 18 March 2024. Additionally, we also direct the presence of a Senior Officer of SBI who is responsible for the management and storage of details of Bonds purchased and redeemed on the next date of hearing.

U.P. Avas Evam Vikas Parishad vs Chandra Shekhar 2024 INSC 210 – U.P. Avas Evam Vikas Parishad Adhiniyam – RFCTLARR

U.P. Avas Evam Vikas Parishad Adhiniyam, 1965 - Section 55 -It may be seen from Section 55 of the 1965 Act that the compensation for the acquired land was required to be assessed in accordance with the provisions of the Land Acquisition Act 1894, which stood repealed w.e.f. 01.01.2014 by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 55 of the 1965 Act cannot be given effect unless it is declared by way of a deeming fiction that instead of 1894 Act which now stands repealed, the compensation shall be assessed in accordance with the provisions of the 2013 Act. We hold accordingly. Since the acquisition could not attain finality before 01.01.2014, the Acquiring Authority/Board are obligated to pay compensation to the expropriated owners, as is to be assessed in accordance with Section 24(1) of the 2013 Act.

Ravinder Kumar vs State Of NCT Of Delhi 2024 INSC 211 – Ss 27,106 Evidence Act – Circumstantial Evidence

Indian Evidence Act, 1872- Section 27 - For a recovery to be admissible on the statement made under Section 27 of the Evidence Act, it has to be from such a place which is exclusively within the knowledge of the maker thereof. When (1) the recovery is from a place accessible to one and all and the recovery panchnama also does not mention the date regarding such a recovery (2). there is no entry in malkhana register with regard to the deposit of the said articles and sending them to the FSL for chemical examination, the said circumstances cannot be said to be proved beyond reasonable doubt. (Para 13)

Criminal Trial - Circumstantial Evidence - It is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established - It is a primary principle that the accused 'must be' and not merely 'may be' guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' - that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty - the circumstances should be such that they exclude every possible hypothesis except the one to be proved -there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused - the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt - Referred to Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116 : 1984 INSC 121 (Para 8-10)

Indian Evidence Act, 1872- Section 106 - The burden shifts on the accused under Section 106 of the Evidence Act, the prosecution will have to prove its case -Where husband and wife reside together in a house and the crime is committed inside the house, it will be for the husband to explain how the death occurred in the house where they cohabited together. However, even in such a case, the prosecution will have to first establish that before the death occurred, the deceased and the accused were seen in the said house - Referred to Trimukh Maroti Kirkan v. State of Maharashtra (2006) 10 SCC 681 : 2006 INSC 691

Periyasamy vs State 2024 INSC 212 – Right To Private Difference – Criminal Trial – Independent Witness

Indian Penal Code, 1860- Section 96-106- Right To Private Defence - (i) Self-preservation is the basic human instinct and is duly recognised by the criminal jurisprudence of all civilised countries. All free, democratic and civilised countries recognise the right of private defence within certain reasonable limits. (ii) The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger and not of self-creation. (iii) A mere reasonable apprehension is enough to put the right of self-defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised. (iv) The right of private defence commences as soon as a reasonable apprehension arises and it is coterminous with the duration of such apprehension. (v) It is unrealistic to expect a person under assault to modulate his defence step by step with any arithmetical exactitude. (vi) In private defence the force used by the accused ought not to be wholly disproportionate or much greater than necessary for protection of the person or property. (vii) It is well settled that even if the accused does not plead selfdefence, it is open to consider such a plea if the same arises from the material on record. (viii) The accused need not prove the existence of the right of private defence beyond reasonable doubt. (ix) The Penal Code confers the right of private defence only when that unlawful or wrongful act is an offence. (x) A person who is in imminent and reasonable danger of losing his life or limb may in exercise of self-defence inflict any harm even extending to death on his assailant either when the assault is attempted or directly threatened. [Referred in Sukumaran v State (2019) 15 SCC 117and Darshan Singh v State of Punjab (2010) 2 SCC 333] (Para 19,20)

Criminal Trial- non-examination of independent witnesses would not be fatal to a case

set up by the prosecution. The difference between a witness who is “interested” and one who is “related”- it is not the law that the evidence of an interested witness should be equated with that of a tainted evidence or that of an approver so as to require corroboration as a matter of necessity. The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration. Indeed there may be circumstances where only interested evidence may be available and no other, e.g. when an occurrence takes place at midnight in the house when the only witnesses who could see the occurrence may be the family members. In such cases it would not be proper to insist that the evidence of the family members should be disbelieved merely because of their interestedness - if witnesses examined are found to be ‘interested’ then, the examination of independent witnesses would assume importance. (Para 21)

Jaipur Vidyut Vitran Nigam vs Adani Power Rajasthan 2024 INSC 213 -Maintainability Of Post Disposal Application For Modification & Clarification

Practice and Procedure - Miscellaneous Applications - A post disposal application for modification and clarification of the order of disposal shall lie only in rare cases, where the order passed by this Court is executory in nature and the directions of the Court may become impossible to be implemented because of subsequent events or developments (Para 20)

Code Of Civil Procedure, 1908- Section 148- The power to extend time beyond that fixed by a Court on a legitimate ground is incorporated in Section 148 of the Code. If the time to do something requires to be extended, it would be within the inherent jurisdiction of this Court to go beyond the maximum period of 30 days prescribed in the aforesaid Section, after sufficient reason is shown. Section 112 of the Code itself provides that nothing contained in the Code shall affect the inherent powers of the Supreme Court under Article 136 or any other provision of the Constitution. (Para 17)

Code Of Civil Procedure, 1908- Order XXIII Rule 1 -Any plaintiff would be entitled to abandon a suit or abandon part of the claim made in the suit at any time after institution of the suit, as provided in Rule 1 of Order XXIII of the Code - The provision which pertains to a suit would not ipso facto apply to a miscellaneous application invoking inherent powers of this Court, instituted in a set of statutory appeals which stood disposed of. Even if an applicant applies for withdrawal of an application, in exceptional cases, it would be within the jurisdiction of the Court to examine the application and pass appropriate orders. (Para 19)

M Radheshyamal vs V Sandhya 2024 INSC 214 – Adverse Possession

Adverse Possession - When a party claims adverse possession, he must know who the actual owner of the property is - To prove the plea of adverse possession :- (a) The plaintiff must plead and prove that he was claiming possession adverse to the true owner- (b) The plaintiff must plead and establish that the factum of his long and continuous possession was known to the true owner- (c) The plaintiff must also plead and establish when he came into possession- and (d) The plaintiff must establish that his possession was open and undisturbed - by pleading adverse possession, a party seeks to defeat the rights of the true owner, and therefore, there is no equity in his favour - Referred to f M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das (2020) 1 SCC 1 and Karnataka Board of Wakf v. Govt. of India (2004) 10 SCC 779. (Para 9-13)

Navas @ Mulanavas vs State Of Kerala 2024 INSC 215 – Criminal Trial – Sentencing – S 106 Evidence Act

Criminal Trial -Sentencing - In the process of arriving at the number of years which the convict will have to undergo before which the remission powers could be invoked, some of the relevant factors that the courts bear in mind are:- (a) the number of deceased

who are victims of that crime and their age and gender- (b) the nature of injuries including sexual assault if any- (c) the motive for which the offence was committed- (d) whether the offence was committed when the convict was on bail in another case- (e) the premeditated nature of the offence- (f) the relationship between the offender and the victim- (g) the abuse of trust if any- (h) the criminal antecedents- and whether the convict, if released, would be a menace to the society. Some of the positive factors have been, (1) age of the convict- (2) the probability of reformation of convict- (3) 62 the convict not being a professional killer- (4) the socioeconomic condition of the accused- (5) the composition of the family of the accused and (6) conduct expressing remorse. These were some of the relevant factors that were kept in mind in the cases noticed above while weighing the pros and cons of the matter. The Court would be additionally justified in considering the conduct of the convict in jail- and the period already undergone to arrive at the number of years which the Court feels the convict should, serve as part of the sentence of life imprisonment and before which he cannot apply for remission. These are not meant to be exhaustive but illustrative and each case would depend on the facts and circumstances therein. (Para 57) [In this case, the sentence under Section 302 imposed by the High Court modified from a period of 30 years imprisonment without remission to that of a period of 25 years imprisonment without remission, including the period already undergone]

Criminal Trial - Circumstantial Evidence - Panchsheel or the five principles essential to be kept in mind while convicting an accused in a case based on circumstantial evidence- Referred to Sharad Birdhichand Sarda vs. State of Maharashtra (1984) 4 SCC 116. (Para 14)

Indian Evidence Act, 1872- Section 106 -Section 106 is not intended to relieve the prosecution of its duty - In exceptional cases where it could be impossible or at any rate disproportionately difficult for the prosecution to establish the facts which are especially within the knowledge of the accused, the burden will be on the accused since he could prove as to what transpired in such scenario, without difficulty or inconvenience. In this case, when an offence like multiple murders is committed inside a house in secrecy, the initial burden has to be discharged by the prosecution. Once the prosecution successfully discharged the burden cast upon it, the burden did shift upon the appellant being the only other person inside the four corners of the house to offer a cogent and plausible

explanation as to how the offences came to be committed - Referred to Shambhu Nath Mehra vs. The State of Ajmer, 1956 SCR 199. (Para 12)

X vs A 2024 INSC 216 – Rape By Giving Promise To Marry – Quashing

Indian Penal Code, 1860- Section 375 - Rape by giving promise to marry - Appeal against HC judgment Quashing criminal proceedings against accused dismissed- The allegations in the FIR so also in the restatement made before the Dy. S.P., do not, on their face, indicate that the promise by accused No. 1 was false or that the complainant engaged in the sexual relationship on the basis of such false promise. This apart from the fact that the prosecutrix has changed her version. The version of events given by the prosecutrix in the restatement is totally contrary to the one given in the FIR -Referred to Pramod Suryabhan Pawar v. State of Maharashtra (2019) 9 SCC 608 and Shambhu Kharwar v. State of Uttar Pradesh 2022 SCC OnLine SC 1032. (Para 15)

Code Of Criminal Procedure, 1973- Section 482 - The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases- the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. (Para 18)

Satyendar Kumar Jain vs Directorate Of Enforcement 2024 INSC 217- PMLA – Bail

Prevention of Money Laundering Act, 2002- Section 3- The offence as defined captures every process and activity in dealing with the proceeds of crime, directly or indirectly, and is not limited to the happening of the final act of integration of tainted property in the formal economy to constitute an act of money laundering. Of course, the authority of the Authorised Officer under the Act to prosecute any person for the offence of

money laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the Act and further it is involved in any process or activity. Not even in case of existence of undisclosed income and irrespective of its volume, the definition of "Proceeds of Crime" under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. The property must qualify the definition of "Proceeds of Crime" under Section 2(1)(u) of the Act - In all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of 39 "Proceeds of Crime" uThe offence as defined captures every process and activity in dealing with the proceeds of crime, directly or indirectly, and is not limited to the happening of the final act of integration of tainted property in the formal economy to constitute an act of money laundering. Of course, the authority of the Authorised Officer under the Act to prosecute any person for the offence of money laundering gets triggered only if there exists proceeds of crime within the meaning of Section 2(1)(u) of the Act and further it is involved in any process or activity. Not even in case of existence of undisclosed income and irrespective of its volume, the definition of "Proceeds of Crime" under Section 2(1)(u) will get attracted, unless the property has been derived or obtained as a result of criminal activity relating to a scheduled offence. The property must qualify the definition of "Proceeds of Crime" under Section 2(1)(u) of the Act. As observed, in all or whole of the crime property linked to scheduled offence need not be regarded as proceeds of crime, but all properties qualifying the definition of "Proceeds of Crime". (Para 21).

NBCC (India) Limited vs Zillion Infraprojects Pvt. Ltd. 2024 INSC 218 – Arbitration Agreement

Arbitration And Conciliation Act, 1996- Section 7 -A reference to the document in the contract should be such that shows the intention to incorporate the arbitration clause contained in the document into the contract - It provides for a conscious acceptance of the arbitration clause from another document, by the parties, as a part of their contract, before such arbitration clause could be read as a part of the contract between the parties -

Referred to M.R. Engineers and Contractors Private Limited vs. Som Datt Builders Limited (2009) 7 SCC 696 (Para 12-13)- Though general reference to an earlier contract is not sufficient for incorporation of an arbitration clause in the later contract, a general reference to a standard form would be enough for incorporation of the arbitration clause- General reference to a standard form of contract of one party along with those of trade associations and professional bodies will be sufficient to incorporate the arbitration clause- Referred to Inox Wind Limited vs Thermocables Limited (2018) 2 SCC 519. (Para 15)

Union of India vs Justice (Retd) Raj Rahul Garg (Raj Rani Jain) 2024 INSC 219- High Court Judges (Salaries and Conditions of Service) Act 1954

High Court Judges (Salaries and Conditions of Service) Act 1954- Section 14 -
A member of the Bar is entitled to the addition of ten years of service by virtue of the provisions of Section 14A. On the addition of the years of service, their pensionary benefits would be computed on the basis of the last drawn salary as a Judge of the High Court. A similar principle, as applicable to Judges appointed from the Bar, must be applied for computing the pension of a member of the district judiciary who is appointed to the High Court. Any other interpretation would result in a plain discrimination between the Judges of the High Court based on the source from which they have been drawn. Such an interpretation would do disservice to the importance of the district judiciary in contributing to the judiciary of the nation, and would be contrary to the overall scheme and intentment of Chapter III of the statute. It would go against the antidiscriminatory principles stipulated by this Court in so far as Judges drawn from various sources are concerned. (Para 30)

Judicial Service - Pensionary payments to Judges constitute a vital element in the independence of the judiciary. As a consequence of long years of judicial office, Judges on demitting office do not necessarily have the options which are open to members from other services. The reason why the State assumes the obligation to pay pension to Judges is to ensure that the protection of the benefits which are available after retirement would ensure

their ability to discharge their duties without “fear or favour” during the years of judgeship. The purpose of creating dignified conditions of existence for Judges both during their tenure as Judges and thereafter has, therefore, a vital element of public interest. Courts and the Judges are vital components of the rule of law. Independence of the judiciary is hence a vital doctrine which is recognized in the constitutional scheme. The payment of salaries and dignified pensions serves precisely that purpose. Hence, any interpretation which is placed on the provisions of the Act must comport with the object and purpose underlying the enactment of the provision. (Para 25)

Shiv Prasad Semwal vs State Of Uttarakhand 2024 INSC 220 – S 153A IPC

Indian Penal Code, 1860- Section 153A IPC- In order to constitute offence, the prosecution must come out with a case that the words ‘spoken’ or ‘written’ attributed to the accused, created enmity or bad blood between different groups on the ground of religion, race, place of birth, residence, language, etc., or that the acts so alleged were prejudicial to the maintenance of harmony - The presence of two or more groups or communities is essential- Referred to Manzar Sayeed Khan v. State of Maharashtra (2007) 5 SCC 1. (Para 26-29)

Puneet Sabharwal vs CBI 2024 INSC 221 – S 227 CrPC – Discharge – Probative Value Of Orders Of Income Tax Authorities In Corruption Case

Code Of Criminal Procedure, 1973- Section 228- Prevention of Corruption Act, 1988 -Income Tax Act, 1961 -In this case, the accused against whom charges were framed under the Prevention of Corruption Act, seek to rely upon findings recorded by authorities under the Income Tax Act- SC held: The scope of adjudication in both the proceedings are markedly different and therefore the findings in the latter cannot be a ground for discharge of the Accused Persons in the former. The proceedings under the Income Tax Act and its

evidentiary value remains a matter of trial and they cannot be considered as conclusive proof for discharge of an accused - The probative value of the Orders of the Income Tax Authorities, including the Order of the Income Tax Appellate Tribunal and the subsequent Assessment Orders, are not conclusive proof which can be relied upon for discharge of the accused persons. These orders, their findings, and their probative value, are a matter for a full-fledged trial.

Code Of Criminal Procedure, 1973- Section 228- A strong suspicion founded on material on record which is ground for presuming the existence of factual ingredients of an offence would justify the framing of charge against an accused person [Referred to Onkar Nath Mishra & Ors. v. State (NCT of Delhi) & Anr. (2008) 2 SCC 45 561 Paragraph 11]. The Court is only required to consider judicially whether the material warrants the framing of charge without blindly accepting the decision of the prosecution [Referred to State of Karnataka v. L. Muniswamy & Ors. (1977) 2 SCC 699 Paragraph 10]

Mohan Hirachand Shah vs Geeta Kumarchand Shah 2024 INSC 222 – Pleadings – SLP Scope

Pleadings - In absence of pleading, any amount of evidence will not help the party - Referred to Biraji @ Brijraji and Anr. v. Surya Pratap (2020) 10 SCC 729, Bachhaj Nahar v. Nilima Mandal (2008) 17 SCC 491, Ram Sarup Gupta (Dead) by LRs v. Bishun Narain Inter College (1987) 2 SCC 555 and Anathula Sudhakar v. P. Buchi Reddy (Dead) (2008) 4 SCC 594. (Para 23)

Constitution of India, 1950- Article 136- Despite dealing with the appeal after granting special leave, Court not bound to go into merits and even if it did so by declaring the law or point out the error, the Court still did not see the need for interference because the facts of the matter did not require interference or that the relief prayed for could be moulded in a different fashion -- Referred to Taherakhatoon (D) by LRS v. Salambin Mohammad (1999) 2 SCC 635 -Discretionary jurisdiction under Article 136 of the

Constitution of India need not be exercised by this Court wherein impugned judgement is even found to be erroneous, for justice on the main issues has been done by the judgement of a court- Referred to Chandra Singh and Ors. v. State of Rajasthan (2003) 6 SCC 545.

Apoorva Arora vs State (Govt Of NCT Of Delhi) 2024 INSC 223 – S 67,67A IT Act – Vulgarity & Profanities Not Obscenity

Information Technology Act, 2000- Section 67 - Indian Penal Code, 1860- Section 292- “Obscenity” has been similarly defined in Section 292 and Section 67 as material which is: i. lascivious- or ii. appeals to the prurient interest- or iii. its effect tends to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it. However, the difference between them is only that Section 67 is a special provision that applies when the obscene material is published or transmitted in the electronic form- The law on determining obscenity has been summarised and reiterated in Ajay Goswami v. Union of India : i. Obscenity must be judged with regard to contemporary mores and national standards. 49 ii. The work must be judged as a whole and the alleged offending material must also be separately examined to judge whether they are so grossly obscene that they are likely to deprave and corrupt the reader or viewer.⁵⁰ There must be a clear and present danger that has proximate and direct nexus with the material. iii. All sex-oriented material and nudity per se are not always obscene.⁵² iv. The effect of the work must be judged from the standard of an average adult human being. Content cannot be regulated from the benchmark of what is appropriate for children as then the adult population would be restricted to read and see only what is fit for children. Likewise, regulation of material cannot be as per the standard of a hypersensitive man and must be judged as per an “ordinary man of common sense and prudence”Where art and obscenity are mixed, it must be seen whether the artistic, literary or social merit of the work outweighs its obscenity and makes the obscene content insignificant or trivial. In other words, there must be a preponderating social purpose or profit for the work to be constitutionally protected as free

speech. Similarly, a different approach may have to be used when the material propagates ideas, opinions, and information of public interest as then the interest of society will tilt the balance in favour of protecting the freedom of speech (for example, with medical textbooks). vi. The Court must perform the task of balancing what is artistic and what is obscene. To perform this delicate exercise, it can rely on the evidence of men of literature, reputed and recognised authors to assess whether there is obscenity (Para 10-25)

Information Technology Act, 2000- Section 67 - Indian Penal Code, 1860-

Section 292- The enquiry under Section 292 of the IPC or under Section 67 of the IT Act does not hinge on whether the language or words are decent, or whether they are commonly used in the country. Rather, the inquiry is to determine whether the content is lascivious, appeals to prurient interests, or tends to deprave and corrupt the minds of those in whose hands it is likely to fall - Vulgarity and profanities do not per se amount to obscenity. While a person may find vulgar and expletive-filled language to be distasteful, unpalatable, uncivil, and improper, that by itself is not sufficient to be 'obscene'. Obscenity relates to material that arouses sexual and lustful thoughts, which is not at all the effect of the abusive language or profanities that have been employed in the episode. Rather, such language may evoke disgust, revulsion, or shock -the standard for determination cannot be an adolescent's or child's mind, or a hypersensitive person who is susceptible to such influences -The metric to assess obscenity and legality of any content cannot be that it must be appropriate to play in the courtroom while maintaining the court's decorum and integrity. Such an approach unduly curtails the freedom of expression that can be exercised and compels the maker of the content to meet the requirements of judicial propriety, formality, and official language- The process and method that must be followed to objectively judge whether the material is obscene: The court must consider the work as a whole and then the specific portions that have been alleged to be obscene in the context of the whole work to arrive at its conclusion. Further, the court must first step into the position of the creator to understand what he intends to convey from the work and whether it has any literary or artistic value. It must then step into the position of the reader or viewer who is likely to consume the work and appreciate the possible influence on the minds of such reader- the availability of content that contains profanities and swear words cannot be regulated by criminalising it as obscene. Apart from being a non-sequitur, it is a

disproportionate and excessive measure that violates freedom of speech, expression, and artistic creativity. (Para 34-36)

Information Technology Act, 2000- Section 67A - Section 67A criminalises publication, transmission, causing to publish or transmit – in electronic form – any material that contains sexually explicit act or conduct. Though the three expressions “explicit”, “act”, and “conduct” are open-textured and are capable of encompassing wide meaning, the phrase may have to be seen in the context of ‘obscenity’ as provided in Section 67. Thus, there could be a connect between Section 67A and Section 67 itself. For example, there could be sexually explicit act or conduct which may not be lascivious. Equally, such act or conduct might not appeal to prurient interests. On the contrary, a sexually explicit act or conduct presented in an artistic or a devotional form may have exactly the opposite effect, rather than tending to deprave and corrupt a person - When there is no allegation of any ‘sexually explicit act or conduct’ in the complaint but only about about excessive usage of vulgar expletives, swear words, and profanities, Section 67A does not get attracted. (Para 46-47)

Code Of Criminal Procedure, 1973- Section 482 - A court must exercise its jurisdiction to quash an FIR or criminal complaint when the allegations made therein, taken prima facie, do not disclose the commission of any offence.(Para 48)

Jugal Kishore Khanna (D) vs Sudhir Khanna 2024 INSC 224 – Partition Suit

Summary: Two Suits claiming partition of 2 properties- Trial Court dismissed suits - HC dismissed appeal against dismissal of one suit while allowed appeal against dismissal of another suit - Disposing appeals, SC held: the Impugned Judgment inasmuch as it relates to the Kamla Nagar property viz. RFA No.439 of 2008 stands set aside and the Judgment and Decree passed by the Additional District Judge, Karkardooma Courts, Delhi in Suit No.70/06/83 dated 28.07.2008 relating to the Kamla Nagar property stands restored. It is further held that the appellants are the exclusive owners of the Kamla Nagar property

described hereinbefore. The Impugned Judgment insofar as it relates to RFA No.483 of 2008 is upheld. Accordingly, Civil Appeal No.1591 of 2020 is allowed and Civil Appeal No.1592 of 2020 is dismissed.

Tapas Kumar Das vs Hindustan Petroleum Corporation Limited 2024 INSC 225 – Advertisement – Pleadings

Advertisement - When an advertisement is made inviting applications from the general public for appointment to a post or for admission to any course , the advertisement constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it - An order of cancellation of the candidature of an applicant, which is the subject matter of challenge in a court of law, has to be defended with reference to the Advertisement and the pleadings and not with reference to what was in contemplation of the authority issuing the Advertisement- It is not open to a writ court, much less an appeal court, to direct the modification of any clause/qualification in the Advertisement to suit the interest of any particular candidate or the issuing authority even. Any such direction would amount to re-writing the clause/qualification mentioned in the Advertisement, which would be plainly impermissible. (Para 24-26)

Practice and Procedure - A court cannot be swayed by the version of a party, which is not its pleaded case, and it should confine its decision to the points of assail/defence raised in the pleadings. Any such argument ought to have been traceable in the pleadings, and could not simply have been put before this Court as an afterthought. (Para 25)

Association of Democratic Reforms vs Union of India 2024 INSC 226- Direction To SBI

Clarification of Electoral Bonds judgment- A plain reading of paragraph 221 of the

order dated 15 February 2024 indicates that SBI was required to submit all details, both in terms of the purchase and in terms of the receipt of contributions. The expression “include” in both subparagraphs “b” and “c” demonstrate that the inclusive part is illustrative and not exhaustive of the nature of the disclosure which is to be made by SBI - SBI is required to make a complete disclosure of all details in its possession. This will also comprehend the alphanumeric number and serial number of the Electoral Bonds which were purchased and redeemed -The Chairman and the Managing Director of SBI shall file an affidavit on or before 5.00 pm on 21 March 2024 indicating that SBI has disclosed all details of the Electoral Bonds which are in its possession and custody and that no details have been withheld from disclosure in terms of the directions contained in paragraph 221 of the judgment dated 15 February 2024.

Dr Sonia Verma vs State Of Haryana 2024 INSC 227 – S 482 CrPC – Civil Dispute With Cloak Of Criminality

Code Of Criminal Procedure, 1973- Section 482 – Appeal against judgment of High Court refusing to quash criminal proceedings against accused – SC held: A closer examination of the surrounding facts and circumstances fortifies the conclusion that an attempt has been made by the Respondent to shroud a civil dispute with a cloak of criminality- when the High Court was apprised of such a matter wherein the substance of the criminal complaint served only to cast doubt on the validity of a commercial transaction (in this case, a sale deed for the transfer of property), and the appropriate civil remedy was already being pursued, the High Court ought to have quashed the criminal proceedings.

Devu G Nair vs State of Kerala 2024 INSC 228 – Guidelines For Courts Dealing With Habeas Corpus Petitions Or Petitions For Police Protection

Guidelines for the courts in dealing with habeas corpus petitions or petitions for police protection : a. Habeas corpus petitions and petitions for protection filed by a partner, friend or a natal family member must be given a priority in listing and hearing before the court. A court must avoid adjourning the matter, or delays in the disposal of the case- b. In evaluating the locus standi of a partner or friend, the court must not make a roving enquiry into the precise nature of the relationship between the appellant and the person- c. The effort must be to create an environment conducive for a free and uncoerced dialogue to ascertain the wishes of the corpus- d. The court must ensure that the corpus is produced before the court and given the opportunity to interact with the judges in-person in chambers to ensure the privacy and safety of the detained or missing person. The court must conduct in-camera proceedings. The recording of the statement must be transcribed and the recording must be secured to ensure that it is not accessible to any other party- e. The court must ensure that the wishes of the detained person is not unduly influenced by the Court, or the police, or the natal family during the course of the proceedings. In particular, the court must ensure that the individuals(s) alleged to be detaining the individual against their volition are not present in the same environment as the detained or missing person. Similarly, in petitions seeking police protection from the natal family of the parties, the family must not be placed in the same environment as the petitioners- f. Upon securing the environment and inviting the detained or missing person in chambers, the court must make active efforts to put the detained or missing person at ease. The preferred name and pronouns of the detained or missing person may be asked. The person must be given a comfortable seating, access to drinking water and washroom. They must be allowed to take periodic breaks to collect themselves. The judge must adopt a friendly and compassionate demeanor and make all efforts to defuse any tension or discomfort. Courts must ensure that the detained or missing person faces no obstacles in being able to express their wishes to the court- g. A court while dealing with the detained or missing person may ascertain the age of the detained or missing person. However, the minority of the detained or missing person must not be used, at the threshold, to dismiss a habeas corpus petition against illegal detention by a natal family- h. The judges must showcase

sincere empathy and compassion for the case of the detained or missing person. Social morality laden with homophobic or transphobic views or any personal predilection of the judge or sympathy for the natal family must be eschewed. The court must ensure that the law is followed in ascertaining the free will of the detained or missing person- i. If a detained or missing person expresses their wish to not go back to the alleged detainer or the natal family, then the person must be released immediately without any further delay- j. The court must acknowledge that some intimate partners may face social stigma and a neutral stand of the law would be detrimental to the fundamental freedoms of the appellant. Therefore, a court while dealing with a petition for police protection by intimate partners on the grounds that they are a same sex, transgender, inter-faith or inter-caste couple must grant an ad-interim measure, such as immediately granting police protection to the petitioners, before establishing the threshold requirement of being at grave risk of violence and abuse. The protection granted to intimate partners must be with a view to maintain their privacy and dignity- k. The Court shall not pass any directions for counselling or parental care when the corpus is produced before the Court. The role of the Court is limited to ascertaining the will of the person. The Court must not adopt counselling as a means of changing the mind of the appellant, or the detained/missing person- l. The Judge during the interaction with the corpus to ascertain their views must not attempt to change or influence the admission of the sexual orientation or gender identity of the appellant or the corpus. The court must act swiftly against any queerphobic, transphobic, or otherwise derogatory conduct or remark by the alleged detainees, court staff, or lawyers- and m. Sexual orientation and gender identity fall in a core zone of privacy of an individual. These identities are a matter of self-identification and no stigma or moral judgment must be imposed when dealing with cases involving parties from the LGBTQ+ community. Courts must exercise caution in passing any direction or making any comment which may be perceived as pejorative - The above guidelines must be followed in letter and spirit as a mandatory minimum measure to secure the fundamental rights and dignity of intimate partners, and members of the LGBTQ+ communities in illegal detention. The court must advert to these guidelines and their precise adherence in the judgment dealing with habeas corpus petitions or petition for police protection by intimate partners.

Ekene Godwin vs State Of Tamil Nadu 2024 INSC 229 – S 148 Evidence Act – S 242 CrPC

Criminal Trial - When the examination-in-chief of a material prosecution witness is being recorded, the presence of the Advocate for the accused is required. He has a right to object to a leading or irrelevant question being asked to the witness. If the trial is conducted in such a manner, an argument of prejudice will be available to the accused - Trial Court ought to provide a legal aid Advocate to the appellantsaccused so that the evidence of the prosecution witnesses could have been recorded in the presence of the Advocate representing the accused. (Para 5-6)

Code Of Criminal Procedure, 1973- Section 242- Indian Evidence Act, 1872- Section 138 - In a warrant case, in view of the proviso to the sub-section (3) of Section 242 of the Code of Criminal Procedure, 1973 , the Magistrate, by recording reasons, can permit cross examination of a witness to be postponed till a particular witness or witnesses are examined -The normal rule is that witnesses shall be examined in the order laid down in Section 138 of the Indian Evidence Act, 1872. Sub-section (3) of Section 242 of the Cr.PC is the exception to the rule. (Para 6)

Ernakulam Regional Cooperative Milk Producers Union Ltd. vs 2024 INSC 230 – Art. 226 Constitution – Alternative Remedy

Constitution of India, 1950- Article 226 -Powers of judicial review can always be exercised by a writ Court under Article 226 of the Constitution of India but wherever there are disputed questions of facts that need adjudication, it is best left to the competent forum to adjudicate the same by examining the evidence brought on record before any findings can be returned - If a party approaches the High court without availing of the alternative remedy provided under the statute, the High court ought not to interfere except in circumstances where the party makes out a strong case that there exist convincing grounds

to invoke its extraordinary jurisdiction - When there is a hierarchy of appeals provided under the statute, a party ought to exhaust the statutory remedies before resorting to approaching a writ court - When the disputed questions of facts go to the very root of the matter, it requires evidence and its evaluation before the proper forum. (Para 15-21)

BISCO Limited vs Commissioner Of Customs & Central Excise 2024 INSC 231 – Customs Act

Customs Act, 1971 -Section 15(1)(b) would be applicable only when the goods are cleared from the warehouse under Section 68 of the Customs Act i.e. within the initially permitted period or during the permitted extended period. When the goods are cleared from the warehouse after expiry of the permitted period or its permitted extension, the goods are deemed to have been improperly removed under Section 72(1)(b) of the Customs Act with the consequence that the rate of duty has to be computed according to the rate applicable on the date of expiry of the permitted period under Section 61 - Referred to SBEC Sugar Ltd versus Union of India, (2011) 4 SCC 668. (Para 48)

Somnath vs State Of Maharashtra 2024 INSC 232 – High Handed Acts By Police – Art. 226 Constitution – Power To Award Compensation

Summary: In this case, the accused was allegedly taken out of the lock-up in handcuffs and paraded half-naked with garland of footwear around his neck and is said to have been verbally abused with reference to his caste as also physically assaulted - Disposing appeal against HC judgment that ordered compensation to accused, SC directed: the appeal stands disposed of by upholding the Judgment, with the modification that the respondent is held liable to pay a further sum of Rs.1,00,000/ to the appellant- Direction : Police forces in all States and Union Territories as also all agencies endowed with the power of arrest and custody directed to scrupulously adhere to all Constitutional and statutory safeguards and the additional guidelines laid down in SC Judgments when a person is arrested by them and/or remanded to their custody - A zero-tolerance approach towards

high-handed acts needs to be adopted as such acts, committed by persons in power against an ordinary citizen, who is in a non-bargaining position, bring shame to the entire justice delivery system - Referred to D K Basu v State of West Bengal, (1997) 1 SCC 416 and Sube Singh v State of Haryana, (2006) 3 SCC 178.

Constitution of India, 1950- Article 226 -The power of the High Court under Article 226 of the Constitution of India to award compensation is undoubtable - Referred to Nilabati Behera v State of Orissa, (1993) 2 SCC 746.

AM Mohan vs State 2024 INSC 233 – Ss 415,420 IPC – S 482 CrPC

Indian Penal Code, 1860- Section 415,420 -For attracting the provision of Section 420 of IPC, the FIR/complaint must show that the ingredients of Section 415 of IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person- or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420 of IPC, it must be shown that the FIR/complaint discloses: (i) the deception of any person- (ii) fraudulently or dishonestly inducing that person to deliver any property to any person- and (iii) dishonest intention of the accused at the time of making the inducement - The dishonest inducement is the sine qua non to attract the provisions of Sections 415 and 420 of IPC.

Code of Criminal Procedure, 1973- Section 482- There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 CrPC even when the discharge application is pending with the trial court -Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialised into a charge-sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge-sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court - Referred to Anand Kumar

Mohatta and Another v. State (NCT of Delhi), Department of Home (2019) 11 SCC 706 : 2018 INSC 1060 and Haji Iqbal alias Bala through S.P.O.A. v. State of U.P. 2023 SCC OnLine SC 946 : 2023 INSC 688. (Para 21-22)

Kozyflex Mattresses Private Limited vs SBI General Insurance Company Limited 2024 INSC 234 – Consumer Complaint By A Company

Consumer Protection Act, 1986 - Section 2(1)(m)- Whether a company or body corporate was not covered under the definition of a ‘person’ under the Act of 1986? The definition of ‘person’ as provided in the Act of 1986 is inclusive and not exhaustive. Consumer Protection Act being a beneficial legislation, a liberal interpretation has to be given to the statute. The very fact that in the Act of 2019, a body corporate has been brought within the definition of ‘person’, by itself indicates that the legislature realized the incongruity in the unamended provision and has rectified the anomaly by including the word ‘company’ in the definition of ‘person’. Hence, the first preliminary objection regarding ‘company’ not being covered by the definition of ‘person’ under Act of 1986 has no legs to stand and deserves to be rejected. (Para 15)

Vansh vs Ministry Of Education 2024 INSC 235 – MBBS Admission

MBBS Admission - Medical College and State of Maharashtra directed to pay compensation to the tune of Rs.1 lakh(Rs. 50,000/- each) to the appellant for the deprivation of one year and harassment on the account of illegal and arbitrary cancellation of his admission. - Until a suitable rectification is made in the guidelines/rules, candidate(s) domicile of the State of Maharashtra having acquired SSC and/or HSC qualification from any recognized institution: - (i) Whose parent(s) are domiciles of Maharashtra and employed in the Central Government or its Undertaking, defence services and/or in paramilitary forces viz. CRPF, BSF, etc. and- (ii)Such parent(s) are

posted at any place in the country as on the last date of document verification, shall be entitled for a seat in MBBS Course in the Maharashtra State quota.

Satyanand Singh vs Union Of India 2024 INSC 236 – HIV Aids – Army Service

Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 - despite the enactment of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, and the slew of awareness measures taken by Governments in recent times, the stigma and discrimination which lamentably accompanies an HIV+ve diagnosis is still an illness that afflicts the minds of society today.

Summary: Allowing appeal against AFT order that rejected the appellant's prayer seeking reference of his diagnosis as AIDS inflicted, to a fresh Medical Board , SC observed: *In view of the extreme mental agony thus undergone by the appellant, in not only facing the apathetic attitude of the respondents 2 to 4 but in facing 16 the concomitant social stigma and the looming large death scare that accompanied such a discharge from the armed forces, we deem it fit to award a lumpsum compensation of Rs.50,00,000/- (Rupees fifty lakh only) towards compensation on account of wrongful termination of services, leave encashment dues, non-reimbursement of medical expenses and the social stigma faced, to be paid by the respondents 2 – 4 to the appellant within eight weeks from the date of this judgment without fail. In addition to the above, the appellant shall be entitled to pension in accordance with law as if he had continued in service as Havaldar and on completion of the required years of service retired as such, without being invalidated. We make it clear that since the appellant had not continued in service beyond 26th December, 2001 and there was no occasion to assess his performance for securing a promotion, he shall not be entitled to raise any plea in relation thereto. However, in computing the quantum of pension payable to the appellant, the respondents shall take into account allowances / increments that the appellant would have been entitled to, had he continued in service till the date of his retirement as Havaldar.*

**Divgi Metal Wares Ltd vs Divgi Metal Wares Employees Association 2024
INSC 237 – Labour Law- Standing Orders**

Summary: Transfer of employees of Divgi Metal Wares upheld

**Raghunatha vs State Of Karnataka 2024 INSC 238 -Criminal Trial –
Circumstantial Evidence – S 106 Evidence Act- Last Seen Theory**

Indian Evidence Act, 1872- Section 106 -Where the prosecution proves that the deceased was last seen in the company of the accused and the death of the deceased has occurred soon thereafter, the burden would shift upon the accused. However, for that, initially the prosecution will have to discharge the burden. Merely because the appellants were seen nearby the place where the crime occurred and the accused was holding the chopper, it cannot be said that the deceased was last seen in the company of the accused -This will be nothing but basing the finding of conviction on conjectures and surmises. (Para 13)

Criminal Trial -Suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proven guilty beyond a reasonable doubt - Referred to Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116 : 1984 INSC 121. (Para 7-9)

**Nenavath Bujji vs State Of Telangana 2024 INSC 239 – Preventive Detention –
Advisory Board Role**

Telangana Prevention of Dangerous Activities of BootLeggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders Land-Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 - Preventive Detention - (i) The Detaining Authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction, (ii) It is an unwritten law, constitutional and administrative, that wherever a decision-making function is entrusted to the subjective satisfaction of the statutory functionary, there is an implicit duty to apply his mind to the pertinent and proximate matters and eschew those which are irrelevant & remote, (iii) There can be no dispute about the settled proposition that the detention order requires subjective satisfaction of the detaining authority which, ordinarily, cannot be questioned by the court for insufficiency of material. Nonetheless, if the detaining authority does not consider relevant circumstances or considers wholly unnecessary, immaterial and irrelevant circumstances, then such subjective satisfaction would be vitiated, (iv) In quashing the order of detention, the Court does not sit in judgment over the correctness of the subjective satisfaction. The anxiety of the Court should be to ascertain as to whether the decision-making process for reaching the subjective satisfaction is based on objective facts or influenced by any caprice, malice or irrelevant considerations or non-application of mind, (v) While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention,(vi) The satisfaction cannot be inferred by mere statement in the order that "it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order". Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction, (vii) Inability on the part of the state's police machinery to tackle the law and order situation should not be an excuse to invoke the jurisdiction of preventive detention, (viii) Justification for such an order should exist in the ground(s) furnished to the detenu

to reinforce the order of detention. It cannot be explained by reason(s) / grounds(s) not furnished to the detenu. The decision of the authority must be the natural culmination of the application of mind to the relevant and material facts available on the record, and (ix) To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention . For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority.

Preventive Detention - Role of the Advisory Board- An Advisory Board is not a mere rubber-stamping authority for an order of preventive detention. Whenever any order of detention is placed before it for review, it must play an active role in ascertaining whether the detention is justified under the law or not. Where it finds that such order of detention is against the spirit of the Act or in contravention of the law as laid down by the courts, it can definitely opine that the order of detention is not sustainable and should not shy away from expressing the same in its report - the Advisory Board that must take into consideration all aspects not just the subjective satisfaction of the detaining authorities but whether such satisfaction justifies detention of the detenu. The Advisory Board must consider whether the detention is necessary not just in the eyes of the detaining authority but also in the eyes of law. (Para 49-63)

Saree Sansar vs Govt. of NCT of Delhi 2024 INSC 240 – Additional Duties of Excise (Goods of Special Importance) Act

Additional Duties of Excise (Goods of Special Importance) Act, 1957 - The second Schedule of the ADE Act provides that during each financial year, each State shall be paid a certain percentage of net proceeds of the additional duties levied and collected during the financial year in respect of the goods described in column (3) of Schedule I. However, no additional duty was made payable on silk fabric under the ADE Act. The proviso makes it clear that notwithstanding the ADE Act, there is no bar on the States levying sales tax. If the States do that, no part of the additional duty under the ADE Act will be payable to the concerned States. Therefore, the argument that as silk fabric formed a part of Schedule I of the ADE Act, it disentitled the State Government from levying sales tax is fallacious and cannot be accepted. (Para 8)

Noble M. Paikada vs Union Of India 2024 INSC 241 – Environmental Clearance

Environment (Protection) Rules , 1986 - Rule 5(4)- Article 21 guarantees a right to live in a pollution-free environment. The citizens have a fundamental duty to protect and improve the environment. Therefore, the participation of the citizens is very important, and it is taken care of by allowing them to raise objections to the proposed notification. After all, citizens are major stakeholders in environmental matters. Their participation cannot be prevented by casually exercising the power under sub-rule (4) of Rule 5. (Para 23)

Environmental Clearance -The exemption from obtaining EC granted without incorporating any safeguards is completely unguided and arbitrary. Grant of such blanket exemption completely defeats the very object of the EP Act. (Para 27)

**Avitel Post Studioz Limited vs HSBC PI Holdings (Mauritius) Limited 2024
INSC 242 – Foreign Arbitration Award Enforcement – Challenge On Ground
Of Bias**

Arbitration and Conciliation Act,1996 - Section 48(2)(b) - The most basic notions of morality and justice under the concept of ‘public policy’ would include bias. However, Courts must endeavor to adopt international best practices instead of domestic standards, while determining bias. It is only in exceptional circumstances that enforcement should be refused on the ground of bias -bonafide challenges to arbitral appointments have to be made in a timely fashion and should not be used strategically to delay the enforcement process (Para 26-29) - This sort of challenge where arbitral bias is raised at the enforcement stage, must be discouraged by our Courts to send out a clear message to the stakeholders that Indian Courts would ensure enforcement of a foreign Award unless it is demonstrable that there is a clear violation of morality and justice. The determination of bias should only be done by applying international standards. Refusal of enforcement of foreign awards should only be in a rare case where, non- adherence to International Standards is clearly demonstrable. (Para 42)

Arbitration and Conciliation Act,1996 - Section 48(2)(b) and Section 34(2)(b)(ii) - Wider meaning given to ‘public policy of India’ in the domestic sphere under Section 34(2)(b)(ii) would not apply where objection is raised to the enforcement of the Award under Section 48(2)(b) of the Indian Arbitration Act. This would indicate that the grounds for resisting enforcement of a foreign award are much narrower than the grounds available for challenging a domestic award under Section 34 of the Indian Arbitration Act - Referred to Shri Lal Mahal Ltd. v Progetto Grano SpA (2014) 2 SCC 433. (Para 19)

**Union Of India vs Indian Oil Corporation Ltd. 2024 INSC 243 – S 106(3)
Railways Act – Distinction Between Overcharge & Illegal Charge**

Railways Act, 1989- Section 106(3) - There exists a very fine & clear distinction

between an overcharge and an illegal charge, and that Section 106 sub-section (3) of the Act, 1989 only applies when the claim is for a refund of an overcharge, for all other charges, be it illegal or not, the said provision will have no application whatsoever. (Para 98) - A distinction has been envisaged between an ‘overcharge’ and an ‘illegal charge’, where the former relates to any excess sum paid due to a mistake which was capable of being discovered by exercise of proper vigilance and thus, ought to have been claimed within a period of 6-month (Para 94)- When it comes to a Notice for Claim for Refund of Overcharge under Section 106(3) of the Act, 1989 the following conditions must be fulfilled: - a. Claim must be for refund of an ‘Overcharge’, b. Overcharge must have been paid to the Railway Administration in respect of the goods carried by the railway c. Notice must be issued within 6-months from the date of payment or delivery of goods for which overcharge was paid, and d. Notice must be served to the concerned railway administration to whom the overcharge was paid. Thus, the rigours of Section 106 sub-section (3) i.e., the 6-month timeperiod for making a notice of claim, is only attracted, when the refund is for an overcharge. Whenever, an application is made under Section 16 of the RCT Act for refund, what needs to be seen is whether the same is for a refund of an overcharge or not? If the claim is for an overcharge, Section 106 sub-section (3) would be applicable. (Para 43-44) - the rigours of Section 106(3) of the Act, 1989 will only be applicable where the claim is for a refund of an ‘overcharge’. Where the claim for refund is for anything but an ‘overcharge’, Section 106(3) of the Act, 1989 will not apply, and no notice of claim is required. (Para 59)

Interpretation of Statutes -In interpreting a statute or a rule, the court must bear in mind that the legislature does not intend what is unreasonable or impossible. If a rule leads to an absurdity or manifest injustice from any adherence to it, the court can step in. A statute or a rule ordinarily should be most agreeable to convenience, reason and as far as possible to do justice to all. A law/rule should be beneficial in the sense that it should suppress the mischief and advance the remedy. In interpreting a rule, it is legitimate to take into consideration the reasonableness or unreasonableness of any provision. Gross absurdity must always be avoided in a statute/rule. The expression reasonable means rational, according to the dictate of reason and not excessive or immoderate.

Amudha vs State 2024 INSC 244- S 306 IPC – Suicide Abetment – Criminal Proceedings Quashed

Indian Penal Code, 1860- Section 306 - Allowing appeal filed by appellant -accused against Madras HC judgment refusing to quash criminal proceedings, SC held: Taking the charge sheet as correct, we find that there were no acts of incitement on the part of the appellant proximate to the date on which the deceased committed suicide. No act is attributed to the appellant proximate to the time of the suicide which was of such a nature that the deceased was left with no alternative but to take the drastic step of committing suicide. Therefore, no offence is made out against the appellant.

Sabita Paul vs State Of West Bengal 2024 INSC 245 – Anticipatory Bail – Parity

Code Of Criminal Procedure, 1973- Section 438 - Anticipatory Bail - Grant of bail based on parity is not a claim of right - While applying this principle of parity, the Court is required to focus on the role attached to the accused whose application is under consideration - Referred to Tarun Kumar v. Assistant Director Directorate of Enforcement - [In this case, prime accused was granted bail and the role played by the mother accused was only to further the alleged acts of her son and she has not acted independently, to further aggravate the situation - So court confirmed anticipatory bail granted to her]

Dr Jaya Thakur vs Union Of India 2024 INSC 246 – Election Commissioner Appointment Law

Chief Election Commissioner and other Election Commissioners

(Appointment, Conditions of Service, and Term of Office) Act, 2023 -

Applications seeking stay are dismissed -the observations in this order are tentative and are not to be treated as final and binding, as the matter is sub-judice - The judgment in Anoop Baranwal, Court had issued directions constituting the Selection Committee as a pro-tem measure. This is clear from the judgment, which states that the direction shall hold good till a law is made by the Parliament- Any interjection or stay will be highly inappropriate and improper as it would disturb the 18th General Election for the Lok Sabha which has been scheduled and is now fixed to take place from 19.04.2024 till 01.06.2024 - Given the importance and humongous task undertaken by the Election Commission of India, presence of two more ECs brings about a balance and check.

Chief Election Commissioner and other Election Commissioners**(Appointment, Conditions of Service, and Term of Office) Act, 2023 - Section 6**

-SC expressed concern on the procedure adopted for selection of the incumbents to the two vacant posts of ECs, a significant constitutional post - Such selections should be made with full details and particulars of the candidates being circulated to all members of the Selection Committee - Section 6 of the 2023 Act postulates five prospective candidates which, *prima facie*, appears to mean that for two vacant posts ten prospective candidates should have been shortlisted. Procedural sanctity of the selection process requires fair deliberation with examination of background and merits of the candidate. The sanctity of the process should not be affected. Nevertheless, in spite of the said shortcoming, we do not deem it appropriate at this stage, keeping in view the timelines for the upcoming 18th General Elections for the Lok Sabha, to pass any interim order or direction. As indicated above, this would lead to chaos and virtual constitutional breakdown. Remand at this stage would not resolve the matter. It may also be relevant to state that the petitioners have not commented or questioned the merits of the persons selected/appointed as ECs. (Para 14)

Interim Orders/Stay - In matters involving constitutionality of legislations, courts are cautious and show judicial restraint in granting interim orders. Unless the provision is *ex facie* unconstitutional or manifestly violates fundamental rights, the statutory provision cannot be stultified by granting an interim order. Stay is not *ipso facto* granted for mere examination or even when some cogent contention is raised. Suspension of legislation

pending consideration is an exception and not the rule. The said principle keeps in mind the presumption regarding constitutionality of legislation as well as the fact that the constitutional challenge when made may or may not result in success. The courts do not, unless eminently necessary to deal with the crises situation and quell disquiet, keep the statutory provision in abeyance or direct that the same be not made operational. However, it would not be appropriate to pen down all situations as sometimes even gross or egregious violation of individual Fundamental Rights may on balance of convenience warrant an interim order. The Courts strike a delicate balance to step-in in rare and exceptional cases, being mindful of the immediate need, and the consequences as to not cause confusion and disarray - Balance of convenience, apart from *prima facie* case and irreparable injury, is one of the considerations which the court must keep in mind while considering any application for grant of stay or injunction. Interlocutory remedy is normally intended to preserve status quo unless there are exceptional circumstances which tilt the scales and balance of convenience on account of any resultant injury. (Para 10-12)

Thirumoorthy vs State 2024 INSC 247 – Juvenile Justice Act – Preliminary Assessment By JJB

Juvenile Justice(Care and Protection of Children) Act, 2015 - Section 15 - Quashing the conviction of an accused in POCSO Case, the SC observed: In absence of a preliminary assessment being conducted by the Board under Section 15, and without an order being passed by the Board under Section 15(1) read with Section 18(3), it was impermissible for the trial Court to have accepted the charge sheet and to have proceeded with the trial of the accused - Thus, on the face of the record, the proceedings undertaken by the Sessions Court in conducting trial of the CICL, convicting and sentencing him as above are in gross violation of the mandate of the Act and thus, the entire proceedings stand vitiated - The accused appellant being a CICL was never subjected to preliminary assessment by the Board so as to find out whether he should be tried as an adult. Directing such an exercise at this stage would be sheer futility because now the appellant is nearly 23 years of age. At this stage, there remains no realistic possibility of finding out the mental

and physical capacity of the accused appellant to commit the offence or to assess his ability to understand the consequences of the offence and circumstances in which he committed the offence in the year 2016 - Therefore the appellant who is presently lodged in jail shall be released forthwith, if not required in any other case.

Acme Papers Ltd. vs Chintaman Developers Pvt Ltd 2024 INSC 248 – Ss 10,15-20, 25 CPC

Code of Civil Procedure, 1908- Section 15-20 - Section 20, CPC, which provides that a suit can be initiated where the defendant resides or cause of action arises is a residuary provision only applicable to cases beyond those in Section 15 to 19, CPC.- Referred to Harshad Chiman Lal Modi v. DLF Universal Ltd., (2005) 7 SCC 791. (Para 6)

Code of Civil Procedure, 1908- Section 10,25 -While considering a Transfer Petition under Section 25, CPC regard must be had for Section 10, CPC - Section 10, CPC inter alia mandates that no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue between the parties, litigating under the same title, where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed. It has been incorporated to avoid multiplicity of proceedings on issues which are directly and substantially in issue in the previously filed suit. - Referred to Gupte Cardiac Care Centre and Hospital v. Olympic Pharma Care (P) Ltd., (2004) 6 SCC 756 (Para 7)

Awungshi Chirmayo vs Government of NCT of Delhi 2024 INSC 249 – CBI Investigation

Constitution of India, 1950- Article 32, 226 - CBI Investigation - Circumstances under which the Constitutional Courts would be empowered to issue directions for CBI

enquiry to be made - Referred to State of West Bengal and Others vs Committee for Protection of Democratic Rights, West Bengal and others (2010) 3 SCC 571 : the power to transfer investigation should be used sparingly, however, it could be used for doing complete justice and ensuring there is no violation of fundamental rights - The powers of this Court for directing further investigation regardless of the stage of investigation are extremely wide. This can be done even if the chargesheet has been submitted by the prosecuting agency - Referred to Bharati Tamang v. Union of India and Others (2013) 15 SCC 578- The need of Courts to be alive to genuine grievances brought before it by ordinary citizens- Referred to Zahira Habibulla H. Sheikh v. State of Gujarat (2004) 4 SCC 158 - unresolved crimes tend to erode public trust in institutions which have been established for maintaining law and order. Criminal investigation must be both fair and effective. (Para 13-16)

Summary: CBI directed to investigate the case of death of a 25 years old young girl who was a permanent resident of Manipur and at the relevant time was working in a call centre at Delhi - SC observed- Apparently there seems to be no reason for a young girl of 25 years of age to commit suicide. Prima facie it does not seem to be a case of suicide. The crime scene shows that blood was spattered on the floor and the bed sheet was completely drenched in blood. It appears to be a homicidal death and therefore the culprits must be apprehended.

Ram Murti Sharma vs State Of Uttar Pradesh 2024 INSC 250 – Bail

Bail - Appeal against HC order granting bail to murder accused allowed - Setting aside bail order, SC observed: the High Court merely noticing the arguments raised primarily by the counsel for the respondent no.2 has directed for his release on bail, which cannot be legally sustained

Read Judgment

Haresh Shantilal Avlani vs New India Assurance Co Ltd 2024 INSC 251 – Motor Accident Compensation – Multiplier Based On Age Of Deceased

Motor Accident Compensation Claims -It is the age of the deceased which ought to be taken into consideration and not the age of the dependents for arriving at the multiplier. (Para 5) [In this case, HC changed the multiplier from 17 to 13 as the deceased was a bachelor and the claimants being his parents, the choice of multiplier had to be assessed on the basis of the age of the parents and not the age of the deceased - HC judgment set aside]

Samaj Parivartana Samudaya vs State Of Karnataka 2024 INSC 252 – Environment – Mining

Environmental Law - Mining activities being undertaken in Districts - Bellary, Chitradurga and Tumkur in Karnataka - Directions issued - CEC, together with the Monitoring Committee and aid and advice of the Oversight Authority, to undertake a complete exercise in the three districts, and the respective mining leases situated therein, and submit a report.

State Of Kerala vs Union Of India 2024 INSC 253 – Suit Referred To Constitution Bench – Interim Relief Refused

State Of Kerala vs Union Of India - Suit Challenging Borrowing Limits Referred

to Constitution Bench -Suit raises more than one substantial questions regarding interpretation of the Constitution, including: (a) What is the true import and interpretation of the following expression contained in Article 131 of the Constitution: "if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends"? (b) Does Article 293 of the Constitution vest a State with an enforceable right to raise borrowing from the Union government and/or other sources? If yes, to what extent such a right can be regulated by the Union government? (c) Can the borrowing by State-Owned Enterprises and liabilities arising out of the Public Account be included under the purview of Article 293(3) of the Constitution? (d) What is the scope and extent of Judicial Review exercisable by this Court with respect to a fiscal policy, which is purportedly in conflict with the object and spirit of Article 293 of the Constitution? Other Questions: (a) Is fiscal decentralization an aspect of Indian Federalism? If yes, do the Impugned Actions taken by the Defendant purportedly to maintain the fiscal health of the country violate such Principles of Federalism? (b) Are the Impugned Actions violative of Article 14 of the Constitution on the ground of 'manifest arbitrariness' or on the basis of differential treatment meted out to the Plaintiff vis-à-vis other States? (c) What has been the past practice regarding regulation of the Plaintiff's borrowing by the Defendant? If such practice has been restrictive of Plaintiff's borrowings, can it estop the Plaintiff from bringing the present suit? Conversely, if such practice has not been restrictive, can it serve as the basis for the Plaintiff's legitimate expectations against the Defendant - Union of India? (d) Are the restrictions imposed by the Impugned Actions in conflict with the role assigned to the Reserve Bank of India as the public debt manager of the Plaintiff? (e) Is it mandatory to have prior consultation with States for giving effect to the recommendations of Finance Commission?

Injunction - Triple-Test - Pre-requisites before a party can be mandatorily injunctioned to do or to refrain from doing a particular thing: (a) A 'Prima facie case', which necessitates that as per the material placed on record, the plaintiff is likely to succeed in the final determination of the case- (b) 'Balance of convenience', such that the prejudice likely to be caused to the plaintiff due to rejection of the interim relief will be higher than the inconvenience that the defendant may face if the relief is so

granted- and (c) ‘Irreparable injury’, which means that if the relief is not granted, the plaintiff will face an irreversible injury that cannot be compensated in monetary terms -The standard of scrutiny in applying these parameters for ‘prohibitory’ and ‘mandatory’ injunctions - Prohibitory injunctions vary from mandatory injunctions in terms of the nature of relief that is sought. While the former seeks to restrain the defendant from doing something, the latter compels the defendant to take a positive step. For instance, hypothetically, in the context of a construction dispute, if a plaintiff seeks to prevent the defendant from demolishing a structure, it would be deemed a prohibitory injunction. Whereas, if a plaintiff wants to compel the defendant to demolish a structure, then this would amount to mandatory injunction - In that sense, prohibitory injunctions are forward-looking, such that they seek to restrict a future course of action. Conversely, mandatory injunctions are backward-looking, because they require the defendant to take an active step and undo the past action. Since mandatory injunctions require the defendant to take a positive action instead of merely being restrained from performing an act, they carry a graver risk of prejudice for the defendant if the final outcome subsequently turns out to be in its favour. For instance, in the example above, preventing the demolition of a structure for the time being cannot be perceived to be on the same pedestal as mandating the demolition of a construction. While the former may still be undone, i.e., the defendant may still be compelled to demolish the structure should the plaintiff succeed in his final claim, undoing the latter, i.e., rebuilding the construction, would cause graver injustice. The Courts are, therefore, relatively more cautious in granting mandatory injunction as compared to prohibitory injunction and thus, require the plaintiff to establish a stronger case [In this case, the court observed that the plaintiff – State of Kerala has failed to establish the three prongs of proving prima facie case, balance of convenience and irreparable injury, State of Kerala is not entitled to the interim injunction, as prayed for]

**Pankaj Singh vs State Of Haryana 2024 INSC 254 – S 114A Evidence Act-
Presumption Of Innocence – S 294 CrPC**

Indian Evidence Act, 1872- Section 114A - The condition precedent for applicability of Section 114A of the Evidence Act is that the prosecution must be for the offence of rape under various clauses set out therein under sub-Section (2) of Section 376 of the IPC - When this condition is not met, the presumption under Section 114A of the Evidence Act will not apply, and the burden will be on the prosecution to prove that the sexual intercourse was without the consent of the Prosecutrix. (Para 11)

Criminal Trial - Unless there is a specific legislative provision which puts a negative burden on the accused, there is no burden on the accused to lead evidence for proving his innocence. (Para 11)

Code Of Criminal Procedure, 1973- Section 294 -The essential ingredient of sub-Section (1) of Section 294 of the Cr.PC is that when any document is produced by the prosecution or the accused, the parties shall be called upon to admit or deny the genuineness of each such document - Even if a particular document is not disputed, the Court has the discretion to read or not to read the same in evidence without formal proof of the signature of the person to whom it purports to be signed. The Court always has the power to require the signature to be proved. (Para 21)

Bloomberg Television Production Services India Private Limited vs Zee Entertainment Enterprises Limited 2024 INSC 255 – Defamation Suits Against Journalistic Pieces

Defamation Suits Against Journalistic Pieces - Interim Injunctions - The three-fold test of establishing (i) a prima facie case, (ii) balance of convenience and (iii)

irreparable loss or harm, for the grant of interim relief is equally applicable to the grant of interim injunctions in defamation suits. However, this test must not be applied mechanically, to the detriment of the other party and in the case of injunctions against journalistic pieces, often to the detriment of the public. - Suits concerning defamation by media platforms and/or journalists, an additional consideration of balancing the fundamental right to free speech with the right to reputation and privacy must be borne in mind. The constitutional mandate of protecting journalistic expression cannot be understated, and courts must tread cautiously while granting pre-trial interim injunctions. The standard to be followed - 'Bonnard standard' - In essence, the grant of a pre-trial injunction against the publication of an article may have severe ramifications on the right to freedom of speech of the author and the public's right to know. An injunction, particularly ex-parte, should not be granted without establishing that the content sought to be restricted is 'malicious' or 'palpably false'. Granting interim injunctions, before the trial commences, in a cavalier manner results in the stifling of public debate. In other words, courts should not grant ex-parte injunctions except in exceptional cases where the defence advanced by the respondent would undoubtedly fail at trial. In all other cases, injunctions against the publication of material should be granted only after a full fledged trial is conducted or in exceptional cases, after the respondent is given a chance to make their submissions. (Para 9)

SLAPP Suits - 'Strategic Litigation against Public Participation' and is an umbrella term used to refer to litigation predominantly initiated by entities that wield immense economic power against members of the media or civil society, to prevent the public from knowing about or participating in important affairs in the public interest. We must be cognizant of the realities of prolonged trials. The grant of an interim injunction, before the trial commences, often acts as a 'death sentence' to the material sought to be published, well before the allegations have been proven. While granting ad-interim injunctions in defamation suits, the potential of using prolonged litigation to prevent free speech and public participation must also be kept in mind by courts. (Para 10)

Interim Relief - While granting interim relief, the court must provide detailed reasons and analyze how the three-fold test is satisfied. A cursory reproduction of the submissions

and precedents before the court is not sufficient. The court must explain how the test is satisfied and how the precedents cited apply to the facts of the case - The factors which should weigh with the court in the grant of ex parte injunction are— (a) whether irreparable or serious mischief will ensue to the plaintiff- (b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve- (c) the court will also consider the time at which the plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented- (d) the court will consider whether the plaintiff had acquiesced for sometime and in such circumstances it will not grant ex parte injunction- (e) the court would expect a party applying for ex parte injunction to show utmost good faith in making the application. (f) even if granted, the ex parte injunction would be for a limited period of time. (g) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court - Referred to Morgan Stanley Mutual Fund v. Kartick Das (1994) 4 SCC 225 (Para 6) -Appellate courts must interfere with the grant of interim relief if the discretion has been exercised “arbitrarily, capriciously, perversely, or where the court has ignored settled principles of law regulating the grant or refusal of interlocutory injunctions.” The grant of an ex parte interim injunction by way of an unreasoned order, definitely falls within the above formulation, necessitating interference by the High Court. (Para 12)

Orissa State Financial Corporation vs Sukanti Mohapatra 2024 INSC 256 – S 29 State Financial Corporations Act

State Financial Corporations Act, 1951- Section 29 - Haryana Financial Corporation & Anr. v. Jagdamba Oil Mills (2002) 3 SCC 496 judgment explained: Section 29 gives a right to the financial corporation inter alia to sell the assets of the industrial concern and realize the property pledged, mortgaged, hypothecated or assigned to the financial corporation. This right accrues when the industrial concern, which is under a liability to the financial corporation under an agreement, makes any default in repayment

of any loan or advance or any instalment thereof or in meeting its obligations as envisaged in Section 29 of the Act. Section 29(1) gives the financial corporation in the event of default, the right to take over the management, possession or both, and thereafter, deal with the property - Guidelines issued in *Mahesh Chandra v. Regional Manager, U.P. Financial Corporation* ((1993) 2 SCC 279), place unnecessary restrictions on the exercise of power by the financial corporation contained in Section 29 of the Act, by requiring the defaulting unit-holder to be associated or consulted at every stage in the sale of the property. A person who has defaulted is hardly ever likely to cooperate in the sale of his assets. In fact, the procedure indicated in *Mahesh Chandra* (supra) would only result in a further delay in realization of the dues by the Corporation through sale of assets. Thus, the observations in *Mahesh Chandra* (supra) do not lay down the correct law and was overruled -*Kerala State Financial Corporation v. Vincent Paul* (2011) 4 SCC 171 distinguished: The judgment in *Kerala Financial Corporation* (supra) carries only a cursory reference to Section 29 of the Act, and has laid down guidelines for the sale of properties owned by the Kerala Financial Corporation, in the absence of State specific rules for the same. The guidelines deal with the aspect of proper valuation of the property, and do not comment on or prescribe a procedure for other aspects of the recovery process. (Para 25-26)

Level 9 Biz Pvt. Ltd. vs Himachal Pradesh Housing & Urban Development Authority 2024 INSC 257

Contract Law - Letter of Intent - Letter of Intent is merely an expression of intention to enter into a contract. It does not create any right in favour of the party to whom it is issued. There is no binding legal relationship between the party issuing the LOI and the party to whom such LOI is issued. A detailed agreement/contract is required to be drawn up between the parties after the LOI is received by the other party more particularly in case of a contract of such a mega scale. (Para 10)

**Ballu @ Balram @ Balmukund vs State Of Madhya Pradesh 2024 INSC 258 –
Ss 378 CrPC – Circumstantial Evidence**

Code Of Criminal Procedure, 1973- Section 378,386- Unless the finding of acquittal is found to be perverse or impossible, interference with the same would not be warranted - The High Court could have interfered in the criminal appeal only if it came to the conclusion that the findings of the trial Judge were either perverse or impossible- In any case, even if two views are possible and the trial Judge found the other view to be more probable, an interference would not have been warranted by the High Court, unless the view taken by the learned trial Judge was a perverse or impossible view. ((Para 9,19-20)

Criminal Trial - Circumstantial Evidence - It is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established - The accused ‘must be’ and not merely ‘may be’ proved guilty before a court can convict the accused -There is not only a grammatical but a legal distinction between ‘may be proved’ and ‘must be or should be proved’ - The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty - The circumstances should be such that they exclude every possible hypothesis except the one to be proved.- There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.(Para 7)

Purni Devi vs Babu Ram 2024 INSC 259 – S 14 Limitation Act

Limitation Act, 1963- Section 14 - The following conditions must be satisfied before Section 14 can be pressed into service: (1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party- (2) The prior proceeding had been prosecuted with due diligence and in good faith- (3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature- (4) The earlier proceeding and the latter proceeding must relate to the same matter in issue- and (5) Both the proceedings are in a court - Consolidated Engg. Enterprises v. Principal Secy, Irrigation Department (2008) 7 SCC 169- Phrases “due diligence” and “in good faith”: These phrases only mean that the party who invokes Section 14 should not be guilty of negligence, lapse or inaction. Further, there should be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party - the expression “the time during which the plaintiff has been prosecuting with due diligence another civil proceeding” needs to be construed in a manner which advances the object sought to be achieved, thereby advancing the cause of justice - Referred to M.P. Steel Corporation v. CCE (2015) 7 SCC 58 (Para 25-34)

Prem Raj vs Poonamma Menon 2024 INSC 260 – NI Act- Effect Of Decree In Civil Case

Negotiable Instruments Act, 1881- Section 138 - Allowing appeal against concurrent conviction in a cheque case , SC held: In the present case, considering that the Court in criminal jurisdiction has imposed both sentence and damages, the Court in criminal jurisdiction would be bound by the civil Court having declared the cheque, the subject matter of dispute, to be only for the purposes of security- In that view of the matter, the criminal proceedings resulting from the cheque being returned unrealised due to the closure of the account would be unsustainable in law and, therefore, are to be quashed and set aside.

Vikas Chandra vs State Of Uttar Pradesh 2024 INSC 261 – Ss 204, 482, 173(2) – Ss 306,107 IPC – Abetment Of Suicide

Indian Penal Code, 1860- Section 306 -Mere statement in suicide note that ' X will be responsible for his suicide' would not be a ground at all to issue summons to X to face the trial for the offence under Section 306, IPC. (Para 24)

Code Of Criminal Procedure, 1973- Section 204, 482- A petition filed under Section 482, Cr.PC, for quashing an order summoning the accused is maintainable - while exercising the power to consider the legality of a summons issued by a Magistrate, certainly it is the duty of the Court to look into the question as to whether the learned Magistrate had applied his mind to form an opinion as to the existence of sufficient ground for proceeding further and in that regard to issue summons to face the trial for the offence concerned. In this context, we think it appropriate to state that one should understand that 'taking cognizance', empowered under Section 190, Cr.PC, and 'issuing process', empowered under Section 204, Cr.PC, are different and distinct. (Para 14)

Code Of Criminal Procedure, 1973- Section 204- Issuance of summons is a serious matter and, therefore, shall not be done mechanically and it shall be done only upon satisfaction on the ground for proceeding further in the matter against a person concerned based on the materials collected during the inquiry - *sine qua non* for exercise of the power under Section 204, Cr.PC, to issue process is the subjective satisfaction regarding the existence of sufficient ground for proceeding- while conducting an inquiry, the Magistrate could go into the merits of the evidence collected by the investigating agency to determine whether there are sufficient grounds for proceeding. (Para 9- 13)

Code Of Criminal Procedure, 1973- Section 173(2) - When a Final Report under

Section 173 (2), Cr.PC, is filed before the Magistrate, which happens to be a negative report, usually called a “closure report”, he gets the following four choices to be adopted, taking into account the position obtained in the case concerned: (1) to accept the report and drop the Court proceedings (2) to direct further investigation to be made by the police (3) to investigate himself or refer for the investigation to be made by another Magistrate under Section 159, Cr.PC, (4) to take cognizance of the offence under Section 200, Cr.PC, as a private complaint when the materials are sufficient in his opinion and if the complainant is prepared for that course. (Para 8)

Indian Penal Code, 1860- Section 107,306 -In order to bring out an offence under Section 306, IPC specific abetment as contemplated by Section 107, IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306, IPC - Referred to M Vijayakumar vs State Of Tamil Nadu 2024 INSC 177 - What matters in deciding the question whether there is ground for proceeding against a particular person and to issue summons to him to face the trial for the offence under Section 306, IPC is whether the complaint and the materials collected during the inquiry/investigation prima facie disclose mens rea on the part of the accused to bring about suicide of the victim. (Para 18-19)

Judgment

**Union Of India vs Jahangir Byramji Jeejeebhoy 2024 INSC 262 – S 5
Limitation Act – Delay Condonation – Length Of Delay**

Limitation Act, 1963- Section 5 - The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not -the question of limitation is not merely a technical consideration - Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves

to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay- The rules of limitation are based on the principles of sound public policy and principles of equity- Delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. - It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. (Para 25-35)

State Of Haryana vs Dr. Ritu Singh 2024 INSC 263 – S 482 CrPC – Quashing – Compromise

Code Of Criminal Procedure, 1973- Section 482 - Appeal against HC order that quashed an FIR alleging withdrawal of salary by accused for the period was on unauthorized foreign trips and also withdrawal of salary by producing false medical certificate - Allowing appeal, SC observed: The allegations against the accused are of defrauding the State. How can such a matter be settled on the basis of a “compromise” between two private individuals?

General Manager, Barsua Iron Ore Mines vs Vice President United Mines Mazdoor Union 2024 INSC 264 – Change Of Date Of Birth In Service Records

Service Law- Change of date of birth in service records - (i) application for change of date of birth can only be as per the relevant provisions/regulations applicable- (ii) even if there is cogent evidence, the same cannot be claimed as a matter of right- (iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag-end of service and/or when the employee is about to retire on attaining the age of superannuation - Referred to Karnataka Rural Infrastructure Development Limited v T P Nataraja, (2021) 12 SCC 27

Bharti Airtel Limited vs AS Raghavendra 2024 INSC 265 – Industrial Disputes Act – Workman – Article 226,227 Constitution – Facts Re-appraisal

Industrial Disputes Act, 1947 - Section 2(s) - Whether a person would or would not come within the definitional stipulation of a “workman” - Mere absence of power to appoint, dismiss or hold disciplinary inquiries against other employees, would not and could not be the sole criterion to determine such an issue. Holding otherwise would lead to incongruous consequences, as the same would, illustratively, mean that, employees in high-ranking positions but without powers to appoint, dismiss or hold disciplinary enquiry would be included under the umbrella of “workman” under Section 2(s), ID Act. (Para 25) Constitution of India, 1950- Article 226, 227 - Power of the High Court to re-appraise the facts - It cannot be said that the same is completely impermissible under Articles 226 and 227 of the Constitution. However, there must be a level of infirmity greater than ordinary in a Tribunal’s order, which is facing judicial scrutiny before the High Court, to justify interference. (Para 26)

Navneet Kaur Harbhajansing Kundles @ Navneet Kaur Ravi Rana vs State of Maharashtra 2024 INSC 266 – Caste Scrutiny – Article 226 Constitution – Certiorari

Constitution of India, 1950- Article 32, 226 - The writ of certiorari being a writ of high prerogative, should not be invoked on mere asking. The purpose of a writ of certiorari for a superior Court is not to review or reweigh the evidence to adjudicate unless warranted. The jurisdiction is supervisory and the Court exercising it, ought to refrain to act as an appellate court unless the facts so warrant. It also ought not reappreciate the evidence and substitute its own conclusion interfering with a finding unless perverse. The High Court in a writ for certiorari should not interfere when such challenge is on the ground of insufficiency or adequacy of material to sustain the impugned finding. Assessment of adequacy or sufficiency of evidence in the case at hand, fell within the exclusive jurisdiction of the Scrutiny Committee and reagitation of challenge on such grounds ought not have been entertained by High Court in a routine manner-High Courts as well as Supreme Court should refrain themselves from deeper probe into factual issues like an appellate body unless the inferences made by the concerned authority suffers from perversity on the face of it or are impermissible in the eyes of law- the writ of certiorari is expended as a remedy and is intended to cure jurisdictional error, if any, committed by the Courts/forums below. It should not be used by superior Courts to substitute its own views by getting into fact finding exercise unless warranted. [See Central Council for Research in Ayurvedic Sciences and Another Vs. Bikartan Das and Others, 2023 SCC OnLine 996 – Para 51 and 52- Syed Yakoob Vs. K.S. Radhakrishnan, AIR 1964 SC 477]. (Para 15,19)

Maharashtra Scheduled Castes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 - Rule 13(2)(a), 17(7)- Te adjudication on the basis of the documents falls solely within the domain of Scrutiny Committee based on the inputs received from the Vigilance Cell. The Scrutiny

Committee is an expert forum armed with fact finding authority- The Scrutiny Committee is not required to send every document to the Vigilance Cell. It is only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, it may refer to Vigilance Cell. (Para 20-22)

Samaj Parivartana Samudaya vs State Of Karnataka 2024 INSC 267 – Environment – Mining

Environmental Law – Mining activities being undertaken in Districts – Bellary, Chitradurga and Tumkur in Karnataka – Directions issued – CEC, together with the Monitoring Committee and aid and advice of the Oversight Authority, to undertake a complete exercise in the three districts, and the respective mining leases situated therein, and submit a report.

Aqeel Ahmad vs State Of Uttar Pradesh 2024 INSC 268 – Bail

Summary: Bail granted to accused cancelled.

Shoma Kanti Sen vs State Of Maharashtra 2024 INSC 269 – UAPA – Bail

Unlawful Activities (Prevention) Act, 1967- Section 15 - Sub-section (1) of Section 15 refers to certain acts which would constitute a terrorist act but the first part of sub-section (1) of Section 15 cannot be read in isolation. In our reading of the said provision of the statute, to qualify for being a terrorist act, such act must be done with intent to threaten or likely to threaten the unity, integrity, security, economic security or sovereignty of India or such act must be accompanied with an intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country. These

are initial requirements to invoke Section 15(1) of the 1967 Act. The legislature, however, has not left the nature of such acts unspecified and in sub-clauses (a), (b), and (c) of the said sub-section, the law stipulates the manner of commission of the acts specified in first part of sub-section (1) of said Section 15. If any offender attempts to commit any of the acts specified in Section 15(1), to come within the ambit of the expression “terrorist act” under the 1967 legislation, action or intention to cause such act must be by those means, which have been specified in sub-clauses (a), (b), and (c) of the said provision. (Para 30)

Constitution of India, 1950- Article 21- Bail -Unlawful Activities (Prevention) Act, 1967- Right of an accused under the offences of the 1967 Act to be enlarged on bail founding such right on Article 21 of the Constitution of India -Long period of incarceration held to be a valid ground to enlarge an accused on bail in spite of the bail restricting provision of Section 43D (5) of the 1967 Act. Preconviction detention is necessary to collect evidence (at the investigation stage), to maintain purity in the course of trial and also to prevent an accused from being a fugitive from justice. Such detention is also necessary to prevent further commission of offence by the same accused. Depending on gravity and seriousness of the offence alleged to have been committed by an accused, detention before conclusion of trial at the investigation and post-chargesheet stage has the sanction of law broadly on these reasons. But any form of deprival of liberty results in breach of Article 21 of the Constitution of India and must be justified on the ground of being reasonable, following a just and fair procedure and such deprival must be proportionate in the facts of a given case. These would be the overarching principles which the law Courts would have to apply while testing prosecution’s plea of pre-trial detention, both at investigation and post-chargesheet stage - Referred to K.A. Najeeb -vs- Union of India [(2021) 3 SCC 713] (Para 38)

Summary : Accused charged under Sections 153A, 501(1)(b), 117, 120B, 121, 121A, 124A & 34 of the 1860 Code read with Sections 13, 16, 17, 18, 18B, 20, 438, 39 & 40 of the 1967 Act - Granting her bail, SC observed: Taking cognizance of the composite effect of delay in framing charge, period of detention undergone by her, the nature of allegations against her vis-à-vis the materials available before this Court at this stage in addition to her age and medical condition, we do not think she ought to be denied the privilege of being enlarged

on bail pending further process subsequent to issue of chargesheets against her in the subject-case -Evidence of her involvement in any fund-raising activities for the CPI (Maoist) or her support to the said organisation has not transpired through any reliable evidence before us at this stage - In our *prima facie* opinion, the allegations of the prosecution that the appellant is a member of a terrorist organisation or that she associates herself or professes to associate herself with a terrorist organization are not true, and at this stage, she cannot be implicated in the offence under Sections 38 of 1967 Act -Allegations against her only reveal her participation in some meetings and her attempt to encourage women to join the struggle for new democratic revolution. These allegations, *prima facie*, do not reveal the commission of an offence under Section 18 of the 1967 Act - the prosecution has not been able to corroborate or even raise a hint of corroboration of the allegation that the appellant has funded any terrorist act or has received any money for that purpose.

**State Of Maharashtra vs National Organic Chemical Industries Ltd. 2024
INSC 270 – Bombay Stamp Act- Companies Act**

Companies Act, 1956 - Bombay Stamp Act, 1958- In case of conflict between two laws, the general law must give way to the special law. A conjoined reading of the Stamp Act and the Companies Act would show that while the former governs the payment of stamp duty for all manner of instruments, the latter deals with all aspects relating to companies and other similar associations -An instrument which is chargeable to Stamp Duty and finds its origin in the Companies Act. The various provisions of the Companies Act provide the purpose and scope of the instrument. Thus, it has to be said that the Companies Act is the special law and the Stamp Act is the general law with regards to Articles of Association, and the special will override the general. (Para 11)

Bombay Stamp Act, 1958- Whether the notice sent to the Registrar in Form No.5 is an “instrument” as defined under Section 2(l)? - Filing of Form No. 5 is only a method prescribed, whereby “notice” of increase in share capital or of members of a company has to be sent to the Registrar, within 30 days of passing of such resolution. The Registrar then has to record such increase in share capital or members, and carry out the necessary alterations in the articles. Stamp Duty is affixed on Form No. 5 as a matter of practical convenience because a company itself cannot carry out the alterations and record the increase in share capital in its Articles of Association. It is only the articles which are an instrument within the meaning of Section 2(l) of the Stamp Act and accordingly have been mentioned in Article 10 of Schedule-I of the Stamp Act. (Para 9)

Bombay Stamp Act, 1958- The Stamp Act authorises involuntary exaction of money and is in the nature of a fiscal statute, which has to be interpreted strictly. (Para 15)

Chandan vs State (Delhi Admn.) 2024 INSC 271 – Criminal Trial – Motive

Criminal Trial - When ocular testimony inspires the confidence of the court, the prosecution is not required to establish motive. Mere absence of motive would not impinge on the testimony of a reliable eye-witness. Motive is an important factor for consideration in a case of circumstantial evidence. But when there is direct eye witness, motive is not significant - Lack or absence of motive is inconsequential when direct evidence establishes the crime - Referred to Shivaji Genu Mohite v. State of Maharashtra, AIR 1973 SC 55, Bikau Pandey v. State of Bihar, (2003) 12 SCC 616- Rajagopal v. Muthupandi, (2017) 11 SCC 120- Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195 . (Para 5)

Manikandan vs State 2024 INSC 272 – Criminal Trial – Tutoring Prosecution Witnesses

Criminal Trial - Precisely a day before the evidence of Prosecution Witnesses before the Trial Court, they were called to the Police Station and were taught to depose in a particular manner. One can reasonably imagine the effect of “teaching” the witnesses inside a Police Station. This is a blatant act by the police to tutor the material prosecution witnesses. All of them were interested witnesses. Their evidence will have to be discarded as there is a distinct possibility that the said witnesses were tutored by the police on the earlier day. This kind of interference by the Police with the judicial process, to say the least, is shocking. This amounts to gross misuse of power by the Police machinery. The Police cannot be allowed to tutor the prosecution witness. (Para 8)

Jaiprakash Industries Ltd. vs Delhi Development Authority 2024 INSC 273

Summary: An application was made by the appellant to the Delhi Development Authority(‘DDA’) for a grant of permission to mortgage the said plots in favour of the Industrial Finance Corporation of India - DDA demanded an unearned increase value of Rs.2,13,59,511.20. Being aggrieved by the said demand, representations were made by the appellant which were not favourably considered by the respondent- Writ petition challenging this was dismissed by Delhi HC - SC dismissed appeal.

Deep Mukerjee vs Sreyashi Banerjee 2024 INSC 274 – Potentially Test

Summary: Appellant Husband moved application for subjecting himself to undergo potentially test and at the same time referring the wife for fertility test and psychological/ mental health test for both the parties and the same was allowed by the Trial Court - High Court allowed revision petition filed by wife and set aside entire order - Allowing appeal by

Husband, SC observed: When the appellant/husband is willing to undergo potentiality test, the High Court should have upheld the order of the Trial Court to that extent

Operation Mobilization India vs State Of Telangana 2024 INSC 275

Summary: Petitions disposed making the interim order dated 7th April, 2021 absolute, however, with a rider that the petitioners would not only maintain proper and complete statement of accounts but would also get the same audited by a Chartered Accountant and provide quarterly statements of the same to the Investigating Officer or to the Trial Court on regular basis. The pending proceedings before all other forums to continue in accordance with law where it would be open for all the parties concerned to raise all such contentions as may be available under law.

Annapurna B Uppin vs Malsiddappa 2024 INSC 276 – Consumer – Partnership

Consumer Protection Act, 1986 - Commercial disputes cannot be decided in summary proceeding under the 1986 Act [In this case, complainant was for deriving benefit by getting an interest on the same at the rate of 18 % per annum, therefore, it would be an investment for profit/gain]

Partnership - Legal heirs of a deceased partner do not become liable for any liability of the firm upon the death of the partner. (Para 8)

State Of Gujarat vs Paresh Nathalal Chauhan 2024 INSC 277 – S 157 CGST Act – Good Faith Clause

Central Goods and Services Tax Act, 2017- Section 157 - Good Faith Clause - SC expunged the Gujarat HC observation that the protection contemplated under section 157 of the GST Act, which is in the nature of a good faith clause, “may not” be available to the officers of the State- A good faith clause, explained in the vocabulary of the rights and duties regime, can be said to be a provision of immunity to a statutory functionary. Such provisions are in recognition of public interest in protecting a statutory functionary against prosecution or legal proceedings. This immunity is limited. It is confined to acts done honestly and in furtherance of achieving the statutory purpose and objective. Section 3(22) of the General Clauses Act, 1897 best explains ‘good faith’ as an act done honestly, whether it is done negligently or not. Good faith clauses in statutes providing immunity against suits, prosecution or other legal proceedings against officials exercising statutory power are therefore limited by their very nature, that far, and no further - A good faith clause in a statute will therefore be a defense. If successfully pleaded, it not only legitimises the action but also protects the statutory functionary from any legal action. If a statutory functionary invokes the defence of good faith in a suit, prosecution or other legal proceedings initiated against him, it is for the court or a judicial body to consider, adjudicate, and determine whether the claim that the action was done in good faith is made out or not. Such a scrutiny, enquiry, or examination is done only in a proceeding against the statutory functionary -The scrutiny whether the act is done in good faith or not would depend upon the facts and circumstances of each case- A citizen of this country has a right of accountability, for which he is entitled to initiate and adopt such legal remedies as are available to him, and in such proceedings the statutory functionary is equally entitled to take a defense of good faith. It is for the court to adjudicate and decide.

State Of Madhya Pradesh vs Shilpa Jain 2024 INSC 278 – Revenue Records – S 482 CrPC

Revenue Records - Revenue records are not documents of title- and nor would any

findings pursuant to revenue proceedings under the Code confer any rights, title or interest - Questions of title can only be determined by a civil court of competent jurisdiction.

Code Of Criminal Procedure, 1973- Section 482 - Principles governing the exercise of jurisdiction of the High Court under Section 482 of the CrPC vis-à-vis the quashing of an FIR - Referred to State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 - Interplay between civil disputes and criminal proceedings - Referred to Mohd. Ibrahim v. State of Bihar, (2009) 8 SCC 751 - Neither does the present case satisfy any of the parameters laid down by this Court in Bhajan Lal (Supra) warranting the exercise of jurisdiction under Section 482 of the CrPC vis-à-vis the quashing of an FIR- and nor can the allegation(s) levelled against the accused person(s) be classified as 'purely civil in nature' or merely 'cloaked as a criminal offence'. Undoubtedly, the genesis of the present dispute emanates from civil proceedings qua the possession of the Suit Property, however, the dispute in its current avatar i.e. as is discernible from the allegation levelled against the Respondents in the FIR, has certainly undergone a metamorphosis into a criminal dispute which ought not to have been scuttled at the threshold, and in fact ought to have been considered on its own merits, in accordance with law. (Para 7)

Bina Basak vs Sri Bipul Kanti Basak 2024 INSC 279

Summary: SC deprecates malpractices where the welfare legislations are misused/abused by beneficiaries for personal advantage, thereby defeating the very objective of such policies and observed (while upholding dismissal of a suit): Suit was filed maliciously in order to grab the entire allotment and also the house constructed with the joint income of the three brothers

M K Ranjitsinh vs Union of India 2024 INSC 280 – Great Indian Bustard – Environment

Summary: Vide order dated 19 April 2021, restrictions were imposed on the setting up of overhead transmission lines in a large swath of territory of about 99,000 square kilometers - Modifying the said order, SC observed: A blanket direction for undergrounding high voltage and low voltage power lines of the nature that was directed by this Court would need recalibration- Expert Committee constituted - Experts can assess the feasibility of undergrounding power lines in specific areas, considering factors such as terrain, population density, and infrastructure requirements. This approach allows for more nuanced decision-making tailored to the unique circumstances of each location, ensuring that conservation objectives are met in a sustainable manner. (Para 62)

Climate Change - There is a right to be free from the adverse effects of climate change. It is important to note that while giving effect to this right, courts must be alive to other rights of affected communities such as the right against displacement and allied rights- States owe a duty of care to citizens to prevent harm and to ensure overall well-being. The right to a healthy and clean environment is undoubtedly a part of this duty of care. States are compelled to take effective measures to mitigate climate change and ensure that all individuals have the necessary capacity to adapt to the climate crisis - It is imperative for states like India, to uphold their obligations under international law, including their responsibilities to mitigate greenhouse gas emissions, adapt to climate impacts, and protect the fundamental rights of all individuals to live in a healthy and sustainable environment. (Para 27-35)

Solar Energy- It is imperative for India to not only find alternatives to coal-based fuels but also secure its energy demands in a sustainable manner. India urgently needs to shift to solar power due to three impending issues. Firstly, India is likely to account for 25% of global energy demand growth over the next two decades, necessitating a move towards solar for enhanced energy security and self-sufficiency while mitigating environmental impacts. Failure to do so may increase dependence on coal and oil, leading to economic and environmental costs. Secondly, rampant air pollution emphasizes the need for cleaner energy sources like solar to combat pollution caused by fossil fuels. Lastly, declining groundwater levels and decreasing annual rainfall underscore the importance of

diversifying energy sources. Solar power, unlike coal, does not strain groundwater supplies. The extensive use of solar power plants is a crucial step towards cleaner, cheaper, and sustainable energy. (Para 42)

KB Lal vs Gyanendra Pratap 2024 INSC 281 – Limitation Act – Sufficient Cause – Delay Condonation

Limitation Act, 1963- Section 5 - 'Sufficient Cause' - The term has to be construed liberally and in order to meet the ends of justice. The reason for giving the term a wide and comprehensive meaning is quite simple. It is to ensure that deserving and meritorious cases are not dismissed solely on the ground of delay - The discretionary power of a court to condone delay must be exercised judiciously and it is not to be exercised in cases where there is gross negligence and/or want of due diligence on part of the litigant (See Majji Sannemma @ Sanyasirao v. Reddy Sridevi & Ors. (2021) 18 SCC 384). The discretion is also not supposed to be exercised in the absence of any reasonable, satisfactory or appropriate explanation for the delay (See P.K. Ramachandran v. State of Kerala and Anr., (1997) 7 SCC 556) - The words 'sufficient cause' in Section 5 of the Limitation Act can only be given a liberal construction, when no negligence, nor inaction, nor want of bona fide is imputable to the litigant (See 8 Basawaraj and Anr. v. Special Land Acquisition Officer., (2013) 14 SCC 81). The principles which are to be kept in mind for condonation of delay - Referred to Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Ors., (2013) 12 SCC 649.

Karim Uddin Barbhuiya vs Aminul Haque Laskar 2024 INSC 282 – Election Petition – Corrupt Practice

Representation of the People's Act, 1951 - Right to contest election or to question the election by means of an Election Petition is neither common law nor fundamental right. It

is a statutory right governed by the statutory provisions of the RP Act. Outside the statutory provisions, there is no right to dispute an election. The RP Act is a complete and self-contained code within which any rights claimed in relation to an election or an election dispute must be found. (Para 12)

Representation of the People's Act, 1951 - Section 83 -A charge of "Corrupt practice" is easy to level but difficult to prove because it is in the nature of criminal charge and has got to be proved beyond doubt. The standard of proof required for establishing a charge of "Corrupt practice" is the same as is applicable to a criminal charge. Therefore, Section 83(1)(b) mandates that when the allegation of "Corrupt practice" is made, the Election Petition shall set forth full particulars of the corrupt practice that the Election Petitioner alleges, including as full a statement as possible of the names of parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. The pleadings with regard to the allegation of corrupt practice have to be precise, specific and unambiguous whether it is bribery or undue influence or other corrupt practices as stated in Section 123 of the Act. If it is corrupt practice in the nature of undue influence, the pleadings must state the full particulars with regard to the direct or indirect interference or attempt to interfere by the candidate, with the free exercise of any electoral right as stated in Section 123(2) of the Act. (Para 21) - Mere bald and vague allegations without any basis would not be sufficient compliance of the requirement of making a concise statement of the "material facts" in the Election Petition. The material facts which are primary and basic facts have to be pleaded in support of the case set up by the Election petitioner to show his cause of action. Any omission of a single material fact would lead to an incomplete cause of action entitling the returned candidate to pray for dismissal of Election petition under Order VII Rule 11(a) of CPC read with Section 83(1)(a) of the RP Act. (Para 20)

Representation of the People's Act, 1951- Section 81,83,87, 100- Election Petition, the pleadings have to be precise, specific and unambiguous. If the allegations contained in Election Petition do not set out grounds as contemplated in Section 100 and do not conform to the requirement of Section 81 and 83 of the Act, the Election Petition is liable to be rejected under Order VII, Rule 11 of CPC. An omission of a single material fact

leading to an incomplete cause of action or omission to contain a concise statement of material facts on which the Election petitioner relies for establishing a cause of action, would entail rejection of Election Petition under Order VII Rule 11 read with Section 83 and 87 of the RP Act. (Para 24)

Representation of the People's Act, 1951- Section 100 - Though it is true that the Election Petitioner is not required to state as to how corrupt practice had materially affected the result of the election, nonetheless it is mandatory to state when the clause (d) (i) of Section 100(1) is invoked as to how the result of election was materially affected by improper acceptance of the nomination form of the Appellant. (Para 22)

Representation of the People's Act, 1951- Section 81,83,87, 100- Code Of Civil Procedure, 1908- Order VII Rule 11- Non-compliance of the requirement of Section 83(1) (a) of the RP Act and the rejection of Election Petition under Order VII Rule 11, CPC - Referred to Kanimozhi Karunanidhi vs. A. Santhana Kumar 2023 SCC Online SC 573 (Para 15)

Vitthalrao Marotirao Navkhare vs Nanibai (D) 2024 INSC 283 – Second Appeal – S 100 CPC

Code Of Civil Procedure, 1908- Section 100 - Second Appeal - High Court acting in second appellate jurisdiction could not have arrived at a new finding of fact without any foundation being laid therefor. (Para 27)

Summary: Trial Court decreed the suit in part, holding that the plaintiff was entitled to partition and separate possession of a half-share in the agricultural land - The counter-claim of defendant Nos. 1 to 4 was accordingly decreed - Appellate Court held in favour of the plaintiff on all counts and decreed his suit in its entirety. The plaintiff was held to have a half-share in all the suit properties- High Court disposed of second appeal holding that

some properties are excluded from partition - Allowing appeal, the First Appellate Court judgment was upheld by SC.

**Vipin Sahni vs Central Bureau of Investigation 2024 INSC 284 – S 482,397
CrPC – Revision**

Code Of Criminal Procedure, 1973- Section 482, 397 - Limitation Act, 1963,Article 131 - In the event a revision is lawfully instituted before the High Court but the same is thereafter found to be not maintainable on some other ground, it would be open to the High Court to treat the same as a petition filed under Section 482 Cr.P.C in order to do justice in that case. However, the reverse analogy may not apply in all cases and it would not be open to the High Court to blindly convert or treat a petition filed under Section 482 Cr.P.C as one filed under Section 397 Cr.P.C., without reference to other issues, including limitation. When the specific remedy of revision was available, it could not have ignored the same and filed a petition under Section 482 Cr.P.C. (Para 25)- The limitation period for filing a criminal revision under Section 397 Cr.P.C, be it before the High Court or the Sessions Court, is 90 days. However, there is no limitation prescribed for invocation of the inherent powers of the High Court under Section 482 Cr.P.C. and it can be at any time. [In this case, the court noted that Long after the expiry of the limitation period of 90 days, the CBI filed a petition before the High Court at Allahabad under Section 482 Cr.P.C. This was obviously to get over the hurdle of the limitation for filing of a revision under Section 397 Cr.P.C, the court said]. (Para 23)

Indian Penal Code, 1860- Section 415-420 -Ingredients required to constitute an offence of cheating - Referred to Ram Jas v. State of U.P.(1970) 2 SCC 740 : '(i) there should be fraudulent or dishonest inducement of a person by deceiving him- (ii) (a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property- or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he

were not so deceived- and (iii) in cases covered by (ii) (b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property

**Khengarbai Lakhabhai Dambhala vs State Of Gujarat 2024 INSC 285 – S 451
CrPC – Gujarat Prohibition Act**

Code Of Criminal Procedure, 1973- Section 451 - Gujarat Prohibition Act- Section 98, 132- Section 451 of the Cr.P.C. would come into play when the article property seized during the course of inquiry or investigation is produced before the jurisdictional Court as per Clause (a) of Section 132 and the Court is called upon to pass appropriate orders for the proper custody of such article/property pending the conclusion of the inquiry or the trial -Section 98 deals with the Confiscation of the Articles whenever any offence punishable under the Act has been committed. The second part of sub-section (2) thereof would come into play when the Prohibition Officer or Police Officer sends the seized article liable to be confiscated but not required as an evidence, to the Collector as per Clause (b) of Section 132. (Para 14)

Pathapati Subba Reddy (D) Special Deputy Collector (LA) 2024 INSC 286 – Limitation Act

Limitation Act, 1963- Section 3, 5 -(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of

substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal- (vii) Merits of the case are not required to be considered in condoning the delay- and (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision (Para 26)

Limitation Act, 1963- Section 3, 5 - Imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay - delay is not liable to be condoned merely because some persons have been granted relief on the facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express provision of the statute. Condoning of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach. (Para 30)

**Kizhakke Vattakandiyil Mahadevan (D) vs Thiyyurkunnath Meethal Janaki
2024 INSC 287 – Transfer Of Property – Title**

Transfer of Property - If a document seeking to convey immovable property ex-facie reveals that the conveyor does not have the title over the same, specific declaration that the document is invalid would not be necessary. The Court can examine the title in the event any party to the proceeding sets up this defence. (Para 18)

Rajco Steel Enterprises v. Kavita Saraff 2024 INSC 288 - NI Act

Negotiable Instruments Act, 1881- Section 138 - SLP against acquittal in cheque case - Dismissing SLP, SC observed: Both the appellate fora, on going through the evidence did not find existence of any “enforceable debt or other liability”. This strikes at the root of the petitioner’s case.

Karikho Kri vs Nuney Tayang 2024 INSC 289 – Right To Know Not Absolute – Voter’s Right

Voter's Right to Know - SC Rejects the contention that the voter’s ‘right to know’ is absolute and a candidate contesting the election must be forthright about all his particular -We are not inclined to accept the blanket proposition that a candidate is required to lay his life out threadbare for examination by the electorate. His ‘right to privacy’ would still survive as regards matters which are of no concern to the voter or are irrelevant to his candidature for public office. In that respect, non-disclosure of each and every asset owned by a candidate would not amount to a defect, much less, a defect of a substantial character. It is not necessary that a candidate declare every item of movable property that he or his dependent family members owns, such as, clothing, shoes, crockery, stationery and furniture, etc., unless the same is of such value as to constitute a sizeable asset in itself or reflect upon his candidature, in terms of his lifestyle, and require to be disclosed. Every case would have to turn on its own peculiarities and there can be no hard and fast or straitjacketed rule as to when the non-disclosure of a particular movable asset by a candidate would amount to a defect of a substantial character. For example, a candidate and his family who own several high-priced watches, which would aggregate to a huge figure in terms of monetary value, would obviously have to disclose the same as they constitute an asset of high value and also reflect upon his lavish lifestyle. Suppression of

the same would constitute ‘undue influence’ upon the voter as that relevant information about the candidate is being kept away from the voter. However, if a candidate and his family members each own a simple watch, which is not highly priced, suppression of the value of such watches may not amount to a defect at all. Each case would, therefore, have to be judged on its own facts.

Najmunisha vs State Of Gujarat 2024 INSC 290 – Ss 41,42,67 NDPS Act

NDPS Act, 1986- Section 42- Absolute noncompliance of the statutory requirements under the Section 42(1) and (2) of the NDPS Act 1985 is verboten. However, any delay in the said compliance may be allowed considering the same is supported by well reasoned explanations for such delay. (Para 31-32)

NDPS Act, 1986- Section 41 - Empowered Gazetted Officer must have reason to believe that an offence has been committed under Chapter IV of the NDPS Act 1985, which necessitated the arrest or search. As per Section 41(2) of the NDPS Act 1985, such reason to believe must arise from either personal knowledge of the said Gazetted Officer or information given by any person to him. Additionally, such knowledge or information is required to be reduced into writing by virtue of expression “and taken in writing” used therein - Rejected argument that the expressions “personal knowledge” and “and taken in writing” contemplated by Section 41(2) of the NDPS Act 1985 ought to be read disjunctively, thereby eliminating the requirement of taking down information in writing when it arises out of the personal knowledge of the Gazetted Officer. (Para 20)

NDPS Act, 1986- Section 53,67-Indian Evidence Act, 1872- Section 25- Officers who are invested with powers under Section 53 of the NDPS Act are “police officers” within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act. 158.2.

That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act. (Para 52)

Indian Evidence Act, 1872- Section 6 - Test for “acts forming part of same transaction- it is based on spontaneity and immediacy of such statement or fact in relation to the fact in issue. Provided that if there was an interval which ought to have been sufficient for purpose of fabrication then the said statement having been recorded, with however slight delay there may be, is not part of res gestae - Referred to Gentela Vijyvardhan Rao and Anr. v. State of Andhra Pradesh (1996) 6 SCC 241 and Dhal Singh Dewangan v. State of Chhattisgarh (2016) SCC OnLine SC 983. (Para 26-27)

NDPS Act 1985 - Section 41 -Power of search and seizure- Such power is inherently limited by the recognition of fundamental rights by the Constitution as well as statutory limitations. At the same time, it is not legitimate to assume that Article 20(3) of the Constitution of India would be affected by the provisions of search and seizure. statutory provisions conferring authorities with the power to search and seize are a mere temporary interference with the right of the accused as they stand well regulated by reasonable restrictions emanating from the statutory provisions itself. Hence, such a power cannot be considered as a violation of any fundamental rights of the person concerned - Referred to MP Sharma v. Satish Chandra Sharma, District Magistrate, Delhi 1954 SCR 1077. (Para 42)

Aabid Khan vs Dinesh 2024 INSC 291 – Motor Accident Compensation

Motor Accident Compensation - The tribunal computed the compensation towards loss of future income by considering the whole body disability at 10%. On surmises and conjectures the percentage of disability has been reduced. No reason whatsoever has been assigned by the tribunal for substituting its opinion to that of the expert opinion namely, the doctor who treated the claimant and examined-Tribunal and the High Court committed a serious error in not accepting the said medical evidence and in the absence of any contra evidence available on record, neither the tribunal nor the High Court could

have substituted the disability to 10% as against the opinion of the doctor certified at 17%. In that view of the matter the compensation awarded under the head 'loss of income' towards permanent disability deserves to be enhanced by construing the whole body disability at 17%.

**Delhi Metro Rail Corporation Ltd. vs Delhi Airport Metro Express Pvt. Ltd.
2024 INSC 292 – Curative Petition – Ss 34,37 Arbitration Act – Article 136
Constitution**

Curative Petition - Curative Jurisdiction may be invoked if there is a miscarriage of justice- Jurisdiction of this Court, while deciding a curative petition, extends to cases where the Court acts beyond its jurisdiction, resulting in a grave miscarriage of justice. (Para 35) - the exercise of the curative jurisdiction of this Court should not be adopted as a matter of ordinary course. The curative jurisdiction should not be used to open the floodgates and create a fourth or fifth stage of court intervention in an arbitral award, under this Court's review jurisdiction or curative jurisdiction, respectively. (Para 70)

Constitution of India, 1950- Article 136 - Arbitration and Conciliation Act, 1996- Sections 34,37 - SC must interfere sparingly and only when exceptional circumstances exist, justifying the exercise of this Court's discretion. The Court must apply settled principles of judicial review such as whether the findings of the High Court are borne out from the record or are based on a misappreciation of law and fact. In particular, this Court must be slow in interfering with a judgement delivered in exercise of powers under Section 37 unless there is an error in exercising of the jurisdiction by the Court under Section 37- Unlike the exercise of power under Section 37, which is akin to Section 34, this Court (under Article 136) must limit itself to testing whether the court acting under Section 37 exceeded its jurisdiction by failing to apply the correct tests to assail the award. (Para 43)

Arbitration and Conciliation Act, 1996- Sections 34,37 - A judgment setting aside or refusing to set aside an arbitral award under Section 34 is appealable in the exercise of

the jurisdiction of the court under Section 37 of the Arbitration Act. It has been clarified by this Court, in a line of precedent, that the jurisdiction under Section 37 of the Arbitration Act is akin to the jurisdiction of the Court under Section 34 and restricted to the same grounds of challenge as Section 34. (Para 41)

Arbitration and Conciliation Act, 1996- Section 34- The ground of patent illegality is available for setting aside a domestic award, if the decision of the arbitrator is found to be perverse, or so irrational that no reasonable person would have arrived at it- or the construction of the contract is such that no fair or reasonable person would take- or, that the view of the arbitrator is not even a possible view.A ‘finding’ based on no evidence at all or an award which ignores vital evidence in arriving at its decision would be perverse and liable to be set aside under the head of ‘patent illegality’. An award without reasons would suffer from patent illegality. The arbitrator commits a patent illegality by deciding a matter not within his jurisdiction or violating a fundamental principle of natural justice. (Para 40)

Manisha Mahendra Gala vs Shalini Bhagwan Avatramani 2024 INSC 293 – Easements – Power Of Attorney- S 107 CPC

Power Of Attorney - Power of Attorney holder can only depose about the facts within his personal knowledge and not about those facts which are not within his knowledge or are within the personal knowledge of the person who he represents or about the facts that may have transpired much before he entered the scene -Referred to A.C Narayan vs. State of Maharashtra (2014) 11 SCC 790 and Janki Vashdeo Bhojwani vs. IndusInd Bank Ltd. (2005) 2 SCC 217. (Para 28-29)

Indian Easements Act, 1882- Section 13- Easementary right by necessity could be acquired only in accordance with Section 13 of the Act which provides that such easementary right would arise if it is necessary for enjoying the Dominant Heritage. When there is an alternative way to access the Dominant Heritage, which may be a little far away or longer, it demolishes the easement of necessity. (Para 32) - Distinguished Dr. S. Kumar

& Ors. vs. S. Ramalingam: In Dr. S Kumar case, the right of easement claimed was expressly granted under the sale deed to the buyer and therefore it was held that the right so granted cannot be defeated or extinguished merely for the reason that easement of necessity has come to an end. (Para 32-34)

Code of Civil Procedure, 1908- Section 107- Powers of the appellate court vis-à-vis to determine the case finally- to remand the case- to frame issues and refer them for trial- and to take additional evidence or to require such evidence to be taken - The first appellate court is empowered to exercise powers and to perform nearly the same duties as of the courts of original jurisdiction. Therefore, the first appellate court has the power to return findings of fact and law both and in so returning the finding, it can impliedly overturn the findings of the court of first instance if it is against the evidence on record or is otherwise based upon incorrect interpretation of any document or misconstruction of any evidence adduced before the court of first instance.(Para 39)

Indian Evidence Act, 1872 - The photocopy of a document is inadmissible in evidence. (Para 36)

Indian Easements Act, 1882- Section 4 -'Easement' is defined to mean a right which the owner or occupier of a land possesses for the beneficial enjoyment of his land on the other land which is not owned by him, to do and continue to do something or to prevent and continue to prevent something being done on the said land. It may be pertinent to mention here that the land which is to be enjoyed by the beneficiary is called 'Dominant Heritage' and the land on which the easement is claimed is called 'Servient Heritage'. The easementary right, therefore, is essentially a right claimed by the owner of a land upon another land owned by someone else so that he may enjoy his property in the most beneficial manner. (Para 19)

Subhash @ Subanna vs State Of Karnataka 2024 INSC 294 – Murder Conviction Upheld

Summary: Appeal against judgment of High Court of Karnataka that confirmed the conviction and sentence of the accused -Dismissing appeal, SC observed: Evidence of injured eyewitnesses clearly shows that the intention of the accused person was to do away with Mahadevappa.

Bhupatbhai Bachubhai Chavda vs State of Gujarat 2024 INSC 295 – Criminal Trial – Burden Of Proof – Appeal Against Acquittal

Criminal Trial - Burden of Proof - Unless, under the relevant penal statute, there is a negative burden put on the accused or there is a reverse onus clause, the accused is not required to discharge any burden. In a case where there is a statutory presumption, after the prosecution discharges initial burden, the burden of rebuttal may shift on the accused. (Para 7)

Code Of Criminal Procedure, 1973 - Section 378,386- While deciding an appeal against acquittal, the Appellate Court has to re-appreciate the evidence. After re-appreciating the evidence, the first question that needs to be answered by the Appellate Court is whether the view taken by the Trial Court was a plausible view that could have been taken based on evidence on record. -Appellate Court can interfere with the order of acquittal only if it is satisfied after re-appreciating the evidence that the only possible conclusion was that the guilt of the accused had been established beyond a reasonable doubt. The Appellate Court cannot overturn the order of acquittal only on the ground that another view is possible. In other words, the judgment of acquittal must be found to be perverse. Unless the Appellate Court records such a finding, no interference can be made with the order of acquittal -An order of acquittal further strengthens the presumption of innocence of the accused. (Para 6)

Code Of Criminal Procedure, 1973 - Section 161,162 - Statements recorded by police under Section 161 of the CrPC cannot be used for any purpose except to contradict the witness. (Para 9)

Mahakali Sujatha vs Branch Manager, Future Generali India Life Insurance Company Limited 2024 INSC 296 – Insurance Law- Burden Of Proof

Insurance Law -In the context of insurance contracts, the burden is on the insurer to prove the allegation of non-disclosure of a material fact and that the non-disclosure was fraudulent. Thus, the burden of proving the fact, which excludes the liability of the insurer to pay compensation, lies on the insurer alone and no one else. (Para 45)

Insurance Law -Basic rules to be observed in making a proposal for insurance summarized: (a) A fair and reasonable construction must be put upon the language of the question which is asked, and the answer given will be similarly construed. This involves close attention to the language used in either case, as the question may be so framed that an unqualified answer amounts to an assertion by the proposer that he has knowledge of the facts and that the knowledge is being imparted. However, provided these canons are observed, accuracy in all matters of substance will suffice and misstatements or omissions in trifling and insubstantial respects will be ignored. (b) Carelessness is no excuse, unless the error is so obvious that no one could be regarded as misled. If the proposer puts ‘no’ when he means ‘yes’ it will not avail him to say it was a slip of the pen- the answer is plainly the reverse of the truth. (c) An answer which is literally accurate, so far as it extends, will not suffice if it is misleading by reason of what is not stated. It may be quite accurate for the proposer to state that he has made a claim previously on an insurance company, but the answer is untrue if in fact he has made more than one.(d) Where the space for an answer is left blank, leaving the question un-answered, the reasonable inference may be

that there is nothing to enter as an answer. If in fact there is something to enter as an answer, the insurers are misled in that their reasonable inference is belied. It will then be a matter of construction whether this is a mere non-disclosure, the proposer having made no positive statement at all, or whether in substance he is to be regarded as having asserted that there is in fact nothing to state. (e) Where an answer is unsatisfactory, as being on the face of it incomplete or inconsistent the insurers may, as reasonable men, be regarded as put on inquiry, so that if they issue a policy without any further enquiry they are assumed to have waived any further information. However, having regard to the inference mentioned in head (4) above, the mere leaving of a blank space will not normally be regarded as sufficient to put the insurers on inquiry. (f) A proposer may find it convenient to bracket together two or more questions and give a composite answer. There is no objection to his doing so, provided the insurers are given adequate and accurate information on all points covered by the questions. (g) Any answer given, however accurate and honest at the time it was written down, must be corrected if, up to the time of acceptance of the proposal, any event or circumstance supervenes to make it inaccurate or misleading. (Para 30)

Insurance Law- “Uberrimae fidei”- The principle of utmost good faith puts reciprocal duties of disclosure on both parties to the contract of insurance. These reciprocal duties mandate that both the parties make complete disclosure to each other, so that the parties can take an informed decision and a fair contract of insurance exists between them. No material facts should be suppressed, which may have a bearing on the risk being insured and the decision of the party to undertake that risk. However, not every question can be said to be material fact and the materiality of a fact has to be adjudged as per the rules. (Para 32)

Indian Evidence Act , 1872- Burden of Proof - Consumer Fora -Though the proceedings before the Consumer Fora are in the nature of a summary proceeding. Yet the elementary principles of burden of proof and onus of proof would apply.- the burden of proving a fact rests on the party who substantially asserts the affirmative of the issue and not upon the party who denies it- for a negative is usually incapable of proof. Simply put, it is easier to prove an affirmative than a negative. In other words, the burden of proving a

fact always lies upon the person who asserts the same. Until such burden is discharged, the other party is not required to be called upon to prove his case. The court has to examine as to whether the person upon whom burden lies has been able to discharge his burden. Further, things which are admitted need not be proved. Whether the burden of proof has been discharged by a party to the lis or not would depend upon the facts and circumstances of the case. The party on whom the burden lies has to stand on his own and he cannot take advantage of the weakness or omissions of the opposite party. Thus, the burden of proving a claim or defence is on the party who asserts it.(Para 41)- Distinction between burden of proof and onus of proof- Burden of proof lies upon a person who has to prove the fact and which never shifts but onus of proof shifts. Such a shifting of onus is a continuous process in the evaluation of evidence. For instance, in a suit for possession based on the title, once the plaintiff has been able to create a high degree of probability so as to shift the onus on the defendant, it is for the defendant to discharge his onus and in the absence thereof, the burden of proof lying on the plaintiff shall be held to have been discharged so as to amount to proof of the plaintiff's title (Para 43)-Section 106 -When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. This Section applies only to parties to the suit or proceeding. It cannot apply when the fact is such as to be capable of being known also by persons other than the parties. (Para 46)

PHR Invent Educational Society vs UCO Bank 2024 INSC 297 – Article 226 Constitution-Writ Petition- Alternative Remedy

Constitution of India, 1950 - Article 226 - A writ petition under Article 226 of the Constitution be entertained in spite of availability of an alternative remedy (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question- (ii) it has acted in defiance of the fundamental principles of judicial procedure- (iii) it has resorted to invoke the provisions which are repealed- and (iv) when an order has

been passed in total violation of the principles of natural justice - The High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance - In SARFAESI matters, the High Court should not entertain a petition under Article 226 of the Constitution particularly when an alternative statutory remedy is available.

Arun Shankar vs State Of Madhya Pradesh 2024 INSC 298 – Murder Accused Acquitted

Appellant concurrently convicted for murder - Allowing appeal, SC observed: The circumstance of last seen together is a very weak circumstance in the facts of the case. The circumstances brought on record are not conclusive in nature. The circumstances are not consistent only with the hypothesis of the guilt of the appellant- Appellant acquitted.

Ravishankar Tandon vs State Of Chhattisgarh 2024 INSC 299 – S 27 Evidence Act- Circumstantial Evidence

Indian Evidence Act, 1872- Section 27 - For bringing the case under Section 27 of the Evidence Act, it will be necessary for the prosecution to establish that, based on the information given by the accused while in police custody, it had led to the discovery of the fact, which was distinctly within the knowledge of the maker of the said statement. It is only so much of the information as relates distinctly to the fact thereby discovered would be admissible - The rationale behind this provision is that, if a fact is actually discovered in consequence of the information supplied, it affords some guarantee that the information is true and it can therefore be safely allowed to be admitted in evidence as an incriminating factor against the accused - Referred to State (NCT of Delhi) v. Navjot Sandhu alias Afsan

Guru (2005) 11 SCC 600 : 2005 INSC 333- The prosecution will have to establish that, before the information given by the accused persons on the basis of which the dead body was recovered, nobody had the knowledge about the existence of the dead body at the place from where it was recovered. (Para 12- 15)

Criminal Trial - Circumstantial Evidence - it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established - Its a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused -There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'.- The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty- The circumstances should be such that they exclude every possible hypothesis except the one to be proved.- There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused- Suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proven guilty beyond a reasonable doubt- Referred to Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116 : 1984 INSC 121. (Para 8-10)

Sanjay Chaudhary vs Pioneer Urban Land & Infrastructure Ltd 2024 INSC 300 – Consumer

Summary: Disposing appeal against NCDRC order allowing Consumer Complaint, SC observed- Developer failed to handover the possession of the flat to the appellants-homebuyers by the scheduled date i.e. 16th March, 2014 upon which the consumer dispute came to be registered- Commission erred in directing that the opposite party i.e. respondent-developer shall be entitled to charge interest @9% per annum from the

appellants-homebuyers on the balance amount (except stamp duty and registration charges) from 14th November, 2017 till the date of payment. Thus, the said part of the impugned order whereby, the respondent-developer has been permitted to charge interest at the rate of 9% per annum on the balance amount is quashed and set aside.

Yash Tuteja vs Union Of India 2024 INSC 301 – PMLA – Ss 200-204 CrPC

Prevention Of Money Laundering Act, 2002- Section 2,3- In the absence of the scheduled offence, there cannot be any proceeds of crime within the meaning of clause (u) of subSection (1) of Section 2 of the PMLA. If there are no proceeds of crime, the offence under Section 3 of the PMLA is not made out. The reason is that existence of the proceeds of crime is a condition precedent for the applicability of Section 3 of the PMLA- Referred to Pavana Dibbur v. Directorate of Enforcement 2023 INSC 1029. (Para 4)

Code of Criminal Procedure, 1973- Section 200-204-Prevention Of Money Laundering Act, 2002- Section 3,44- Once a complaint is filed before the Special Court, the provisions of Sections 200 to 204 of the Cr.PC will apply to the Complaint. There is no provision in the PMLA which overrides the provisions of Sections 200 to Sections 204 of Cr.PC. Hence, the Special Court will have to apply its mind to the question of whether a prima facie case of a commission of an offence under Section 3 of the PMLA is made out in a complaint under Section 44(1)(b) of the PMLA. If the Special Court is of the view that no prima facie case of an offence under Section 3 of the PMLA is made out, it must exercise the power under Section 203 of the Cr.PC to dismiss the complaint. If a

prima facie case is made out, the Special Court can take recourse to Section 204 of the Cr. PC. (Para 6)

VVF Ltd. Employees Union vs VVF India Limited 2024 INSC 302 – Article 226 – Writ – Labour Law

Constitution of India, 1950- Article 226 -Labour Law -Wage Structure Fixing -Though the High Court ought not to re-appreciate evidence and substitute its own finding for that of the Tribunal, it would not be beyond the jurisdiction of the High Court in its power of judicial review to altogether eschew such a process- The financial capacity of an employer is an important factor which could not be ignored in fixing wage structure. In the given facts where the employer seriously contested the use of the concerned units as comparable ones, and highlighted its difficult financial position, the proper course would be to remit the matter to the Industrial Tribunal rather than entering into these factual question independently in exercise of the writ jurisdiction. This exercise would require leading of evidence before the primary forum, the Industrial Tribunal. (Para 15)

Meher Fatima Hussain vs Jamia Millia Islamia 2024 INSC 303 – UGC – University Appointments

Summary: Allowing an appeal, SC observed: Considering that appellants were appointed after undergoing a regular selection process and they possess relevant qualifications as per the norms of UGC, they should have been continued on the posts merged with the regular establishment of the University instead of adopting the fresh selection procedure. In the facts of this case, the University's action of not continuing them and starting a fresh selection process is unjust, arbitrary and violative of Article 14 of the Constitution of India. Therefore, the employment of the appellants will have to be continued after merger- by

setting aside the impugned judgments, we direct to reinstate the appellants in their respective posts based on their selection in December 2016.

Samaj Parivartana Samudaya vs State Of Karnataka 2024 INSC 304 – Mining

Summary: Mining Activities- Orders passed in various applications

Yogesh @ Sonu Tharu vs State 2024 INSC 305 – Murder Case

Indian Penal Code, 1860- Section 299,300, 304- Allowing appeal, SC observed: Evidence available would show that there was only a quarrel. All the parties assembled at the place of occurrence for the purpose of celebrating the birthday of PW-24. This fact is not in dispute. It is only while consuming liquor, a quarrel happened suddenly between the deceased and A2. The reason for A1 to shoot the deceased was the said quarrel. Though it is stated that A1 had made an attempt to shoot the deceased. The very said fact alone cannot be a ground to bring it under the rigour of Section 300 IPC. The weapon was not brought for the purpose of committing an offence. A1 was carrying the weapon without any intention or objective to commit an offence. To put it differently, but for the quarrel between A2 and the deceased the occurrence would not have happened- It is a case which would come under Section 299 of IPC and therefore, A1 has committed an offence of culpable homicide not amounting to murder.

Association Of Engineers vs State Of Tamil Nadu 2024 INSC 306 – Article 136 Constitution – SLP

Constitution of India, 1950- Article 136- Quoted from Narpat Singh v. Jaipur

Development Authority (2002) 4 SCC 666 : 2002 INSC 222: "*The exercise of jurisdiction conferred by Article 136 of the Constitution on this Court is discretionary. It does not confer a right to appeal on a party to litigation- it only confers a discretionary power of widest amplitude on this Court to be exercised for satisfying the demands of justice. On one hand, it is an exceptional power to be exercised sparingly, with caution and care and to remedy extraordinary situations or situations occasioning gross failure of justice- on the other hand, it is an overriding power whereunder the Court may generously step in to impart justice and remedy injustice.*"(Para 26) [In this case, SC dismissed appeals filed by Association of Engineers Challenging Govt. Order appointing Technical Assistants As Assistant Engineers on Temporary Basis]

Dharambir @ Dharma vs State Of Haryana 2024 INSC 307 -Criminal Trial – Extra Judicial Confession

Criminal Trial - Extra judicial confession by its very nature is a weak piece of evidence. It may be used as a corroborative piece of evidence in tandem with substantive evidence [SC Acquits Murder Accused who faced concurrent conviction]

Ramvir @ Saket Singh vs State Of Madhya Pradesh 2024 INSC 308

Summary: Murder Case - Dismissing appeal against concurrent conviction, SC observed: contradictions are far too trivial so as to discard the entire prosecution case which is based on reliable and trustworthy set of eye witnesses whose evidence is corroborated by the evidence of the Medical Jurist and other attending circumstances.

Sandeep Kumar vs GB Pant Institute Of Engineering And Technology Ghurdauri 2024 INSC 309 – Registrar – Termination From Services

Summary: SC directed reinstatement of Registrar allowing his appeal and observed: Termination of the services of the appellant without holding disciplinary enquiry was totally unjustified and dehors the requirements of law and in gross violation of principles of natural justice.

State Of Telangana vs Mohd. Abdul Qasim(D) 2024 INSC 310 – CPC – Review Jurisdiction- Environment – Forest Act

Code Of Civil Procedure, 1908- Section 114 and Order XLVII Rule 1 - Mistake or error apparent on the face of record would debar the court from acting as an appellate court in disguise, by indulging in a re-hearing. A decision, however erroneous, can never be a factor for review, but can only be corrected in appeal. Such a mistake or error should be self-evident on the face of record. The error should be grave enough to be identified on a mere cursory look, and an omission so glaring that it requires interference in the form of a review. Being a creature of the statute, there is absolutely no room for a fresh hearing. The court has got no role to involve itself in the process of adjudication for a second time. Instead, it has to merely examine the existence of an apparent mistake or error. Even when two views are possible, the court shall not indulge itself by going into the merits- The material produced, at this stage, should be of such pristine quality which, if taken into consideration, would have the logical effect of reversing the judgment. Order XLVII Rule 1 of the CPC, 1908 indicates that power of review can be exercised by courts, in three different situations, but these occasions ought to be read in an analogous manner. In other words, they should be read in a manner to mean that a restrictive power has been conferred- Order XLVII Rule 1(c) -A subsequent event per se cannot form the basis of a review- The important matter or evidence produced must have been available at the time when the decree was passed. This is a matter of rule. On a very rare occasion, an exception can be carved out. Such an exception can only be exercised when the said matter or

evidence is of unimpeachable quality. It is not only a new matter or evidence that should be taken into consideration, but it should also be an important one- While exercising the said power, the court has to first check the evidentiary value of such discovery, including the circumstances under which it emanated, particularly when it inherently lacks jurisdiction or the evidence cannot be made admissible in law and therefore, is not relevant. In such a circumstance, there is no question of proceeding further in deciding the review application. -The words “as it thinks fit” cannot be interpreted to mean anything beyond what is conferred under Order XLVII Rule 1- Section 114 has to be read along with Order XLVII Rule 1. While they are to be read together, Section 114 is more procedural, whereas Order XLVII Rule 1 is substantially substantive- The words “due diligence”, though one of fact, places onus heavily on the one who seeks a review. It has to be seen from the point of view of a reasonable and prudent man. Though an element of flexibility is given to any evidence or matter on its discovery, it has to be one which was not available to the court 16 earlier. It could not have been produced despite due diligence, meaning thereby that it should have been available and, therefore, in existence at least at the time of passing the decree- The words “for any other sufficient reason” ought to be read in conjunction with the earlier two categories reiterating the scope. Being a judicial discretion, it has to be exercised with circumspection and on rare occasions. It is a power to be exercised by way of an exception, subject to the rigours of the provision- Caselaws discussed (Para 18-25)

Constitution of India, 1950- Part III and Part IV- Part III and Part IV of the Constitution are like two wheels of a chariot, complementing each other in their commitment to a social change and development. They form the core of nation building and a progressive society.

Environmental Laws -The approach required to be adopted by the courts where the onus is on the violator to prove that there is no environmental degradation- There is a constitutional duty enjoined upon every court to protect and preserve the environment. Courts will have to apply the principle of *parens patriae* in light of the constitutional mandate enshrined in Articles 48A, 51A, 21, 14 and 19 of the Constitution of India, 1950. Therefore, the burden of proof lies on a developer or industrialist and also on the State in a given case to prove that there is no such degradation -Not being an adversarial litigation,

the court shall utilise all possible resources, including scientific inventions, in its endeavour to preserve the environment. While adopting an ecocentric approach, the concept of inter-related existence has to be kept in mind. A narrow or pedantic approach should be avoided. While considering the economic benefits, the invisible value and benefits provided by the forests shall also be factored into. There has to be an inclusive approach, which should be society centric, meaning thereby that all species should co-exist with minimum collateral damage. The effort is to minimise the damage to the environment, even in a case where the need for human development is indispensable. While having a pragmatic and practical approach, courts will have to weigh in the relevant factors and thus, perform a balancing act. (Para 38-39)

Wg Cdr A U Tayyaba (retd) vs Union of India 2024 INSC 311

Summary: Clarification of Judgment in Wg Cdr A U Tayyaba (retd) & Ors v Union of India & Ors [Civil Appeal Nos 79-82 of 2012]

Kirpal Singh vs State Of Punjab 2024 INSC 312 – Criminal Trial – Oral Testimony

Criminal Trial - Oral Testimony - Quoted Vadivelu Thevar v. State of Madras AIR 1957 SC 614 : The court is concerned with the quality and not with the quantity of the evidence necessary for, proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely: (1) wholly reliable. (2) Wholly unreliable. (3) Neither wholly reliable nor wholly unreliable. 12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way - it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court, equally has no difficulty in coming to its conclusion. It is in the third

category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. [Concurrent murder conviction set aside as court found witnesses fall in the second category, i.e., wholly unreliable and no other tangible evidence was led by the prosecution to connect the accused appellant with the crime.]

State Of West Bengal vs Jayeeta Das 2024 INSC 313 – NIA Act – UAPA

National Investigation Agency Act, 2002- Section 22- State of West Bengal has so far not exercised the power conferred upon it by Section 22 of the NIA Act for constituting a Special Court for trial of offences set out in the Schedule to the NIA Act and hence, the Sessions Court within whose jurisdiction, the offence took place which would be the Chief Judge cum City Sessions Court in the case at hand, had the power 14 and jurisdiction to deal with the case by virtue of the sub-section (3) of Section 22 of the NIA Act. (Para 29)

UAPA Act - Section 2(1)(d) and 43D(2)- the Chief Judge cum City Sessions Court had the jurisdiction to pass the order (permitted addition of offences under UAPA) . In view of the definition of the ‘Court’ provided under Section 2(1)(d) of UAPA, the jurisdictional Magistrate would also be clothed with the jurisdiction to deal with the remand of the accused albeit for a period of 90 days only because an express order of the Sessions Court or the Special Court, as the case may be, authorising remand beyond such period would be required by virtue of Section 43D(2) of UAPA. (Para 35,36)

Mrinmoy Maity vs Chhanda Koley 2024 INSC 314 – Article 226 Constitution – Writ Petition – Delay & Latches

Constitution of India,1950- Article 226 - Delay or latches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action- For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time the same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court. (Para 9-13)

State Of Madhya Pradesh vs Satish Jain (D) 2024 INSC 315

Summary: High Court set aside the order of the Trial Court and further directed the Trial Court to proceed in accordance with law to implement the award of the Arbitrator - Allowing appeal, SC set aside HC order and restored Trial Court order.

Mukhtar Zaidi vs State Of Uttar Pradesh 2024 INSC 316 – S 200 CrPC – Protest Petition

Code Of Criminal Procedure, 1973- Section 200 - The right of the Complainant to file a petition under Section 200 Cr.P.C. is not taken away even if the Magistrate concerned does not direct that a Protest Petition be treated as a complaint- When the Magistrate is satisfied that a case is worth taking cognizance and fit for summoning the accused, the Magistrate ought to have followed the provisions and the procedure prescribed under Chapter XV of the Cr.P.C- Referred to Vishnu Kumar Tiwari vs. State of Uttar Pradesh (2019) 8 SCC 27. (Para 9,10)

State Of Arunachal Pradesh vs Kamal Agarwal 2024 INSC 317 – S 482 CrPC – Civil Nature Criminal Case

Code Of Criminal Procedure, 1973- Section 482 -Quashing a cheating case, SC observed: The matter was purely civil in nature. It was a case of money advancing for which no written document was executed to indicate its purpose or import as such whether it was a loan advance or an advance payment for transfer of property being land/building situate in Jaipur, is not borne out from any records. Such claim of the complainant that it was for transfer of property for land/building prescribed above, would be a matter of evidence to be led and established in the Court of law rather than the police investigating the same and finding out. It is not the case of complainant as stated in FIR that the plot/land as alleged by them which was to be transferred to them did not exist or had been sold or transferred to somebody else and therefore, there was an element of cheating by the accused persons. If the accused persons were not transferring the land and if the complainant could establish an agreement/contract with respect to the same in a Court of law, it ought to have filed a civil suit for appropriate relief.

Hansraj vs State Of MP 2024 INSC 318 – S 27 Evidence Act

Indian Evidence Act, 1872 - Section 27- For proving a disclosure memo recorded at the instance of the accused, the Investigating Officer would be required to state about the contents of the disclosure memo and in absence thereof, the disclosure memo and the discovery of facts made in pursuance thereto would not be considered as admissible for want of proper proof - Referred to Ramanand alias Nandlal Bharti v. State of Uttar Pradesh 2022 SCC OnLine SC 1396. (Para 13)

**Insolvency And Bankruptcy Board Of India vs Satyanarayan Bankatlal Malu
2024 INSC 319**

Insolvency and Bankruptcy Code, 2016- Section 236(1)- Companies Act, 2013- Section 435 -Under Section 236(1) of the Code, reference is “offences under this Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013”- Whether the Special Court under the Code would be as provided under Section 435 of the Companies Act as it existed at the time when the Code came into effect, or it would be as provided under Section 435 of the Companies Act after the 2018 Amendment? - The reference is not general but specific. The reference is only to the fact that the offences under the Code shall be tried by the Special Court established under Chapter XXVIII of the Companies Act -The provision of Section 435 of the Companies Act, 2013 with regard to Special Court would become a part of Section 236(1) of the Code as on the date of its enactment. If that be so, any amendment to Section 435 of the Companies Act, 2013, after the date on which the Code came into effect would not have any effect on the provisions of Section 236(1) of the Code. (Para 41-44)

Legislation -Distinction between ‘legislation by reference’ and ‘legislation by incorporation’- The effect of incorporation means the bodily lifting of the provisions of one enactment and making it part of another so much so that the repeal of the former

leaves the latter wholly untouched. However, in the case of a reference or a citation of the provisions of one enactment into another without incorporation, the amendment or repeal of the provisions of the said Act referred to in a subsequent Act will also bear the effect of the amendment or repeal of the said provisions- Collector of Customs, Madras vs Nathella Sampathu Chetty (1962) 3 SCR 786. (Para 26-27) - When the reference is specific and not general, it will have to be held that it is a case of 'legislation by incorporation' and not a case of 'legislation by reference'. (Para 43)

Babu Sahebagouda Rudragoudar vs State Of Karnataka 2024 INSC 320 – S 378 CrPC – S 27 Evidence Act

Code Of Criminal Procedure, 1973- **Section 378,386-** scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-(a) That the judgment of acquittal suffers from patent perversity- (b) That the same is based on a misreading/omission to consider material evidence on record- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record- The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court - H.D. Sundara & Ors. v. State of Karnataka (2023) 9 SCC 581 and Rajesh Prasad v. State of Bihar (2022) 3 SCC 471. (Para 36-42)

Indian Evidence Act, 1872- **Section 27-** The statement of an accused recorded by a police officer under Section 27 of the Evidence Act is basically a memorandum of confession of the accused recorded by the Investigating Officer during interrogation which has been taken down in writing. The confessional part of such statement is inadmissible and only the part which distinctly leads to discovery of fact is admissible in evidence when the Investigating Officer steps into the witness box for proving such disclosure statement,

he would be required to narrate what the accused stated to him. The Investigating Officer essentially testifies about the conversation held between himself and the accused which has been taken down into writing leading to the discovery of incriminating fact(s) - Referred to State of Uttar Pradesh v. Deoman Upadhyaya AIR 1960 SC 1125. (Para 58-60) - mere exhibiting of memorandum prepared by the Investigating Officer during investigation cannot tantamount to proof of its contents. While testifying on oath, the Investigating Officer would be required to narrate the sequence of events which transpired leading to the recording of the disclosure statement - Referred to Ramanand @ Nandlal Bharti v. State of Uttar Pradesh 2022 SCC OnLine SC 1396, Subramanya v. State of Karnataka 2022 SCC Online SC 1400, Mohd. Abdul Hafeez v. State of Andhra Pradesh (1983) 1 SCC 143. (Para 62-65)

Indian Evidence Act, 1872- Section 60 - Oral evidence in all cases must be direct. The section leaves no ambiguity and mandates that no secondary/hearsay evidence can be given in case of oral evidence, except for the circumstances enumerated in the section. In case of a person who asserts to have heard a fact, only his evidence must be given in respect of the same. (Para 61)

Deccan Value Investors LP vs Dinkar Venkatasubramanian 2024 INSC 321- IBC – Resolution Plans

Insolvency and Bankruptcy Code, 2016 - Resolution Plans - Resolution plans are not prepared and submitted by lay persons. They are submitted after the financial statements and data are examined by domain and financial experts, who scan, appraise and evaluate the material as available for its usefulness, with caution and scepticism. Inadequacies and paltriness of data are accounted and chronicled for valuations and the risk involved. It is rather strange to argue that the superspecialists and financial experts were gullible and misunderstood the details, figures or data. The assumption is that the resolution applicant would submit the revival/resolution plan specifying the monetary amount and other obligations, after in-depth analysis of the fiscal and commercial viability

of the corporate debtor. Pointing out the ambiguities or lack of specific details or data, post acceptance of the resolution plan by the Committee of Creditors, should be rejected, except in an egregious case where data and facts are fudged or concealed. Absence or ambiguity of details and particulars should put the parties to caution, and it is for them to ascertain details, and exercise discretion to submit or not submit resolution plans. . Records of corporate debtor, who are in financial distress, may suffer from data asymmetry, debatable or even wrong data. Thus, the provision for transactional audit etc, but this takes time and is not necessary before information memorandum or virtual data room is set up. Financial experts, being aware, do tread with caution. Information memorandum is not to be tested applying “the true picture of risk” obligation, albeit as observed by the NCLAT the resolution professional’s obligation to provide information has to be understood on “best effort” basis. (Para 15-16)

Maneesha Yadav vs State Of Uttar Pradesh 2024 INSC 322 – S 482 CrPC – Filing of Chargesheet

Code Of Criminal Procedure, 1973- Section 482 -Merely because the charge-sheet is filed cannot be a ground for the High Court to not invoke its jurisdiction under Section 482 of the Cr.P.C.-The Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint at the stage of quashing of the proceedings under Section 482 Cr.P.C. However, the allegations made in the FIR/complaint, if taken at its face value, must disclose the commission of an offence and make out a case against the accused- Quashing FIR against appellants, SC observed: Merely because the appellants are close relatives of the Manager or Director of the said institute, cannot be a ground to involve them in criminal proceedings. Unless some material was placed on record to show that the appellants herein were in-charge of 5 the affairs of the said institute or had any role to play in the management of the institute or were involved in inducing the complainant and other students to give them admission against the unrecognized seats- in our view, the continuation of the criminal proceedings would be nothing else but an abuse of process of

law.

Ramayan Singh vs State Of Uttar Pradesh 2024 INSC 323- Bail

Code Of Criminal Procedure, 1973- Section 439- Grant of bail involves the exercise of a discretionary power which ought not to be used arbitrarily, capriciously- and injudiciouslygrant of bail involves the exercise of a discretionary power which ought not to be used arbitrarily, capriciously- and injudiciously - Referred to Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, on certain parameters on which the correctness of an order granting bail must be evaluated and Mahipal v. Rajesh Kumar, (2020) 2 SCC 118. [Allowing appeal, SC held:High Court ought not to have granted bail in relation to the proceedings emanating from the FIR on account of (i) the seriousness of the crime- (ii) the conduct of the accused person(s)- and (iii) the overall impact of the crime on society at large i.e., the accused person(s) were involved in a broad daylight murder which led to the closure of a market for a prolonged period of 10 (ten) days due to their overwhelming influence in the area.]

Parteek Bansal vs State Of Rajasthan 2024 INSC 324 – S 498A IPC – Misuse

Indian Penal Code, 1860- Section 498A -Practice of state machinery being misused for ulterior motives and for causing harassment to the other side deprecated- Quashed FIR U/S 498A IPC and imposed costs of 5 Lakhs.

Jadunath Singh vs Arvind Kumar 2024 INSC 325 – Bail Cancellation

Bail - Allowing appeal, SC cancelled bail of two accused and held that despite their period

of incarceration of more than 10 years would not be entitled to grant of bail for their subsequent conduct for which they are facing separate trial.

Govind Kumar Sharma vs Bank Of Baroda 2024 INSC 326 – SARFAESI

SARFAESI Act, 2002 - DRT set aside auction sale held in favour of the appellants - DRAT dismissed appeal - HC dismissed WP - Disposing appeal, SC held a) setting aside of the auction sale is affirmed. b) The status of the appellants as tenants shall stand restored leaving it open for the borrower as owner of the property to evict the appellants in accordance to law. c) The entire auction/sale money lying with the Bank (R-1 & 2) shall be returned to the appellants along with compound interest @12 per cent per annum to be calculated from the date of deposit till the date of payment. d) The Borrower Respondent nos.3 and 4 and the Bank–Respondent nos.1 and 2, would streamline their accounts and the Bank upon settlement of the same will issue a No Dues Certificate to the Borrower.

Pernod Ricard India (P) Ltd vs State Of Madhya Pradesh 2024 INSC 327- MP Foreign Liquor Rules -General Clauses Act

Madhya Pradesh Foreign Liquor Rules, 1996-Whether it is the rule that existed when the violation occurred during the license period of 2009-10 or the rule that was substituted in 2011 when proceedings for penalty were initiated? If the amendment by way of a substitution in 2011 is intended to reduce the quantum of penalty for better administration and regulation of foreign liquor, there is no justification to ignore the subject and context of the amendment and permit the State to recover the penalty as per the unamended Rule.- . The subject of administration of liquor requires close monitoring and the amendment must be seen in this context of bringing about good governance and effective management. Seen in this context, the principle of Section 10 of MP General Clauses Act, 1957, relating continuation of a repealed provision to rights and liabilities that

accrued during the subsistence of the Rule does not subserve the purpose and object of the amendment. (Para 32)

General Clauses Act, 1897 - Interpretation statutes such as the General Clauses Act, 1897, are enactments intended to set standards in construction of statutes. The expression construction is of seminal importance as it is oriented towards enabling a seeker of the text of a statute to understand the true meaning of the words and their intendment. Apart from setting coherent and consistent methods of understanding enactments, the interpretation statutes also subserve the purpose of reducing prolixity of legislations. The standard principles formulated in the interpretation statutes must, therefore, be read into any and every enactment falling for consideration- Interpretation statutes or definitions in interpretation clauses are only internal aids of construction of a statute. (Para 24-28)

Subordinate Legislation - Without a statutory empowerment, subordinate legislation will always commence to operate only from the date of its issuance and at the same time, cease to exist from the date of its deletion or withdrawal - The legislative authorization enabling the executive to make rules prospectively or retrospectively is crucial- The operation of a subordinate legislation is determined by the empowerment of the parent act.. (Para 14)

Legislation -Repeal and Substitution - A repealed provision will cease to operate from the date of repeal and the substituted provision will commence to operate from the date of its substitution. This principle is subject to specific statutory prescription. Statute can enable the repealed provision to continue to apply to transactions that have commenced before the repeal. Similarly, a substituted provision which operates prospectively, if it affects vested rights, subject to statutory prescriptions, can also operate retrospectively. (Para 13)

Yash Raj Films Private Limited vs Afreen Fatima Zaidi 2024 INSC 328 -Movie Promo- Consumer Protection Act -Deficiency Of Service – Unfair Trade Practice

Consumer Protection Act, 1986 -Legal implications of a promotional trailer, popularly known as a ‘promo’, or a teaser that is circulated before the release of a movie- Whether it creates any contractual relationship or obligations akin to it? Is it an unfair trade practice if the contents of the promotional trailer are not shown in the movie? Promotional trailers are unilateral and do not qualify as offers eliciting acceptance, and as such they do not transform into promises, much less agreements enforceable by law.- A promotional trailer is unilateral. It is only meant to encourage a viewer to purchase the ticket to the movie, which is an independent transaction and contract from the promotional trailer. A promotional trailer by itself is not an offer and neither intends to nor can create a contractual relationship. Since the promotional trailer is not an offer, there is no possibility of it becoming a promise. Therefore, there is no offer, much less a contract, between the appellant and the complainant to the effect that the song contained in the trailer would be played in the movie and if not played, it will amount to deficiency in the service. The transaction of service is only to enable the complainant to watch the movie upon the payment of consideration in the form of purchase of the movie ticket. This transaction is unconnected to the promotional trailer, which by itself does not create any kind of right of claim with respect to the content of the movie- The promotional trailer does not fall under any of the instances of “unfair method or unfair and deceptive practice” contained in clause (1) of Section 2(1)(r) that pertains to unfair trade practice in the promotion of goods and services. Nor does it make any false statement or intend to mislead the viewers. Furthermore, the burden is on the complainant to produce cogent evidence that proves unfair trade practice¹⁷ but nothing has been brought on record in the present case to show the same. Therefore, no case for unfair trade practice is made out in the present case. (Para 1,14,18)

Constitution of India, 1950- Article 19- Commercial speech, which includes advertisements, is protected through freedom of speech under Article 19(1)(a) of the Constitution, subject to the reasonable restrictions in Article 19(2) - commercial speech

that is deceptive, unfair, misleading, and untruthful is excluded from such constitutional protection and can be regulated and prohibited by the State.⁵ Subject to these restrictions, the producer/ advertiser has the freedom to creatively and artistically promote his goods and services- Subject to these restrictions, the producer/ advertiser has the freedom to creatively and artistically promote his goods and services. (Para 5)

Consumer Protection Act, 1986 - Section 2(1)(o)- Any person watching a movie after remitting the necessary consideration becomes a consumer of service. The service in this case is that of entertainment. (Para 9)

Contract Law- The essential element of an ‘offer’ or ‘proposal’ for the formation of a contract has not been satisfied in the present case. A person makes an offer or ‘proposal’ when he signifies his willingness to do something with a view to obtain the assent of another person. When the other person signifies his assent, the proposal gets accepted and becomes a ‘promise’.A proposal is therefore a prerequisite to a ‘promise’ and a ‘contract’. (Para 13)

Consumer Protection Act, 1986 - Section 2(1)(r)- False statement that misleads the buyer is essential for an ‘unfair trade practice’. A false representation is one that is false in substance and in fact, and the test by which the representation must be judged is to see whether the discrepancy between the represented fact and the actual fact would be considered material by a reasonable person. Further, “statements of the nature which are wilfully made knowingly false, or made recklessly without honest belief in its truth, and made with the purpose to mislead or deceive will definitely constitute a false or misleading representation. In addition, a failure to disclose a material fact when a duty to disclose that fact has arisen will also constitute a false or misleading representation.” Therefore, only substantive and material discrepancies are covered under ‘unfair trade practice’-. Services involving art necessarily involve the freedom and discretion of the service provider in their presentation. This is necessary and compelling by the very nature of such services. The variations are substantial, and rightly so. Therefore, the standard by which a court of law judges the representation, followed by the service, must be different and must account for the creative element involved in such transactions.(Para 17-19)

Rehan Ahmed (D) vs Akhtar Un Nisa (D) 2024 INSC 329 – Civil Suit

Summary- The impugned judgment of the High Court is set aside, and the Executing Court's order is restored and the objections of Respondent no.1 under Section 47 of the CPC rejected.

Jyoti Devi vs Suket Hospital 2024 INSC 330 – Medical Negligence – Eggshell Skull Rule

Eggshell Skull Rule- It is a common law doctrine that makes a defendant liable for the plaintiff's unforeseeable and uncommon reactions to the defendant's negligent or intentional tort. In simple terms, a person who has an eggshell skull is one who would be more severely impacted by an act, which an otherwise "normal person" would be able to withstand. Hence the term eggshell to denote this as an eggshell is by its very nature, brittle. It is otherwise termed as "taking the victim as one finds them" and, therefore, a doer of an act would be liable for the otherwise more severe impact that such an act may have on the victim- The jurisprudence of the application of this rule, as has developed, (needless to add, in countries other than India) has fit into four categories - first, when a latent condition of the plaintiff has been unearthed- second, when the negligence on the part of the wrongdoer re-activates a plaintiff's pre-existing condition that had subsided due to treatment- third, wrongdoer's actions aggravate known, pre-existing conditions, that have not yet received medical attention- and fourth, when the wrongdoer's actions accelerate an inevitable disability or loss of life due to a condition possessed by the plaintiff, even when the eventuality would have occurred with time, in the absence of the wrongdoer's actions. As these categories and, the name of the rule itself suggest, the persons to whose cases this rule can be applied, are persons who have pre-existing conditions. Therefore, for this rule to be appropriately invoked and applied, the person in

whose case an adjudicatory authority applies must have a pre-existing condition falling into either of the four categories described above. (Para 12.4)

Consumer Protection Act - Scope- i. It is a benevolent, socially orientated legislation, the declared aim of which is aimed at protecting the interests of consumers- ii. Its goal is to provide inexpensive and prompt remedies for the grievances of consumers against defective goods and deficient services- iii. For the above-stated objective, keeping in view the accessibility of these grievance redressal bodies to all, to all persons, quasi-judicial bodies have been set up at the district, state, and national levels- iv. These bodies have been formed to save the aggrieved consumer from the hassle of filing a civil suit, i.e., provide for a prompt remedy in the nature of award or where appropriate, compensation, after having duly complied with the principles of natural justice - Referred to nC. Venkatachalam v. Ajitkumar C. Shah (2011) 12 SCC 707 and J.J. Merchant (Dr) v. Shrinath Chaturvedi (2002) 6 SCC 635 and Common Cause v. Union of India (1997) 10 SCC 729. (Para 12.1)

Medical Negligence - in determining compensation in cases of medical negligence, a balance has to be struck between the demands of the person claiming compensation, as also the interests of those being made liable to pay.- ‘just compensation’- The idea of compensation is based on *restitutio in integrum*, which means, make good the loss suffered, so far as money is able to do so, or, in other words, take the receiver of such compensation, back to a position, as if the loss/injury suffered by them hadn’t occurred. In Sarla Verma v. DTC¹³ this Court observed that compensation doesn’t acquire the quality of being just simply because the Tribunal awarding it believes it to be so. For it to be so, it must be, (i) adequate- (ii) fair- and (iii) equitable, in the facts and circumstances of each case. (Para 12.3)

Sanju Ranjan Nayar vs Jayaraj 2024 INSC 331 – S 482 CrPC

Code Of Criminal Procedure, 1973- Section 482- High Court quashed the First

Information Report for the offence under Section 7(a) of the Prevention of Corruption Act - Allowing appeal, SC held: despite the accused having been exonerated in the departmental proceedings yet the competent authority, vide Annexure P3 proceeded to accord sanction for prosecution. The High Court, in our considered view, failed to account for the principles enunciated by this Court in the case of State of Haryana & Ors. v. Bhajan Lal & Ors., (1992) SCC Suppl.1 33.

Vinod Kumar vs Union Of India 2024 INSC 332 – Service – Regularization – Umadevi Judgment

Service Law - Regularization - Despite being appointed for what was termed a temporary or scheme-based engagement, the appellants have been continuously working in these positions from 1992 till the present, spanning a period exceeding 25 years- The Tribunal's judgment negated the appellants' plea for regularization and absorption into the posts of 'Accounts Clerk' against which they were temporarily appointed - High Court dismissed the challenge against Tribunal judgment - Allowing Appeal, SC observed: Essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement -The judgment in the case Uma Devi distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case- The appellants are entitled to be considered for regularization in their respective posts. The respondents are directed to complete the process of regularization within 3 months from the date of service of this judgment.

Arcadia Shipping Ltd. vs Tata Steel Limited 2024 INSC 333 – Order I Rule 3,7 CPC

Code of Civil Procedure, 1908 - Order I Rule 3,7 - Plaintiff may join as a defendant in one suit, all persons against whom, the plaintiff claims the right to relief in respect of, or arising out of, the same act or transaction or series of transactions. The claim viz. the defendants can be joint, several or in the alternative. Thus, it is permissible to file one civil suit, even when, separate suits can be brought against such persons, when common questions of law and fact arise. Order I Rule 7 of the Code permits a plaintiff who is in doubt as to the person from whom they are entitled to obtain redress, to join two or more defendants in order that the question as to which of the defendants is liable, and to what extent, can be decided in one suit. (Para 11,12)

Code of Civil Procedure, 1908 - Section 20(c)- Section 20(c) of the Code accords *dominus litis* to the plaintiff to institute a suit within local limits of whose jurisdiction the cause of action, wholly or in part arises.¹⁰ Every suit is based upon the cause of action, and the situs of the cause of action, even in part, will confer territorial jurisdiction on the court. The expression ‘cause of action’ can be given either a restrictive or wide meaning However, it is judicially read to mean - every fact that the plaintiff should prove to support their right to the judgment. (Para 10)

Civil suit - A question of territorial jurisdiction should ordinarily be decided at the outset rather than being deferred till all matters are resolved. (Para 15)

Maya Gopinathan vs Anoop SB 2024 INSC 334 – Matrimonial Cases – Standard Of Proof – Stridhan

Stridhan -Gifts made to the bride by the bride's husband or her parents or by relatives from the side of her husband or parents, at the time of marriage, constitute her stridhan- The properties gifted to a woman before marriage, at the time of marriage or at the time of bidding of farewell or thereafter are her stridhan properties. It is her absolute property with all rights to dispose at her own pleasure. The husband has no control over her stridhan property. He may use it during the time of his distress but nonetheless he has a moral obligation to restore the same or its value to his wife. Therefore, stridhan property does not become a joint property of the wife and the husband and the husband has no title or independent dominion over the property as owner thereof. (Para 34,21)

Matrimonial Cases - Standard Of Proof - Standard of proof for disputes in the matrimonial sphere would be preponderance of probabilities and not beyond reasonable doubt - In civil cases including matrimonial disputes of a civil nature, the standard of proof is not proof beyond reasonable doubt 'but' the preponderance of probabilities tending to draw an inference that the fact must be more probable.- Matters of matrimony can rarely be said to be simple or straightforward- hence, human reaction as per a mechanical timeline before the sacred bond of marriage is severed is not what one would expect. Divorce, majorly, in Indian society is still considered a stigma, and any delay in commencement of legal proceedings is quite understandable because of the attempts made to have the disputes and differences resolved (Para 19,24)

Kariman vs State Of Chhattisgarh 2024 INSC 335 – Murder Conviction Modified To 304 IPC

Indian Penal Code, 1860- Section 300,302,304 -Appeal by accused against concurrent conviction under Section 302 IPC - The cause of death was opined as shock due to internal bleeding. Thus, by no stretch of imagination, can it be accepted that the accused had the intention to cause injury/injuries to the victim with the intention or knowledge that the same would result in her death. The act of the accused is not covered by any of the

four clauses contained in Section 300 IPC- The accused can at best be attributed with the knowledge that the injury of the nature which he inflicted upon Dasmet Bai(deceased) was likely to cause death but without any intention to cause death or to cause such bodily injury as was likely to cause death. Thus, the act of the accused is covered under Part II of Section 304 IPC.

Madura Coats Private Limited vs Commissioner Of Central Excise 2024 INSC 336 – CESTAT

CESTAT -Madras HC set aside an order passed by Customs, Excise and Service Tax Appellate Tribunal and remanded the matter back to the tribunal for disposal of the appeals - order of remand made to the tribunal by the High Court under the impugned order would stand affirmed subject to the observations made in this judgment.

Shriram Manohar Bande vs Uktranti Mandal 2024 INSC 337 – Service Law – MEPS Act – Resignation

Service Law- As per service jurisprudence, the employment is terminated from the date on which the letter of resignation is accepted by the appropriate authority. (Para 21) Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977- Section 7- Mere noncommunication of acceptance of resignation to the employee would not render the termination invalid- Resignation would be effective on its acceptance, even if the acceptance is not communicated as long as rules or guidelines governing the resignation do not mandate such acceptance of resignation is to be communicated - Referred to North Zone Cultural Centre and another vs. Vedpathi Dinesh Kumar reported in (2003) 5 SCC 455. (Para 18- 22)

Mohd Ahsan vs State Of Haryana 2024 INSC 338 – Murder Conviction Altered To S 304 Part I IPC

Indian Penal Code, 1860- Section 299-304 -Allowing appeal against concurrent conviction for murder, SC observed: The incident occurred without premeditation, in a sudden fight, in the heat of passion and upon a sudden quarrel. The evidence would also not show that the accused-Appellant had either taken undue advantage or acted in a cruel or unusual manner. We therefore find that the present case would fall under Exception 4 to Section 300 of the IPC.

Shri Mallikarjun Devasthan, Shelgi vs Subhash Mallikarjun Birajdar 2024 INSC 339- Maharashtra Public Trusts Act, 1950 – Limitation

Limitation- Delay Condonation- it is not mandatory that a written application be filed seeking condonation of delay and relief can be granted in that regard even upon an oral request, provided sufficient cause is shown for such delay- (Para 19)- there should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay as Courts are not supposed to legalize injustice but are obliged to remove injustice. (Para 22)

Maharashtra Public Trusts Act, 1950 - What would be the consequence of a Change Report being submitted belatedly. In the event a new Vahiwatdar takes over a Trust and, be it for whatever reason, he fails to submit a Change Report within the stipulated period of 90 days, what would be the fallout thereof? The provisions of the Act of 1950 do not contemplate automatic invalidation of his assumption of office as the Vahiwatdar of the Trust in such a situation. Once a Trust is registered as a Public Trust under Section 18 of the Act of 1950, it becomes the statutory duty of the authorities concerned to maintain proper records in relation to such Trust, including the particulars of its Administrators and

Trustees. The Change Report in that regard has to be filed before the authorities concerned to facilitate timely updating of records after hearing all the parties concerned, as the statute provides for objections being raised against a Change Report. Delay or failure in doing so would mean that the records would not stand updated promptly. Objectors to the changes in the Trust, if any, can always take recourse to the remedies provided under the Act of 1950, complaining of the failure or delay in the filing of a Change Report and the adverse consequences of such changes, if any. (Para 21)

Global Credit Capital Limited vs Sach Marketing Pvt. Ltd. 2024 INSC 340- IBC – Financial Debt

Insolvency and Bankruptcy Code, 2016- Section 5 (8) - a. There cannot be a debt within the meaning of subsection (11) of section 5 of the IB Code unless there is a claim within the meaning of sub-section (6) of section 5 of thereof- b. The test to determine whether a debt is a financial debt within the meaning of sub-section (8) of section 5 is the existence of a debt along with interest, if any, which is disbursed against the consideration for the time value of money. The cases covered by categories (a) to (i) of sub-section (8) must satisfy the said test laid down by the earlier part of sub-section (8) of section 5- c. While deciding the issue of whether a debt is a financial debt or an operational debt arising out of a transaction covered by an agreement or arrangement in writing, it is necessary to ascertain what is the real nature of the transaction reflected in the writing- and d. Where one party owes a debt to another and when the creditor is claiming under a written agreement/ arrangement providing for rendering 'service', the debt is an operational debt only if the claim subject matter of the debt has some connection or correlation with the 'service' subject matter of the transaction. (Para 20)

Insolvency and Bankruptcy Code, 2016- Section 5 (8) (f) -The first condition of applicability of clause (f) is that the amount must be raised under any other transaction. Any other transaction means a transaction which is not covered by clauses (a) to (e). Clause (f) covers all those transactions not covered by any of these sub-clauses of sub-section (8) that satisfy the test in the first part of Section 8. The condition for the

applicability of clause (f) is that the transaction must have the commercial effect of borrowing. "Transaction" has been defined in sub-section (33) of Section 3 of the IBC, which includes an agreement or arrangement in writing for the transfer of assets, funds, goods, etc., from or to the corporate debtor. When there is an arrangement in writing for the transfer of funds to the corporate debtor. Therefore, the first condition incorporated in clause (f) is fulfilled. (Para 16)

Insolvency and Bankruptcy Code, 2016- Section 5 (21) - For the applicability of the first part, the claim must be concerning the provisions of goods or services. Therefore, in the case of a contract of service, there must be a correlation between the service as agreed to be provided under the agreement and the claim. The reason is that the definition uses the phraseology "a claim in respect of the provision of goods or services". (Para 15)

Insolvency and Bankruptcy Code, 2016- Section 5 -Financial Debt - The cases covered by categories (a) to (i) must satisfy the test laid down by the earlier part of the sub-section (8). The test laid down therein is that there has to be a debt along with interest, if any, and it must be disbursed against the consideration for the time value of money. (Para 12)

Association Of Democratic Reforms vs Union Of India 2024 INSC 341 – EVM VVPAT

Electronic Voting Machines - EVMs are simple, secure and user-friendly. The voters, candidates and their representatives, and the officials of the ECI are aware of the nitty-gritty of the EVM system. They also check and ensure righteousness and integrity. Moreover, the incorporation of the VVPAT system fortifies the principle of vote verifiability, thereby enhancing the overall accountability of the electoral process - Directions issued: (a) On completion of the symbol loading process in the VVPATs undertaken on or after 01.05.2024, the symbol loading units shall be sealed and secured in a container. The candidates or their representatives shall sign the seal. The sealed containers, containing the symbol loading units, shall be kept in the strong room along

with the EVMs at least for a period of 45 days post the declaration of results. They shall be opened, examined and dealt with as in the case of EVMs. (b) The burnt memory/microcontroller in 5% of the EVMs, that is, the control unit, ballot unit and the VVPAT, per assembly constituency/assembly segment of a parliamentary constituency shall be checked and verified by the team of engineers from the manufacturers of the EVMs, post the announcement of the results, for any tampering or modification, on a written request made by candidates who are at Sl.No.2 or Sl.No.3, behind the highest polled candidate. Such candidates or their representatives shall identify the EVMs by the polling station or serial number. All the candidates and their representatives shall have an option to remain present at the time of verification. Such a request should be made within a period of 7 days from the date of declaration of the result. The District Election Officer, in consultation with the team of engineers, shall certify the authenticity/intactness of the burnt memory/microcontroller after the verification process is conducted. The actual cost or expenses for the said verification will be notified by the ECI, and the candidate making the said request will pay for such expenses. The expenses will be refunded, in case the EVM is found to be tampered.

Aniruddha Khanwalkar vs Sharmila Das 2024 INSC 342 – S 204 CrPC – Summoning Of Accused

Code Of Criminal Procedure, 1973- Section 204- High Court set aside the summoning order against the accused person under Section 420 read with Section 120-B IPC- Allowing appeal, SC observed: For summoning of an accused, *prima facie* case is to be made out on the basis of allegations in the complaint and the pre-summoning evidence led by the complainant.

Shivani Tyagi vs State Of UP 2024 INSC 343- S 389 CrPC- Acid Attack Case – Suspension Of Sentence

Code Of Criminal Procedure, 1973- Section 389 - The mere factum of sufferance of incarceration for a particular period, in a case where life imprisonment is imposed, cannot be a reason for invocation of power under Section 389 Cr.PC without referring to the relevant factors- Disposal of appeals against conviction, (especially in cases where life imprisonment is imposed for serious offences), within a short span of time may not be possible in view of the number of pending cases. In such circumstances if it is said that disregarding the other relevant factors and parameters for the exercise of power under Section 389, Cr. PC, likelihood of delay and incarceration for a particular period can be taken as a ground for suspension of sentence and to enlarge a convict on bail, then, in almost every such case, favourable invocation of said power would become inevitable- Such an interpretation would also go against public interest and social security. In such cases giving preference over appeals where sentence is suspended, in the matter of hearing or adopting such other methods making an early hearing possible could be resorted. We shall not be understood to have held that irrespective of inordinate delay in consideration of appeal and long incarceration undergone the power under the said provision cannot be invoked. In short, we are of the view that each case has to be examined on its own merits and based on the parameters, to find out whether the sentence imposed on the appellant(s) concerned should be suspended during the pendency of the appeal and the appellant(s) should be released on bail. (Para 9)- Acid Attack - An acid attack may completely strip off the victim of her basic human right to live a decent human life owing to permanent disfigurement- In appeals involving such serious offence(s), serious consideration of all parameters should be made. (Para 11)

**Leonard Xavier Valdaris vs Jitendra Ramnayaran Rathod 2024 INSC 344-
Bombay High Court Appellate Side Rules**

Bombay High Court Appellate Side Rules, 1960- Rule 8: In the same set of facts and one trial, there are two conflicting orders, one rejecting the challenge to framing of charge under Section 302 of IPC and other directing that the charge under Section 302 of

IPC should not be framed- In appeal, SC observed: Once the Single Judge, while deciding Criminal Writ Petition formed an opinion that the judgment/order passed by another learned Single Judge was unsustainable and contrary to law, the matter should have been referred to a Division Bench/two-Judges Bench instead of passing a conflicting judgment in the same set of facts- Impugned order to be treated as an order referring the matter to a larger Bench of two Judges/Division Bench for consideration.

Sanjay Marut Jadhav vs Amit Tatoba Sawant 2024 INSC 345

Summary: Suit under Section 6 of the Specific Relief Act, 1963 decreed by Trial Court - The appellant's plea regarding the suit being not maintainable under Section 6 of the Act was also rejected- High Court dismissed Revision Petition- Dismissing appeal, SC observed: Such concurrent findings, based upon the evidence on record and also being findings of fact, we do not find any merit in this appeal.

State Of Odisha vs Nirjharini Patnaik @ Mohanty 2024 INSC 346 – S 482 CrPC

Code Of Criminal Procedure, 1973- Section 482 - High Court quashed an FIR - Allowing appeal, SC observed: High Court has hastily concluded that there is no evidence to show meeting of minds between the other accused persons and the Respondents which in our considered opinion, can only be decided after a thorough examination of evidence and witnesses by the Trial Court - Dismissing the case at the preliminary stage, especially when linked to a broader pattern of similar frauds involving government lands as part of a larger conspiracy risks undermining the integrity of multiple ongoing investigations and judicial processes. Such a decision would be detrimental to the investigation of similar fraudulent schemes against public assets.

Raj Reddy Kallem vs State Of Haryana 2024 INSC 347 – S 138 NI Act- Compounding Of Cheque Cases – Complainant’s Consent

Negotiable Instruments Act, 1881- Section 138- Even though the complainant has been duly compensated by the accused yet the complainant does not agree for the compounding of the offence, the courts cannot compel the complainant to give ‘consent’ for compounding of the matter. It is also true that mere repayment of the amount cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of the NI Act -Referred to JIK Industries Limited & Ors. v. Amarjal V. Jamuni & Anr. (2012) 3 SCC 255, Meters and Instruments private Ltd. And Another. v. Kanchan Mehta (2018) 1 SCC 560 and Expeditious Trial of Cases Under Section 138 of NI Act, 1881, In re, (2021) 16 SCC 1162- [In this case, the Court invoked Article 142 of Constitution to quash the pending criminal appeals] (Para 12)

Negotiable Instruments Act, 1881- Section 138- In cases of section 138 of NI Act, the accused must try for compounding at the initial stages instead of the later stage, however, there is no bar to seek the compounding of the offence at later stages of criminal proceedings including after conviction - Referred to : K.M Ibrahim v. K.P Mohammed & Anr. (2010) 1 SCC 798 and O.P Dholakia v. State of Haryana & Anr. (2000) 1 SCC 762. (Para 12)

Fertilizer Corporation Of India Limited vs Coromandal Sacks Private Limited 2024 INSC 348- Sick Industrial Companies (Special Provisions) Act- Interpretation Of Statutes

Sick Industrial Companies (Special Provisions) Act, 1985- Section 22(1) -For the applicability of Section 22(1) of the 1985 Act, three aspects need to be considered – I. First, an inquiry under Section 16 of the 1985 Act must be pending- or any scheme referred

to in Section 17 of the 1985 Act must be under preparation or consideration or a sanctioned scheme must be under implementation- or an appeal under Section 25 of the 1985 Act must be pending – in relation the company against whom the legal proceedings sought to be suspended have been initiated. II. Secondly, the proceedings must be one from amongst the six types [I. Winding up of the industrial company- II. Execution, distress or the like against any of the properties of the industrial company- III. Appointment of receiver in respect of any of the properties of the industrial company- IV. Suit for recovery of money from the industrial company- V. Suit for enforcement of a security against the industrial company- VI. Suit for enforcement of a guarantee in respect of loans or advance granted to the industrial company], or of a similar nature, i.e. ejusdem generis to the said six types of proceedings. III. Thirdly, the proceedings must have the effect of threatening the assets of the sick company and interfering with the formulation, consideration, finalisation or implementation of the scheme- When the suit was a simple suit for recovery of money towards the dues arising under the alleged illegal deductions under the contract, it cannot be said to be a proceeding in the nature of execution, distress or the like and hence the suit was not hit by Section 22(1) of the 1985 Act. (Para 97-98)

Interpretation Of Statutes -Mischief rule of construction: “The rule which is also known as 'purposive construction' or 'mischief rule', enables consideration of four matters in construing an Act: (i) What was the law before the making of the Act, (ii) What was the mischief or defect for which the law did not provide, (iii) What is the remedy that the Act has provided, and (iv) What is the reason of the remedy. The rule then directs that the courts must adopt that construction which "shall suppress the mischief and advance the remedy." (Para 100)

Interpretation Of Statutes -Harmonious Construction - Doctrine of harmonious construction is based on the principle that the legislature would not lightly take away from one hand what it had given with the other. Thus, this doctrine provides, that as far as possible, two seemingly conflicting provisions within a statute, or the seemingly conflicting provisions of one statute vis a vis another, should be construed in a manner so as to iron out any conflict. (Para 136)

Jasobanta Sahu vs State Of Orissa 2024 INSC 349 – Murder Case- Accused Acquitted

Summary: Murder case of the year 1988 - Allowing Appeal against concurrent conviction, SC observed: The prosecution has failed to prove the case beyond reasonable doubt.

Suresh @ Unni @ Vadi Suresh vs 2024 INSC 350 – Murder Case – Accused Acquitted

Summary: Concurrent murder conviction set aside by allowing criminal appeal

Firdoskhan Khurshidkhan vs State Of Gujarat 2024 INSC 351 – S 67 NDPS Act

NDPS Act, 1986- Section 67- Confession of the accused recorded under Section 67 of the NDPS Act cannot be admitted in evidence as a confession- Referred to Tofan Singh v. State of Tamil Nadu (2021) 4 SCC 1

Swami Vedvyasanand Ji Maharaj (D) vs Shyam Lal Chauhan 2024 INSC 352 – Order XXII Rule 5 CPC

Code Of Civil Procedure, 1908- Order XXII Rule 5 -Proviso to Rule 5 does not say that the Appellate Court can direct the subordinate court to decide the question as to who would be the legal representative, it only provides that the Appellate Court can direct the

subordinate court to try the question and return the records to the Appellate Court, along with the evidence and the subordinate court has then to send a report in the form of a reasoned opinion based on evidence recorded, upon which the final decision has to be made ultimately by the Appellate Court, after considering all relevant material. While dealing with the report sent by the subordinate court under Order 22 Rule 5 of CPC, the Appellate Court may consider the findings of the subordinate court and then give its reasons before reaching any conclusion. The words 'the Appellate Court may take the same into consideration in determining the question' used in the proviso to Rule 5 gives discretion to the Appellate Court to make its own separate opinion notwithstanding the opinion of the subordinate court. The proviso cannot be construed to be a delegation of the powers of the Appellate Court to substitute the deceased party, but is merely to assist it in ultimately deciding the issue of substitution. Thus, the Appellate Court 'may' take into consideration the material referred by the subordinate court under Rule 5 of Order 22, CPC along with the objections, if any, against the report while deciding on the substitution of the appellant. (Para 17)

Code Of Civil Procedure, 1908- Order XXII Rule 5 -The only purpose of substitution is the continuation of the case. The substitution as LR in a case by itself will not give any title in favour of the person so substituted. It only confers the right to represent the estate of the deceased in the pending proceedings- Referred to Jaladi Suguna v. Satya Sai Central Trust, (2008) 8 SCC 521 - Despite the limited purpose of substitution of legal representatives, it has its significance in as much as it gives the right to the substituted legal representatives to contest the claim of the deceased. (Para 10)

Ayay Ishwar Ghute vs Meher K Patel 2024 INSC 353 – Minutes Of Order – Advocates – CPC – Compromise

Practice and Procedure -"Minutes of Order"- a) The practice of filing "Minutes of Order" prevails in the Bombay High Court. As a courtesy to the Court, the advocates appearing for the parties to the proceedings tender "Minutes of Order" containing what could be recorded by the Court in its order. The object is to assist the Court- b) An order passed in terms of the "Minutes of Order" tendered on record by the advocates representing the parties to the proceedings is not a consent order. It is an order in *invitum*

for all purposes- c) Before tendering the “Minutes of Order” to the Court, the advocates must consider whether an order, if passed by the Court in terms of the “Minutes of Order,” would be lawful. After “Minutes of Order” is tendered before the Court, it is the duty of the Court to decide whether an order passed in terms of the “Minutes of Order” would be lawful. The Court must apply its mind whether the parties who are likely to be affected by an order in terms of the “Minutes of Order” have been impleaded to the proceedings- d) If the Court is of the view that an order made in terms of the “Minutes of Order” tendered by the advocates will not be lawful, the Court should decline to pass an order in terms of the “Minutes of Order”- and e) If the Court finds that all the parties likely to be affected by an order in terms of the “Minutes of Order” are not parties to the proceedings, the Court will be well advised to defer passing of the order till all the necessary parties are impleaded to the proceedings. (Para 20)

Code of Civil Procedure Code, 1908- Rule 3 of Order XXIII - The Court is duty-bound to look into the legality of the compromise. The Court has the jurisdiction to decline to pass a consent order if the same is tainted with illegality. However, an order passed by the Court in terms of compromise recorded in the consent terms is a consent order which will not bind the persons who were not parties to the consent terms unless they were claiming through any of the parties to the consent terms. (Para 19)

Advocates - Advocates are the officers of the Court first and the mouthpieces of their respective clients after that. (Para 18)

Commissioner Of Central Excise vs Jindal Drugs Ltd. 2024 INSC 354 – Central Excise Tariff Act, 1985 – Manufacture

Central Excise Tariff Act, 1985 - Note 3 to Chapter 18 - Note 3, post amendment, as it exists today contemplates three different processes- if either of the three processes are satisfied, the same would amount to manufacture. The three processes are: (i) labeling or re-labeling of containers- or (ii) repacking from bulk packs to retail packs- or (iii) the

adoption of any other treatment to render the product marketable to the consumer. (Para 13.3)

Dolly Rani vs Manish Kumar Chanchal 2024 INSC 355 – Hindu Marriage Act

Hindu Marriage Act, 1955- Section 5,7,8- Requisite ceremonies for the solemnization of the Hindu marriage must be in accordance with the applicable customs or usage and where saptapadi has been adopted, the marriage becomes complete and binding when the seventh step is taken. Where a Hindu marriage is not performed in accordance with the applicable rites or ceremonies such as saptapadi when included, the marriage will not be construed as a Hindu marriage. In other words, for a valid marriage under the Act, the requisite ceremonies have to be performed and there must be proof of performance of the said ceremony when an issue/controversy arise. Unless the parties have undergone such ceremony, there would be no Hindu marriage according to Section 7 of the Act and a mere issuance of a certificate by an entity in the absence of the requisite ceremonies having been performed, would neither confirm any marital status to the parties nor establish a marriage under Hindu law- Although the parties may have complied with the requisite conditions for a valid Hindu marriage as per Section 5 of the Act in the absence of there being a “Hindu marriage” in accordance with Section 7 of the Act, i.e., solemnization of such a marriage, there would be no Hindu marriage in the eye of law. In the absence of there being a valid Hindu marriage, the Marriage Registration Officer cannot register such a marriage under the provisions of Section 8 of the Act. Therefore, if a certificate is issued stating that the couple had undergone marriage and if the marriage ceremony had not been performed in accordance with Section 7 of the Act, then the registration of such marriage under Section 8 would not confer any legitimacy to such a marriage. The registration of a marriage under Section 8 of the Act is only to confirm that the parties have undergone a valid marriage ceremony in accordance with Section 7 of the Act. In other words, a certificate of marriage is a proof of validity of Hindu marriage only when such a marriage has taken place and not in a case where there is no marriage ceremony performed at all -When for “practical purposes”, a man and a woman with the intention of

solemnisation of their marriage at a future date seek to register their marriage under Section 8 of the Act on the basis of a document which may have been issued as proof of ‘solemnisation of their marriage’, any such registration of a marriage before the Registrar of Marriages and a certificate being issued thereafter would not confirm that the parties have ‘solemnised’ a Hindu marriage- Deprecates the practice of young men and women seeking to acquire the status of being a husband and a wife to each other and therefore purportedly being married, in the absence of a valid marriage ceremony under the provisions of the Act.

Hindu Marriage - Top 10 Quotes from #SupremeCourt judgment on Hindu Marriage

►A Hindu marriage is a samskara and a sacrament which has to be accorded its status as an institution of great value in Indian society. ►There is nothing like a “better-half” in a marriage but the spouses are equal halves in a marriage. ►A marriage is not an event for ‘song and dance’ and ‘wining and dining’ or an occasion to demand and exchange dowry and gifts by undue pressure leading to possible initiation of criminal proceedings thereafter. ►A marriage is not a commercial transaction. It is a solemn foundational event celebrated so as to establish a relationship between a man and a woman who acquire the status of a husband and wife for an evolving family in future which is a basic unit of Indian society. ►A Hindu marriage facilitates procreation, consolidates the unit of family and solidifies the spirit of fraternity within various communities. ►A marriage is sacred for it provides a lifelong, dignity-affirming, equal, consensual and healthy union of two individuals. It is considered to be an event that confers salvation upon the individual especially when the rites and ceremonies are conducted. The customary ceremonies, with all its attendant geographical and cultural variations is said to purify and transform the spiritual being of an individual ►The promises made to each by the parties to a Hindu marriage and the oath taken by them to remain friends forever lay the foundation for a life-long commitment between the spouses which should be realized by them. If such commitment to each other is adhered to by the couple, then there would be far fewer cases of breakdown of marriages leading to divorce or separation. ►We urge young men and women to think deeply about the institution of marriage even before they enter upon it and as to how sacred the said institution is, in Indian society. ►The sincere conduct of and

participation in the customary rites and ceremonies ought to be ensured by all married couples and priests who preside over the ceremony. ►We deprecate the practice of young men and women seeking to acquire the status of being a husband and a wife to each other and therefore purportedly being married, in the absence of a valid marriage ceremony under the provisions of the Act.

New India Assurance Company Ltd. vs Tata Steel Ltd. 2024 INSC 356 – Insurance

Summary: NCDRC partly allowed the complaint of the Insured. The NCDRC awarded an amount of Rs.13,15,27,000/- with interest at 10% per 2 annum- Allowing appeal, SC set aside the NCDRC judgment and observed: the claim was rightly settled by the NIACL letter dated 03.01.2003 which determined the loss amount payable at Rs.7.88 crores after applying 60% depreciation.

Priyanka Jaiswal vs State Of Jharkhand 2024 INSC 357 – S 498A IPC – S 482 CrPC

Code Of Criminal Procedure, 1973- Section 482- At the time of examining the prayer for quashing of the criminal proceedings, the court exercising extra-ordinary jurisdiction can neither undertake to conduct a mini trial nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of the probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside. (Para 13)

Indian Penal Code, 1860- Section 498A- When a plain reading of the complaint would clearly indicate that the complainant having been driven out of her matrimonial

home had been residing at her father's residence namely paternal home i.e. Jamshedpur- the appellant having been driven out of her matrimonial home continued to reside at her parental home and as such the court at Jamshedpur had jurisdiction.- Referred to Rupali Devi V. State of Uttar Pradesh & Ors., (2019) 5 SCC 384 (Para 17)

Life Insurance Corporation Of India vs State Of Rajasthan 2024 INSC 358 – Stamp Duty – State's Legislative Competence

Constitution of India, 1950- Article 246 and Entry 91 of List I -The power to prescribe the rate of duty is mutually exclusive and has been clearly demarcated between the Parliament and the legislatures of the states- Only the Parliament holds the exclusive power and the legislative competence under the Constitution to prescribe the rate of stamp duty on insurance policies. (Para 10-12) - However, the state legislature has the legislative competence to impose and collect stamp duty on policies of insurance under Entry 44 of List III, as per the rate prescribed by the Parliament under Entry 91 of List I - The state of Rajasthan has the power to impose and collect stamp duty on insurance policies under Entry 44 of List III, albeit such duty must be imposed as per the rate prescribed by a Parliamentary legislation under Entry 91 of List I. (Para 16-19, 37)

Stamp Duty -Stamp duty must be levied as per the law in force as on the date of execution of the instrument. (Para 8)

Rahul Kumar Yadav vs State Of Bihar 2024 INSC 359 – Juvenility Plea

Juvenile Justice Act, 2015 - Section 9(2) –The proviso to Section 9(2) of the JJ Act,

2015 clearly enumerates that plea of juvenility may be raised before any Court and it shall be recognised at any stage, even after final disposal of the case – Guidelines laying down the standards for evaluating the claim of juvenility raised for the first time before Supreme Court – Referred to Abuzar Hossain vs State of West Bengal (2012) 10 SCC 489- In this case, SC found that proper inquiry in accordance with the provisions of the JJ Act, 2000 or the JJ Act, 2015 was not carried out so to consider the prayer made by the appellant to be treated as juvenile on the date of the incident even though the plea was raised at the earliest opportunity- Plea of juvenility raised by the appellant could not have been thrown out without conducting proper inquiry- First Additional Sessions Judge, Darbhanga directed to conduct a thorough inquiry to determine the age/date of birth of the appellant in accordance with the procedure provided under the JJ Act, 2015 and the rules framed thereunder.

Ram Balak Singh vs State Of Bihar 2024 INSC 360 – Bihar Consolidation of Upholdings and Prevention of Fragmentation Act, 1956

Bihar Consolidation of Upholdings and Prevention of Fragmentation Act, 1956- Section 37- A civil suit for declaration of rights in respect of land where the Consolidation Court has already passed an order recognizing the rights of one of the parties is not barred by Section 37 of the Consolidation Act and that the Civil Court is not competent to either ignore or reverse the order passed by the Consolidation Officer once it

has attained finality - The bar of Civil Court imposed by Section 37 of the Consolidation Act is concerned, a plain reading of the said provision would reveal that the Civil Court is prohibited from entertaining any suit to vary or set aside any decision or order of the Consolidation Court passed under the Act in respect of the matter for which the proceedings could have or ought to have been taken under the Consolidation Act. 23. In the instant case, the plaintiff-appellant has not instituted any suit either to vary or set aside any decision or order passed by the Consolidation Court under the Consolidation Act. The plaintiff-appellant had simply filed a suit for recognising the rights which have been conferred upon him by the Consolidation Court and has not filed a suit challenging any order passed by the Consolidation Court under the Act. Therefore, the bar of jurisdiction of Civil Court imposed by Section 37 is not applicable to the present suit which is a simpliciter for declaration of his rights over the suit land on the basis of the order of the Consolidation Court. (Para 12-25)

Revenue Authorities - Where the revenue authorities or the consolidation authorities are competent to determine the rights of the parties by exercising powers akin to the Civil Courts, any order or entry made by such authorities which attains finality has to be respected and given effect to. (Para 17)

Balveer Batra vs New India Assurance Company 2024 INSC 361 - Motor Vehicles Act- Jurisdiction

Motor Vehicles Act, 1988 - Code Of Civil Procedure, 1908- Section 21- Objection of lack of territorial jurisdiction in an appeal against an award granting compensation could not be entertained in the absence of consequent failure of justice- Though taking of an objection as to the lack of territorial jurisdiction before the Court of first instance at the earliest opportunity is a condition required to raise that objection before an appellate or revisional Court satisfaction of such condition by itself would not make an award granting compensation a nullity inasmuch as in such cases there would not be inherent lack of jurisdiction in Court in regard to the subject matter. Therefore, in such cases, correction by

a Court is open, only if it occasions in failure of justice. The provision thus, reflects the legislative intention that all possible care should be taken to ensure that the time, energy and labour spent by a Court did not go in vain unless there has been a consequent failure of justice - Referred to *Malati Sardar v. National Insurance Company Ltd.* (2016) 3 SCC 43 and *Mantoo Sarkar v. Oriental Insurance Company Ltd.*(2009) 2 SCC 244 (Para 13-14)

Motor Vehicles Act, 1988- Section 166- Merely because the claimant made the application for compensation not to the Claims Tribunal having jurisdiction over the area in which the accident occurred or not to the Claims Tribunal within the local limits of whose jurisdiction he resides or carries on business, is no reason to dismiss the application provided it is filed before a Claims Tribunal where it is otherwise maintainable. (Para 17)

Motor Vehicles Act, 1988- Code Of Civil Procedure, 19008- Order XIV, Rule 2-
The issues regarding territorial jurisdiction ought to be tried as primary issues but when it is evident that the issue could not be decided solely based on the pleadings in the plaint (here claim petition) and when parties are permitted to adduce evidence upon finding that it is a mixed question of law and facts there was absolutely no justification for not pronouncing an award on all the issues framed besides the one pertaining to its territorial jurisdiction. There cannot be any doubt with respect to the fact that when evidence was permitted to be let in, may be for such issues the possibility of reappreciation and consequent reversal of finding(s) of the Tribunal cannot be ruled out. But then, if the award was pronounced not at threshold, but after a very long lapse of time and confining consideration only on the issue of territorial jurisdiction and then, answering the other issues as well against the claimant without examining them on their own merits, but solely because of the negative finding on the issue of territorial jurisdiction, as occurred in the case on hand, it would defeat the very purpose of the benevolent legislation providing for grant of compensation under Section 166 of the M.V. Act. (Para 18)

Deependra Yadav vs State of Madhya Pradesh 2024 INSC 362 – Public Service Exams- Reservation

Public Service Examinations - Reservation - Candidates belonging to any of the vertical reservation categories would be entitled to be selected in the 'open category' and if such candidates belonging to reservation categories are entitled to be selected on the basis of their own merit, their selection cannot be counted against the quota reserved for the categories of vertical reservation that they belong to - Reservations, both vertical and horizontal, are methods of ensuring representation in public services and these are not to be seen as rigid 'slots', where a candidate's merit, which otherwise entitles him to be shown in the open general category, is foreclosed- 'Open category' is open to all and the only condition for a candidate to be shown in it is merit, regardless of whether reservation benefit of either type was available to him or her- Referred to Saurav Yadav v. State of U.P. (2021) 4 SCC 542. (Para 31)

Sharif Ahmed vs State Of Uttar Pradesh 2024 INSC 363 – S 156(3), 173(2), 200-205 CrPC – Ss 406,420,506 IPC

Code Of Criminal Procedure, 1973- Section 173(2)- It is the police report which would enable the Magistrate to decide a course of action from the options available to him. The details of the offence and investigation are not supposed to be a comprehensive thesis of the prosecution case, but at the same time, must reflect a thorough investigation into the alleged offence. It is on the basis of this record that the court can take effective cognisance of the offence and proceed to issue process in terms of Section 190(1)(b) and Section 204 of the Code. In case of doubt or debate, or if no offence is made out, it is open to the Magistrate to exercise other options which are available to him- The chargesheet is complete when it refers to material and evidence sufficient to take cognizance and for the trial. The nature and standard of evidence to be elucidated in a chargesheet should prima facie show that an offence is established if the material and evidence is proven. The chargesheet is complete where a case is not exclusively dependent on further evidence. The trial can proceed on the basis of evidence and material placed on record with the

chargesheet. This standard is not overly technical or fool-proof, but a pragmatic balance to protect the innocent from harassment due to delay as well as prolonged incarceration, and yet not curtail the right of the prosecution to forward further evidence in support of the charge- (Para 3-32)

Code Of Criminal Procedure, 1973- Section 205- The observation that there is no provision for granting exemption from personal appearance prior to obtaining bail, is not correct, as the power to grant exemption from personal appearance under the Code should not be read in a restrictive manner as applicable only after the accused has been granted bail. (para 47)

Code Of Criminal Procedure, 1973- Section 156(3),204- Magistrate to be cautious in examining whether the facts of the case disclose a civil or a criminal wrong. Attempts at initiating vexatious criminal proceedings should be thwarted early on, as a summoning order, or even a direction to register an FIR, has grave consequences for setting the criminal proceedings in motion- Any effort to settle civil disputes and claims which do not involve any criminal offence, by way of applying pressure through criminal prosecution, should be deprecated and discouraged. (Para 44)

Code Of Criminal Procedure, 1973- Section 204- Non-bailable warrants cannot be issued in a routine manner and that the liberty of an individual cannot be curtailed unless necessitated by the larger interest of public and the State- non bailable warrants should not be issued, unless the accused is charged with a heinous crime, and is likely to evade the process of law or tamper/destroy evidence. (Para 46)

Indian Penal Code, 1860- Section 406- An offence under Section 406 of the IPC requires entrustment, which carries the implication that a person handing over any property or on whose behalf the property is handed over, continues to be the owner of the said property. Further, the person handing over the property must have confidence in the person taking the property to create a fiduciary relationship between them. A normal transaction of sale or exchange of money/consideration does not amount to entrustment. (Para 36)

Indian Penal Code, 1860- Section 420- The offence of cheating is established when the dishonest intention exists at the time when the contract or agreement is entered, for the essential ingredient of the offence of cheating consists of fraudulent or dishonest inducement of a person by deceiving him to deliver any property, to do or omit to do anything which he would not do or omit if he had not been deceived. (Para 37)

Indian Penal Code, 1860- Section 506- An offence of criminal intimidation arises when the accused intended to cause alarm to the victim, though it does not matter whether the victim is alarmed or not. The intention of the accused to cause alarm must be established by bringing evidence on record. The word 'intimidate' means to make timid or fearful, especially: to compel or deter by or as if by threats. The threat communicated or uttered by the person named in the chargesheet as an accused, should be uttered and communicated by the said person to threaten the victim for the purpose of influencing her mind. The word 'threat' refers to the intent to inflict punishment, loss or pain on the other. Injury involves doing an illegal act.- This threat must be with the intent to cause alarm to the person threatened or to do any act which he is not legally bound to do, or omit to do an act which he is entitled to do. Mere expression of any words without any intent to cause alarm would not be sufficient to bring home an offence under Section 506 of the IPC. The material and evidence must be placed on record to show that the threat was made with an intent to cause alarm to the complainant, or to cause them to do, or omit to do an act-
Referred to Manik Taneja v. State of Karnataka (2015) 7 SCC 423(Para 38-39)

Commissioner Of Trade & Taxes vs FEMC Pratibha Joint Venture 2024 INSC 364- Delhi Value Added Tax Act- Refund Timeline

Delhi Value Added Tax Act, 2004- Section 38(3) -Whether the timeline for refund under Section 38(3) must be mandatorily followed while recovering dues under the Act by adjusting them against the refund amount?- The language of Section 38(3) is mandatory

and the department must adhere to the timeline stipulated therein to fulfil the object of the provision, which is to ensure that refunds are processed and issued in a timely manner - The contention that the purpose of the timeline provided under sub-section (3) is only for calculation of interest under Section 428 would defeat the object of the provision- Such an interpretation would effectively enable the department to retain refundable amounts for long durations for the purpose of adjusting them on a future date. This would go against the object and purpose of the provision.

RK Munshi vs Union Territory Of Jammu & Kashmir 2024 INSC 365 – House Rent Allowance

Summary: Appellant received a communication from the Director Police, Telecom regarding recovery of the outstanding rentals on account of unauthorized drawals of House Rent Allowance. The said action was taken under Rule 6(h) of The Jammu and Kashmir Civil Services (House Rent Allowance and City Compensation Allowance) Rules, 1992- Writ petition challenging this was dismissed by the High Court - Dismissing Appeal, SC observed: the appellant being a Government employee, could not have claimed HRA while sharing rent free accommodation allotted to his father, a retired Government servant.

Shankar vs State Of Uttar Pradesh 2024 INSC 366 – S 319 CrPC- Higher Degree Of Satisfaction

Code Of Criminal Procedure, 1973- Section 319- The degree of satisfaction required to exercise power under Section 319 Cr.P.C. - The evidence before the trial court should be such that if it goes unrebutted, then it should result in the conviction of the person who is sought to be summoned- The degree of satisfaction that is required to exercise power under Section 319 Cr.P.C. is much stricter, considering that it is a discretionary and an extra-ordinary power. Only when the evidence is strong and reliable, can the power be

exercised. It requires much stronger evidence than mere probability of his complicity-
Referred to Hardeep Singh v. State of Punjab, (2014) 3 SCC 92. (Para 16)

Chaitra Nagammanavar vs State Of Karnataka 2024 INSC 367 – Service Law

Summary: HC set aside the appellant's selection and appointment on the ground that the university specifically declared in the advertisement that the 'Mode of Selection' shall be as per the Karnataka State Civil Services (Unfilled Vacancies Reserved For Persons Belonging to the SC's and ST's) (Special Recruitment) Rules, 2001 - Dismissing appeal, SC observed: The university is bound to comply with what is declared in its advertisement: the 2001 Rules will be the guiding principles for the selection in question.

Anees vs State Govt Of NCT 2024 INSC 368 – Public Prosecutor – Ss 106, 165,27 Evidence Act- Ss 162 CrPC

Public Prosecutor - There should not be any element of political consideration in the matters like appointment to the post of public prosecutor, etc. The only consideration for the Government should be the merit of the person. The person should be not only competent, but he should also be a man of impeccable character and integrity. He should be a person who should be able to work independently without any reservations, dictates or other constraints. The relations between the Public Prosecution Service and the judiciary are the very cornerstone of the criminal justice system. The public prosecutors who are responsible for conducting prosecutions and may appeal against the court decisions, are one of judges' natural counterparts in the trial proceedings and also in the

broader context of management of the system of criminal law- The duty of the Public Prosecutor to cross-examine a hostile witness in detail and try to elucidate the truth & also establish that the witness is speaking lie and has deliberately resiled from his police statement recorded under Section 161 of the Cr.P.C. A good, seasoned and experienced Public Prosecutor will not only bring the contradictions on record, but will also cross-examine the hostile witness at length to establish that he or she had actually witnessed the incident as narrated in his/her police statement- It is not sufficient for the public prosecutor while cross-examining a hostile witness to merely hurl suggestions, as mere suggestions have no evidentiary value. (Para 67- 70)

Indian Evidence Act, 1872- Section 165 - Code Of Criminal Procedure, 1973- Section 311- If the questioning by the public prosecutor is not skilled, like in the case at hand, the result is that the State as a prosecuting agency will not be able to elicit the truth from the child witness. It is the duty of the court to arrive at the truth and subserve the ends of justice. The courts have to take a participatory role in the trial and not act as mere tape recorders to record whatever is being stated by the witnesses. The judge has to monitor the proceedings in aid of justice. Even if the prosecutor is remiss or lethargic in some ways, the court should control the proceedings effectively so that the ultimate objective that is the truth is arrived at. The court must be conscious of serious pitfalls and dereliction of duty on the part of the prosecuting agency. Upon failure of the prosecuting agency showing indifference or adopting an attitude of aloofness, the trial judge must exercise the vast powers conferred under Section 165 of the Evidence Act and Section 311 of the Cr.P.C. respectively to elicit all the necessary materials by playing an active role in the evidence collecting process- The judge is expected to actively participate in the trial, elicit necessary materials from the witnesses in the appropriate context which he feels necessary for reaching the correct conclusion. The judge has uninhibited power to put questions to the witness either during the chief examination or cross-examination or even during re-examination for this purpose. If a judge feels that a witness has committed an error or slip, it is the duty of the judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. (Para 73-74)

Indian Penal Code, 1860- Section 300- The sine qua non for the application of an

Exception to Section 300 always is that it is a case of murder but the accused claims the benefit of the Exception to bring it out of that Section and to make it a case of culpable homicide not amounting to murder. This plea, therefore, assumes that this is a case of murder. Hence, as per Section 105 of the Evidence Act, it is for the accused to show the applicability of the Exception-Four conditions must be satisfied to bring the matter within Exception 4: (i) it was a sudden fight- (ii) there was no premeditation- (iii) the act was done in the heat of passion- and- that (iv) the assailant had not taken any undue advantage or acted in a cruel manner. 80. On a plain reading of Exception 4, it appears that the help of Exception 4 can be invoked if death is caused (a) without premeditation, (b) in a sudden fight, (c) without the offenders having taken undue advantage or having acted in a cruel or unusual manner- and (d) the fight must have been with the person killed. To bring a case within Exception 4, all the ingredients mentioned in it must be found. (Para 78-80) - Where the offender takes undue advantage or has acted in a cruel or an unusual manner, the benefit of Exception 4 cannot be given to him. If the weapon used or the manner of attack by the assailant is disproportionate, that circumstance must be taken into consideration to decide whether undue advantage has been taken. (Para 83)

Indian Evidence Act, 1872- Section 106- Principles of law governing the applicability of Section 106 of the Evidence Act - Section 106 of the Evidence Act referred to above provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. The word “especially” means facts that are pre-eminently or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101 with its illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish the facts which are, “especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience”- The court should apply Section 106 of the Evidence Act in criminal cases with care and caution. It cannot be said that it has no application to

criminal cases. The ordinary rule which applies to criminal trials in this country that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the provisions contained in Section 106 of the Evidence Act. Section 106 of the Evidence Act cannot be invoked to make up the inability of the prosecution to produce evidence of circumstances pointing to the guilt of the accused. This section cannot be used to support a conviction unless the prosecution has discharged the onus by proving all the elements necessary to establish the offence. It does not absolve the prosecution from the duty of proving that a crime was committed even though it is a matter specifically within the knowledge of the accused and it does not throw the burden on the accused to show that no crime was committed. To infer the guilt of the accused from absence of reasonable explanation in a case where the other circumstances are not by themselves enough to call for his explanation is to relieve the prosecution of its legitimate burden. So, until a *prima facie* case is established by such evidence, the onus does not shift to the accused-Section 106 of the Evidence Act obviously refers to cases where the guilt of the accused is established on the evidence produced by the prosecution unless the accused is able to prove some other facts especially within his knowledge, which would render the evidence of the prosecution nugatory. If in such a situation, the accused offers an explanation which may be reasonably true in the proved circumstances, the accused gets the benefit of reasonable doubt though he may not be able to prove beyond reasonable doubt the truth of the explanation. But, if the accused in such a case does not give any explanation at all or gives a false or unacceptable explanation, this by itself is a circumstance which may well turn the scale against him - But Section 106 of the Evidence Act has no application to cases where the fact in question, having regard to its nature, is such as to be capable of being known not only to the accused but also to others, if they happened to be present when it took place. The intention underlying the act or conduct of any individual is seldom a matter which can be conclusively established- it is indeed only known to the person in whose mind the intention is conceived. Therefore, if the prosecution has established that the character and circumstance of an act suggest that it was done with a particular intention, then under illustration (a) to this section, it may be assumed that he had that intention, unless he proves the contrary - Distinction between the burden of proof and the burden of going forward with the evidence - Generally, the burden of proof upon any affirmative proposition necessary to be established as the foundation of an issue does not

shift, but the burden of evidence or the burden of explanation may shift from one side to the other according to the testimony. Thus, if the prosecution has offered evidence, which if believed by the court, would convince them of the accused's guilt beyond a reasonable doubt, the accused, if in a position, should go forward with counter-vailing evidence, if he has such evidence. When facts are peculiarly within the knowledge of the accused, the burden is on him to present evidence of such facts, whether the proposition is an affirmative or negative one. He is not required to do so even though a *prima facie* case has been established, for the court must still find that he is guilty beyond a reasonable doubt before it can convict. However, the accused's failure to present evidence on his behalf may be regarded by the court as confirming the conclusion indicated by the evidence presented by the prosecution or as confirming presumptions which might arise therefrom. Although not legally required to produce evidence on his own behalf, the accused may, therefore, as a practical matter find it essential to go forward with proof. This does not alter the burden of proof resting upon the prosecution. (Para 25-48)

Indian Evidence Act, 1872- Section 8,27- The evidence of discovery would be admissible as conduct under Section 8 of the Evidence Act quite apart from the admissibility of the disclosure statement under Section 27 of the Evidence - However, conduct of the accused alone, though may be relevant under Section 8 of the Evidence Act, cannot form the basis of conviction. (Para 57-61)

Code Of Criminal Procedure, 1973- Section 161,162- Section 162 Cr.P.C. bars the use of statement of witnesses recorded by the police except for the limited purpose of contradiction of such witnesses as indicated therein. The statement made by a witness before the police under Section 161(1) Cr.P.C. can be used only for the purpose of contradicting such witness on what he has stated at the trial as laid down in the proviso to Section 162(1) Cr.P.C. The statements under Section 161 Cr.P.C. recorded during the investigation are not substantive pieces of evidence but can be used primarily for the limited purpose: (i) of contradicting such witness by an accused under Section 145 of the Evidence Act- (ii) the contradiction of such witness also by the prosecution but with the leave of the Court- and (iii) the re-examination of the witness if necessary- The court cannot *suo motu* make use of statements to police not proved and ask questions with

reference to them which are inconsistent with the testimony of the witness in the court. The words 'if duly proved' used in Section 162 Cr.P.C. clearly show that the record of the statement of witnesses cannot be admitted in evidence straightaway, nor can be looked into, but they must be duly proved for the purpose of contradiction by eliciting admission from the witness during cross-examination and also during the cross-examination of the Investigating Officer. The statement before the Investigating Officer can be used for contradiction but only after strict compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction. (Para 63-64)

Indian Evidence Act, 1872- Section 145 -When it is intended to contradict the witness by his previous statement reduced into writing, the attention of such witness must be called to those parts of it which are to be used for the purpose of contradicting him, before the writing can be used. While recording the deposition of a witness, it becomes the duty of the trial court to ensure that the part of the police statement with which it is intended to contradict the witness is brought to the notice of the witness in his crossexamination. The attention of witness is drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need of further proof of contradiction and it will be read while appreciating the evidence. If he denies having made that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process the contradiction is merely brought on record, but it is yet to be proved. Thereafter, when the Investigating Officer is examined in the court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the Investigating Officer who, again, by referring to the police statement will depose about the witness having made that statement. The process again involves referring to the police statement and culling out that part with which the maker of the statement was intended to be contradicted. If the witness was not confronted with that part of the statement with which the defence wanted to contradict him, then the court cannot suo motu make use of statements to police not proved in compliance with Section 145 of the Evidence Act, that is, by drawing attention to the parts intended for contradiction (Para 66)

Achin Gupta vs State Of Haryana 2024 INSC 369 – S 498A IPC – S 482 CrPC

Indian Penal Code, 1860- Section 498A - Referred to Preeti Gupta v. State of Jharkhand 2010 Criminal Law Journal 4303 - We request the Legislature to look into the issue as highlighted above taking into consideration the pragmatic realities and consider making necessary changes in Sections 85 and 86 respectively of the Bharatiya Nyaya Sanhita, 2023, before both the new provisions come into force.

Code Of Criminal Procedure, 1973- Section 482-Indian Penal Code, 1860- Section 498A- If the Court is convinced by the fact that the involvement by the complainant of her husband and his close relatives is with an oblique motive then even if the FIR and the chargesheet disclose the commission of a cognizable offence the Court with a view to doing substantial justice should read in between the lines the oblique motive of the complainant and take a pragmatic view of the matter -If the wife on account of matrimonial disputes decides to harass her husband and his family members then the first thing, she would ensure is to see that proper allegations are levelled in the First Information Report. Many times the services of professionals are availed for the same and once the complaint is drafted by a legal mind, it would be very difficult thereafter to weed out any loopholes or other deficiencies in the same. However, that does not mean that the Court should shut its eyes and raise its hands in helplessness, saying that whether true or false, there are allegations in the First Information Report and the chargesheet papers disclose the commission of a cognizable offence. (Para 31)

Indian Penal Code, 1860- Section 498A- In all cases, where wife complains of harassment or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day-to-day married life, may also not amount to cruelty. (Para 32)

Nirmala vs Kulwant Singh 2024 INSC 370 – Habeas Corpus – Child Custody Matters

Constitution of India, 1950- Article 226- Maintainability of the Habeas Corpus petition with regard to custody of the minor child - Habeas corpus is a prerogative writ which is an extraordinary remedy. It has been held that recourse to such a remedy should not be permitted unless the ordinary remedy provided by the law is either not available or is ineffective. It has been held that in child custody matters, the power of the High Court in granting the writ is qualified only in cases where the detention of a minor by a person who is not entitled to his legal custody. It has further been held that in child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law- In child custody matters, the ordinary remedy lies only under the Hindu Minority and Guardianship Act or the Guardians and Wards Act as the case may be. -There are significant differences between the enquiry under the Guardians and Wards Act and the exercise of powers by a writ court which is summary in nature- where the court is of the view that a detailed enquiry is required, the court may decline to exercise the extraordinary jurisdiction and direct the parties to approach the civil court- When a detailed enquiry including the welfare of the minor child and his preference is involved, such an exercise could be done only in a proceeding under the provisions of the Guardians and Wards Act, 1890. (Para 13-19)

A (Mother of X) vs State Of Maharashtra 2024 INSC 371 – MTP Act-Termination Of Pregnancy

Constitution of India, 1950- Article 21 - The right to choose and reproductive

freedom is a fundamental right under Article 21 of the Constitution. Therefore, where the opinion of a minor pregnant person differs from the guardian, the court must regard the view of the pregnant person as an important factor while deciding the termination of the pregnancy. (Para 35)

Medical Termination of Pregnancy Act 1971 - Section 3(2B)- The medical board, in forming its opinion on the termination of pregnancies must not restrict itself to the criteria under Section 3(2-B) of the MTP Act but must also evaluate the physical and emotional well being of the pregnant person (Para 37)- The medical board cannot merely state that the grounds under Section 3(2-B) of the MTP Act are not met. The exercise of the jurisdiction of the courts would be affected if they did not have the advantage of the medical opinion of the board as to the risk involved to the physical and mental health of the pregnant person. Therefore, a medical board must examine the pregnant person and opine on the aspect of the risk to their physical and mental health. When a person approaches the court for permission to terminate a pregnancy, the courts apply their mind to the case and make a decision to protect the physical and mental health of the pregnant person. (Para 27)- [The provision Section 3(2B) is arguably suspect on the ground that it unreasonably alters the autonomy of a person by classifying a substantially abnormal fetus differently than instances such as incest or rape. This issue may be examined in an appropriate proceeding should it become necessary]

Medical Termination of Pregnancy Act 1971 - Section 3(3)- The opinion of the pregnant person must be given primacy in evaluating the foreseeable environment of the person under Section 3(3) of the MTP Act- The medical board evaluating a pregnant person with a gestational age above twenty-four weeks must opine on the physical and mental health of the person by furnishing full details to the court. (Para 30) - When issuing a clarificatory opinion the medical board must provide sound and cogent reasons for any change in opinion and circumstances- and (iv)The consent of a pregnant person in decisions of reproductive autonomy and termination of pregnancy is paramount. In case there is a divergence in the opinion of a pregnant person and her guardian, the opinion of the minor or mentally ill pregnant person must be taken into consideration as an important aspect in enabling the court to arrive at a just conclusion. (Para 37)

Medical Termination of Pregnancy Act 1971 - The MTP Act protects the RMP and the medical boards when they form an opinion in good faith as to the termination of pregnancy. (Para 37)

Mahendra Nath Soral vs Ravindra Nath Soral 2024 INSC 372- Alternative Dispute Redressal Process

Alternative Dispute Redressal Process - The dispute relating to partition/division amongst family members/coparceners /co-owners should normally be settled through Alternative Disputes Redressal (ADR) Process -The Courts are required to explore these methods for amicable settlement of family disputes - Referred to Afcons Infrastructure Limited vs. Cherian Varkey Construction Company Private Limited (2010) 8 SCC 24: 2010 INSC 431 -. It is 'properties' vs 'proper ties'. 'Short term gain' vs 'Long terms relations'. One can either get share in the properties that too by litigating or can maintain proper ties amongst the family members with little give and take, and not going to the extent of minute details. (Para 19-23.1)

TR Vijayaraman vs State Of Tamil Nadu 2024 INSC 373

Summary: Trial Court convicted accused under Sections 120-B, read with Section 420 IPC and Section 420 IPC- HC upheld it - Dismissing SLP, SC observed:All the accused in connivance with each other have cheated the bank, by submitting cheques of the accounts in which there was no balance, or without any submission thereof and entries by the bank officers in the books of account showing them to be pending for clearing and giving credit

to the account holder/accused.

Kanihya @ Kanhi(D) vs Sukhi Ram 2024 INSC 374 – Civil Suit For Pre-Emption

Summary: Suit for pre-emption - Plaintiff was required to deposit a sum of ₹ 9,214/- minus 1/5th of the pre-emption amount already deposited, on or before 10.10.1988, failing which the suit shall stand dismissed- Plaintiff deposited amount - Later defendant filed an application seeking dismissal of the suit on account of non-compliance of the direction to deposit full amount within the time granted by the Trial Court. While the aforesaid application was pending, the plaintiff filed an application on 05.03.1991 seeking permission of the court to deposit deficit amount of ₹ 14/-He also filed application seeking condonation of delay in filing the application seeking permission to make good the deficiency in deposit of the amount - Application dismissed -Revision Petition filed against this order by Plaintiff was dismissed by High Court -Allowing appeal, SC permitted appellants to deposit a sum of ₹ 14/- to the court below on or before 20.05.2024 - Appellants directed to pay a cost of ₹ 1,00,000/- to the respondents.

State Of UP vs Mohan Lal 2024 INSC 375

Summary: Application filed by State seeking condonation of delay of 1,633 days in filing the present petition -SLP dismissed.

Alauddin vs State Of Assam 2024 INSC 376 – Ss 161,162 CrPC – Ss 145,155 Evidence Act

Code Of Criminal Procedure, 1973- Section 161,162- Any statement made by a person to a police officer in the course of investigation, which is reduced in writing, cannot be used for any purpose except as provided in Section 162. The first exception incorporated in sub-Section (2) is of the statements covered by clause (1) of Section 32 of the Indian Evidence Act, 1872 (for short, 'Evidence Act'). Thus, what is provided in subSection (1) of Section 162 does not apply to a dying declaration. The second exception to the general rule provided in sub-Section (1) of Section 162 is that the accused can use the statement to contradict the witness in the manner provided by Section 145 of the Evidence Act. Even the prosecution can use the statement to contradict a witness in the manner provided in Section 145 of the Evidence Act with the prior permission of the Court. The prosecution normally takes recourse to this provision when its witness does not support the prosecution case. There is one important condition for using the prior statement for contradiction. The condition is that the part of the statement used for contradiction must be duly proved. When the two statements cannot stand together, they become contradictory statements. When a witness makes a statement in his evidence before the Court which is inconsistent with what he has stated in his statement recorded by the Police, there is a contradiction. When a prosecution witness whose statement under Section 161 (1) or Section 164 of CrPC has been recorded states factual aspects before the Court which he has not stated in his prior statement recorded under Section 161 (1) or Section 164 of CrPC, it is said that there is an omission. There will be an omission if the witness has omitted to state a fact in his statement recorded by the Police, which he states before the Court in his evidence. The explanation to Section 162 CrPC indicates that an omission may amount to a contradiction when it is significant and relevant. Thus, every omission is not a contradiction. It becomes a contradiction provided it satisfies the test laid down in the explanation under Section 162. Therefore, when an omission becomes a contradiction, the procedure provided in the proviso to sub-Section (1) of Section 162 must be followed for contradicting witnesses in the crossexamination.

Indian Evidence Act, 1872- Section 145- The Section operates in two parts. The first part provides that a witness can be cross-examined as to his previous statements made in writing without such writing being shown to him. Thus, for example, a witness can be

crossexamined by asking whether his prior statement exists -The second part is regarding contradicting a witness. While confronting the witness with his prior statement to prove contradictions, the witness must be shown his prior statement. If there is a contradiction between the statement made by the witness before the Court and what is recorded in the statement recorded by the police, the witness's attention must be drawn to specific parts of his prior statement, which are to be used to contradict him. Section 145 provides that the relevant part can be put to the witness without the writing being proved. However, the previous statement used to contradict witnesses must be proved subsequently. Only if the contradictory part of his previous statement is proved the contradictions can be said to be proved- The witness is intended to be confronted with his prior statement reduced into writing, that particular part of the statement, even before it is proved, must be specifically shown to the witness. After that, the part of the prior statement used to contradict the witness has to be proved. As indicated earlier, it can be treated as proved if the witness admits to having made such a statement, or it can be proved in the crossexamination of the concerned police officer. The object of this requirement in Section 145 of the Evidence Act of confronting the witness by showing him the relevant part of his prior statement is to give the witness a chance to explain the contradiction. Therefore, this is a rule of fairness. (Para 8)

Indian Evidence Act, 1872- Section 155- Every contradiction or omission is not a ground to discredit the witness or to disbelieve his/her testimony. A minor or trifling omission or contradiction brought on record is not sufficient to disbelieve the witness's version. Only when there is a material contradiction or omission can the Court disbelieve the witness's version either fully or partially. What is a material contradiction or omission depends upon the facts of each case. Whether an omission is a contradiction also depends on the facts of each individual case. (Para 9)

Chander Bhan (D) vs Mukhtiar Singh 2024 INSC 377 – Lis Pendens – TP Act

Transfer of Property Act, 1882- Section 52- Doctrine of lis pendens- Object

underlying the doctrine of lis pendens is for maintaining status quo that cannot be affected by an act of any party in a pending litigation. The objective is also to prevent multiple proceedings by parties in different forums. The principle is based on equity and good conscience- Referred to Rajendra Singh v. Santa Singh, AIR 1973 SC 2537- Dev Raj Dogra v. Gyan Chand Jain, (1981) 2 SCC 675- Sunita Jugalkishore Gilda v. Ramanlal Udhoji Tanna, (2013) 10 SCC 258- Even if Section 52 of T.P Act is not applicable in its strict sense in the present case then too the principles of lis-pendens, which are based on justice, equity and good conscience, would certainly be applicable- Pendency of a suit shall be deemed to have commenced from the date on which the plaintiff presents the suit. Further, that such pendency would 14 extend till a final decree is passed and such decree is realised. (Para 16-18) - Subsequent purchasers will be bound by lis pendens and cannot claim they are bonafide purchasers because they were not aware of the injunction order (Para 22)

Smita Shrivastava vs State of Madhya Pradesh 2024 INSC 378

Summary: Illegal denial of appointment - Allowing appeal, SC observed:It is a glaring case wherein the adamant, arbitrary, mala fide and high-handed approach of the State Government and its officials has driven the appellant to a series of prolonged litigations which were evidently not out of her choice. The appellant deserves a direction for restitutive relief along with compensation for the misery piled upon her owing to the arbitrary and highhanded action of the State Government and its officials.

Dr Ranbeer Bose vs Anita Das 2024 INSC 379

Constitution of India, 1950- Article 226- Writ petition raising issues of irregularity committed in the construction- The appropriate remedy is to approach the municipal authorities and if no proper response was forthcoming, then the civil Court was the appropriate forum for ventilating the grievances of the nature. (Para 9)

Prashant Singh vs Meena 2024 INSC 380 – U.P. Consolidation of Holdings Act, 1953

U.P. Consolidation of Holdings Act, 1953- Section 49 - Section 49 contemplates bar to the jurisdiction of the 5 Civil or Revenue Court for the grant of declaration or adjudication of rights of tenure holders in respect of land lying in an area for which consolidation proceedings have commenced. Section 49 of the 1953 Act is a provision of transitory suspension of jurisdiction of Civil or Revenue Court only during the period when consolidation proceedings are pending. Notably, such suspension of jurisdiction of these Courts through the non obstante provision is only with respect to the declaration and adjudication of rights of tenure holders. In other words, unless a person is a pre-existing tenure holder, Section 49 does not come into operation- the power under Section 49 of the 1953 Act cannot be exercised to take away the vested title of a tenure holder. No such jurisdiction is conferred upon a Consolidation Officer or any other Authority under the 1953 Act.2 The power to declare the ownership in an immovable property can be exercised only by a Civil Court save and except when such jurisdiction is barred expressly or by implication under a law. Section 49 of the 1953 Act does not and cannot be construed as a bar on the jurisdiction of the Civil Court to determine the ownership rights. (Para 9-12)

Abhimeet Sinha vs High Court of Judicature At Patna 2024 INSC 381- Judicial Service – Minimum Qualifying Marks In Viva Voce/ Interview

Judicial Service - Bihar Superior Judicial Service Rules, 1951 - Gujarat State Judicial Service Rules, 2005- Rule 8(3) - Rules stipulating minimum qualifying marks in the viva voce test as a part of the selection criteria for appointment to the District Judiciary - The

Prescription of minimum qualifying marks for interview is permissible and this is not in violation of All India Judges (2002) which accepted certain recommendations of the Shetty Commission (Para 102)- Only the overriding weightage to the vivavoce segment has been frowned upon but the prescription of reasonable qualifying cut-off marks is not considered discriminatory- An interview unveils the essence of a candidate— their personality, passion, and potential. While the written exam measures knowledge, the interview reveals character and capability. Therefore, a person seeking a responsible position particularly as a judicial officer should not be shortlisted only by their performance on paper, but also by their ability to articulate and engage which will demonstrate their suitability for the role of a presiding officer in a court. In other words, the capability and potential of the candidate, to preside in Court to adjudicate adversarial litigation must also be carefully assessed during the interview. (Para 67)

Judicial Service - High Court should notify a designated authority for a given recruitment process with clearly defined roles, functions and responsibilities. The candidates can approach such a designated authority to seek clarification in case of any doubt and this would assuage the anxiety of the candidates to a considerable extent. Another such suggestion of providing a basic outline of the syllabus for the proposed test will also help candidates from diverse backgrounds to plan and prepare for the proposed examination even before the examination notification is released. The recruitment process must adhere to the timeline but if there is any special and unavoidable exigency, the stakeholders should be kept informed with due promptitude. (Para 100)

Constitution of India, 1950- Article 320(3) - Governor is under no compulsion to consult the Public Service Commission in case the Commission does not wish to be consulted. Such a course would be in consonance with the proviso to Article 320(3) of the Constitution. (Para 93)

Estoppel- Principle of estoppel cannot override the law (Para 19)

Constitution of India, 1950- Article 226 and 32 - Res Judicata -The principle of res judicata is one of universal application and since the final judgment is binding on the

parties thereto, an applicant under Article 226 cannot apply on the same grounds under Article 32, without getting the adverse judgment set aside in appeal. However, a distinction was made between cases where the application under Article 226 has been dismissed on merits and cases where it is dismissed on a preliminary ground. It was further held that an Article 32 petition would not be maintainable on the same facts and the same ground - Referred to Daryao v State of UP AIR 1961 SC 14570- The above ratio cannot however be applied stricto sensu when it is not the same writ petitioner who has approached this Court under Article 32 of the Constitution. (Para 22-23)

Jatinder Kumar Sapra vs Anupama Sapra 2024 INSC 382 – Irretrievable Breakdown Of Marriage

Constitution of India, 1950- Article 142- Various factor(s) to be considered by this Court whilst exercising such jurisdiction Article 142 to pass decree of divorce on ground of irretrievable breakdown of marriage - Referred to Shilpa Sailesh v. Varun Sreenivasan, 2023 SCC Online SC 544. (Para 5)

Summary: The facts on record establish that the marriage between the parties has broken down and that there is no possibility that the parties would cohabit together in the future -The formal union between the parties is neither justified nor desirable- Court invoked Article 142(1) of the Constitution of India and passed a decree of divorce on the ground of irretrievable breakdown of marriage- Appellant to pay an amount of Rs. 50,00,000/- (Rupees Fifty Lakh Only) to the Respondent Wife as permanent alimony.

Amanatullah Khan vs Commissioner of Police 2024 INSC 383 – History Sheet

Summary: Some disturbing contents of the History Sheet to the extent it pertained to the school going minor children of the appellant and his wife, against whom there was apparently no adverse material whatsoever for inclusion in the History Sheet - Amended

Standing Order -The decision taken to the effect that History Sheet is only an internal police document and it shall not be brought in public domain, largely addresses the concern expressed by us in the beginning. Secondly, the extra care and precaution, to be now observed by a police officer while ensuring that the identity of a minor child is not disclosed as per the law too, is a necessary step to redress the appellant's grievances. It will surely prevent the undesirable exposure that has been given to the minor children in this case.

History Sheet - States and Union Territories may also consider the desirability of ensuring that no mechanical entries in History Sheet are made of innocent individuals, simply because they happen to hail from the socially, economically and educationally disadvantaged backgrounds, along with those belonging to Backward Communities, Scheduled Castes & Scheduled Tribes. While we are not sure about the degree of their authenticity, but there are some studies available in the public domain that reveal a pattern of an unfair, prejudicial and atrocious mindset. It is alleged that the Police Diaries are maintained selectively of individuals belonging to Vimukta Jatis, based solely on caste-bias, a somewhat similar manner as happened in colonial times. All the State Governments are therefore expected to take necessary preventive measures to safeguard such communities from being subjected to inexcusable targeting or prejudicial treatment. We must bear in mind that these pre-conceived notions often render them 'invisible victims' due to prevailing stereotypes associated with their communities, which may often impede their right to live a life with self-respect. (Para 14)

Constitution of India, 1950- Article 21 - The value for human dignity and life is deeply embedded in Article 21 of our Constitution. The expression 'life' unequivocally includes the right to live a life worthy of human honour and all that goes along with it. Self-regard, social image and an honest space for oneself in one's surrounding society, are just as significant to a dignified life as are adequate food, clothing and shelter. (Para 15)

Jagvir Singh vs State Of UP 2024 INSC 384 – Murder Case- Acquitted

Summary: Concurrent murder conviction set aside

Sukhpal Singh vs NCT Of Delhi 2024 INSC 385 – S 299 CrPC

Code of Criminal Procedure, 1973- Section 299 (1)- The first part provides for proof of jurisdictional fact in respect of absconcence of an accused person and the second that there was no immediate prospect of arresting him. In the event, an order under the said provision is passed, deposition of any witness taken in the absence of an accused may be used against him if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without any amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable - Referred to Nirmal Singh v. State of Haryana (2000) 4 SCC 41 re: Under what circumstances and by what method, the statement of a witness under Section 299 of CrPC could have been tendered in the case for being admissible. (Para 31-32)

Shripal vs Karnataka Neravari Nigam Ltd. 2024 INSC 386 – Land Acquisition

Summary: Allowing appeal seeking enhancement of compensation pursuant to acquisition of their lands by the respondents for the purpose of construction of canals under the Hippargi Barrage project , SC observed: The ends of justice would be met if the market value of the lands acquired from the appellants is fixed at Rs. 4,50,000/- per acre by modifying the order dated 2nd February, 2018 passed by the High Court.

**Child In Conflict With Law Through His Mother vs State Of Karnataka 2024
INSC 387 – Ss 14,15,101 Juvenile Justice Act – Children’s Court**

Juvenile Justice (Care and Protection of Children) Act, 2015- Section 14,15 -

The provision of Section 14(3) of the Act, providing for the period of three months for completion of a preliminary assessment under Section 15 of the Act, is not mandatory. The same is held to be directory. The period can be extended, for the reasons to be recorded in writing, by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate. (Para 18)

Juvenile Justice (Care and Protection of Children) Act, 2015- The words 'Children's Court' and 'Court of Sessions' in the Act and the 2016 Rules shall be read interchangeably. Primarily jurisdiction vests in the Children's Court. However, in the absence of constitution of such Children's Court in the district, the power to be exercised under the Act is vested with the Court of Sessions. (Para 18)

Juvenile Justice (Care and Protection of Children) Act, 2015- Section 101-

Appeal, under Section 101(2) of the Act against an order of the Board passed under Section 15 of the Act, can be filed within a period of 30 days. The appellate court can entertain the appeal after the expiry of the aforesaid period, provided sufficient cause is shown. Endeavour has to be made to decide any such appeal filed within a period of 30 days. (Para 18)

Practice and Procedure - Wherever lacking, in all orders passed by the Courts, Tribunals, Boards and the quasi-judicial authorities, the names of the Presiding Officers or the Members be specifically mentioned in the orders when signed, including the interim orders. If there is any identification number given to the officers, the same can also be added. - In many of the orders the presence of the parties and/or their counsels is not properly recorded. Further, it is not evident as to on whose behalf adjournment has been sought and granted. It is very relevant fact to be considered at different stages of the case and also to find out as to who was the party delaying the matter. At the time of grant of adjournment, it should specifically be mentioned as to the purpose therefor. This may be helpful in imposition of costs also, finally once we shift to the real terms costs. (Para 17)

Legal Maxims-The rule of causus omissus i.e. ‘what has not been provided in the Statute cannot be supplied by the courts’ in the strict rule of interpretation- However, there are certain exceptions thereto- Referred to Surjit Singh Kalra vs. Union of India (1991) 2 SCC 87: 1991 INSC 36: (1991) 1 SCR 364 and Rajbir Singh Dalal (Dr.) vs. Chaudhari Devi Lal University, Sirsa (2008) 9 SCC 284: 2008 INSC 913: (2008) 11 SCR 992. (Para 9.24)

National Highways Authority of India vs Hindustan Construction Company Ltd. 2024 INSC 388 – S 34 Arbitration Act

Arbitration And Conciliation Act, 1996- Section 34,37 -The jurisdiction of the Court under Section 34 is relatively narrow and the jurisdiction of the Appellate Court under Section 37 of the Arbitration Act is all the more circumscribed - Referred to UHL Power Company Ltd. v. State of Himachal Pradesh (2022) 4 SCC 116- As far as the construction of the terms of a contract is concerned, it is for the Arbitral Tribunal to adjudicate upon. If, after considering the material on record, the Arbitral Tribunal takes a particular view on the interpretation of the contract, the Court under Section 34 does not sit in appeal over the findings of the arbitrator. (Para 9-13)

All India Bank Officers' Confideration vs Regional Manager, Central Bank Of India 2024 INSC 389 – Income Tax – Perquisites – Interpretation Of Statutes

Income Tax Act, 1961- Section 17(2)(viii) - Income Tax Rules, 1962- Rule 3(7)(i) - Rule 3(7)(i) posits SBI's rate of interest, that is the PLR, as the benchmark to determine the value of benefit to the assessee in comparison to the rate of interest charged by other individual banks. The fixation of SBI's rate of interest as the benchmark is neither an arbitrary nor unequal exercise of power- the enactment of subordinate legislation for

levying tax on interest free/concessional loans as a fringe benefit is within the rulemaking power under Section 17(2)(viii) of the Act. Section 17(2)(viii) itself, and the enactment of Rule 3(7)(i) is not a case of excessive delegation and falls within the parameters of permissible delegation. Section 17(2) clearly delineates the legislative policy and lays down standards for the rule-making authority. Accordingly, Rule 3(7)(i) is intra vires Section 17(2)(viii) of the Act. (Para 31-34)

Interpretation of Statutes- While enacting laws, the legislature can and does delineate the meaning of terms through explicit definitions. Specific meanings are assigned for precision, to distinguish words/expressions from loose or popular meanings, expand or restrict the scope of words or expressions, or to designate ‘terms of art’, that is, words or phrases with specialized meanings. Explicit definitions are useful, but it is wrong to state that all words or expressions must be explicitly defined. Defining each word or expression that is part of normal or commercial vocabulary is neither possible nor expedient. It would be a superfluous exercise, and make statutes voluminous. Instead, popular meaning makes the statute simpler and easier for the common people. After all, it is the common person who is concerned with the ramifications of a statute, and thus, the common man’s understanding is the definitive index of the legislative intent- The legislature is assumed to be aware of the well-understood meaning attributed to the word/expression, and by necessary implication the legislature by not prescribing a fixed and exact definition, ascribes the prevalent meaning assigned to the word/expression in common parlance or commercial usage. This would include meaning assigned to technical words in a particular trade, business or profession, etc. when the legislation is concerning a particular trade, business or transaction. This rule equally applies to construing words or expressions in a taxation statute. (Para 13)

Income Tax Act, 1961- Section 17(2)- ‘Perquisite’ is a fringe benefit attached to the post held by the employee unlike ‘profit in lieu of salary’, which is a reward or recompense for past or future service. It is incidental to employment and in excess of or in addition to the salary. It is an advantage or benefit given because of employment, which otherwise would not be available. From this perspective, the employer’s grant of interest-free loans or loans at a concessional rate will certainly qualify as a ‘fringe benefit’ and ‘perquisite’- (Para 18-19)

Legislation - Legislature must retain with itself the essential legislative function. 'Essential legislative function' means the determination of the legislative policy and its formulation as a binding rule of conduct. Therefore, once the legislature declares the legislative policy and lays down the standard through legislation, it can leave the remainder of the task to subordinate legislation. In such cases, the subordinate legislation is ancillary to the primary statute. It aligns with the framework of the primary legislation as long as it is made consistent with it, without exceeding the limits of policy and standards stipulated by the primary legislation. The test, therefore, is whether the primary legislation has stated with sufficient clarity, the legislative policy and the standards that are binding on subordinate authorities who frame the delegated legislation- Referred to Municipal Corporation of Delhi v. Birla Cotton, Spinning and Weaving Mills, Delhi (1968) SCC OnLine SC 13. (Para 22)

Hanna vs State Of Uttar Pradesh 2024 INSC 390 – Murder Case- Acquitted

Summary: SC allowed accused's appeal against concurrent conviction in murder case

Sheikh Noorul Hassan vs Nahakpam Indrajit Singh 2024 INSC 391 – RP Act- Election Petition – Rejoinder

Representation of Peoples Act, 1951- Section 87(1) -Code of Civil Procedure, 1908- Order VIII Rule 9 - High Court, acting as an Election Tribunal, subject to the provisions of the 1951 Act and the rules made thereunder, is vested with all such powers as are vested in a civil court under the CPC. Therefore, in exercise of its powers under Order VIII Rule 9 of the CPC, it is empowered to grant leave to an election petitioner to file a

replication- However, such leave is not to be granted mechanically. The Court before granting leave must consider the averments made in the plaint/election petition, the written statement and the replication. Upon consideration thereof, if the Court feels that to ensure a fair and effective trial of the issues already raised, the plaintiff/election petitioner must get opportunity to explain/clarify the facts newly raised or pleaded in the written statement, it may grant leave upon such terms as it deems fit. Further, while considering grant of leave, the Court must bear in mind that,— (a) a replication is not needed to merely traverse facts pleaded in the written statement- (b) a replication is not a substitute for an amendment- and (c) a new cause of action or plea inconsistent with the plea taken in original petition/plaint is not to be permitted in the replication. (Para 20-21)

Code of Civil Procedure, 1908- Order VI Rule 1 and Order VIII Rule 9 -
 Replication, though not a pleading as per Rule 1 of Order VI, is permissible with the leave of the Court under Order VIII Rule 9 of the CPC, which gives a right to file a reply in defence to set-off or counter-claim set up in the written statement. However, if filing of replication is allowed by the Court, it can be utilised for the purposes of culling out issues. But mere non-filing of a replication would not mean that there has been admission of the facts pleaded in the written statement (see K. Laxmanan v. Thekkayil Padmini (2009) 1 SCC 354. (Para 16)

Union Of India vs Santosh Kumar Tiwari 2024 INSC 392 – CRPF Act – Compulsory Retirement As Punishment

Central Reserve Police Force Act, 1949 - Section 11- CRPF Rules- Rule 27-
 Punishment of compulsory retirement prescribed by Rule 27 is intra vires the CRPF Act and is one of the punishments imposable -To keep the Force efficient, weeding out undesirable elements therefrom is essential and is a facet of control over the Force, which the Central Government has over the Force by virtue of Section 8 of the CRPF Act. Thus, to ensure effective control over the Force, if rules are framed, in exercise of general rule-making power, prescribing the punishment of compulsory retirement, the same cannot be

said to be ultra vires Section 11 of the CRPF Act (Para 33)

Compulsory Retirement - Compulsory retirement is a well-accepted method of removing dead wood from the cadre without affecting his entitlement for retirement benefits, if otherwise payable. It is another form of terminating the service without affecting retirement benefits. Ordinarily, compulsory retirement is not considered a punishment. But if the service rules permit it to be imposed by way of a punishment, subject to an enquiry, so be it. (Para 33)

Legislation -Intention of the legislature, as indicated in the enabling Act, must be the prime guide to the extent of delegate's power to make rules. However, the delegate must not travel wider than the object of the legislature rather it must remain true to it. (Para 24)

Selvamani vs State 2024 INSC 393 – Criminal Trial – Hostile Witness – Gangrape case

Criminal Trial -The evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him- The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof - Referred to Khurji @ Surendra Tiwari v. State of Madhya Pradesh (1991) 3 SCC 627 : 1991 INSC 153 and C. Muniappan and Others v. State of Tamil Nadu (2010) 9 SCC 567 : 2010 INSC 553 [In this case, SC upheld a gang rape conviction observing thus: It appears that, on account of a long gap between the examination-in-chief and cross examination, the witnesses were won over by the accused and they resiled from the version as deposed in the examination-in-chief which fully incriminates the accused. However, when the evidence of the victim as well as her mother (PW-2) and aunt (PW-3) is tested with the FIR, the statement recorded under Section 164 CrPC and the evidence of the Medical Expert (PW-8), we find that there is sufficient corroboration to the version given by the prosecutrix in her.]

Vijay Laxman Bhawe (D) vs P & S Nirman Pvt. Ltd. 2024 INSC 394 – Delay Condonation Application By Stranger

Limitation Act, 1963- Section 5- The application seeking condonation of delay filed at the behest of the stranger, who is not a party to the proceedings, is totally illegal- [Allowing appeal against the HC order upholding the order allowing the application seeking condonation of delay by the Trial Court, SC observed: Entertaining an application filed at the behest of a stranger for condonation of delay in filing an application for restoration of the subject suit is totally unsustainable in law. Admittedly, respondent No.1 has not even been impleaded in the subject suit. As such, the application filed at the behest of the stranger, who is not a party to the proceedings, is totally illegal. If the approach as adopted by the trial court is approved, any Tom, Dick and Harry would be permitted to move an application for condonation of delay in filing an application for restoration of the suit even if he is not a party to the subject suit.]

Bhumikaben N. Modi vs Life Insurance Corporation 2024 INSC 395 – NCDRC – Revision -Ex Gratia

Consumer Protection Act, 1986- Section 21 - NCDRC's revisional powers are very limited. The Section provides power to call for the records from the State Commission and to set aside its order issued sans jurisdiction vested in it by law or if the State Commission failed to exercise a jurisdiction so vested or if the State Commission has acted in exercise of its jurisdiction illegally or with material irregularity - Referred to Kongaraananthram v. Telecom Distt. Engineer 1990 SCC OnLine NCDRC 24. (Para 10)

Words and Phrases - Ex gratia- An act of gratis and it got no connection with the liability of

the State under law and the very nature of the relief and its dispensation by the State could not be governed by directions in the nature of mandamus unless, of course, there is an apparent discrimination in the manner of grant of such relief -*Sudesh Dogra v. Union of India* (2014) 6 SCC 486. (Para 11-12)

Life Insurance Corporation Act, 1956- Before the year 1956, life insurance business was in the hands of private companies which were operating mostly in urban areas. The avowed objects and reasons of the Life Insurance Corporation Act, 1956 would reveal that the main object and reason is to ensure absolute security to the policy-holder in the matter of his life insurance protection. (Para 28)

Summary: A man submitted a proposal form for LIC policy.- After his death, a claim was raised before LIC which was repudiated on the ground that proposal submitted by the deceased was not accepted. 1997-2010: Consumer complaint filed before District Forum-District Forum allows complaint-SCDRC dismisses LIC's appeal- NCDRC allows LIC's Revision Petition setting aside the SCDRC/District Forum orders (however directs ex-gratia payment of 1L) 2011-2024: SLP filed before #SupremeCourt - SC sets aside NCDRC order .

K.P. Khemka vs Haryana State Industrial and Infrastructure Development Corporation Limited 2024 INSC 396 – SFC Act – Reference To Larger Bench

State Financial Corporations Act, 1951 - Section 32G-The Section confers a right of recovery on the financial corporation, without prejudice to any other mode of recovery which includes the right to file a suit. The conferment of such a right to recover an 'amount due' as arrears of land revenue, notwithstanding any other remedy, is for a public purpose and in public interest- While the process of filing a civil suit may be barred because of the statute of limitation, the power to recover vested through Section 32-G of the State Financial Corporations Act read with Section 2(c) and Section 3 of the Recovery of Dues Act is a distinct power which continues notwithstanding that another mode of recovery

through a civil suit is barred- There is an additional right to enforce the claims of the financial corporations notwithstanding the bar of limitation. (Para 18) - Referred to three judges Bench in view of decision in State of Kerala and Others vs. V.R. Kalliyankutty & Anr. (1999) 3 SCC 657.

Col Ramneesh Pal Singh vs Sugandhi Aggarwal 2024 INSC 397 – Parental Alienation Syndrome

Parental alienation syndrome- PAS is a thoroughly convoluted and intricate phenomenon that requires serious consideration and deliberation. In our considered opinion, recognising and appreciating the repercussions of PAS certainly shed light on the realities of longdrawn and bitter custody and divorce litigation(s) on a certain identified sect of families, however, it is equally important to remember that there can no straitjacket formula to invoke the principle- Courts ought not to prematurely and without identification of individual instances of 'alienating behaviour', label any parent as propagator and / or potential promoter of such behaviour. The aforesaid label has far-reaching implications which must not be imputed or attributed to an individual parent routinely- Courts must endeavour to identify individual instances of 'alienating behaviour'in order to invoke the principle of parental alienation so as to overcome the preference indicated by the minor children. [In this case, while allowing an appeal SC observed: High Court failed to appreciate the aforesaid nuance and proceeded on an unsubstantiated assumption i.e., that allegations of parental alienation could not be ruled out, despite the stark absence of any instances of 'alienating behaviour' having been identified by any Court.]

Municipal Committee Katra vs Ashwani Kumar 2024 INSC 398 – Writ Jurisdiction

Constitution of India, 1950- Article 226 - Disputes arising out of purely contractual obligations cannot be entertained by the High Court in exercise of the extra ordinary writ jurisdiction. In the case of Union of India and Ors. v. Puna Hinda (2021) 10 SCC 690 - In this case, the relief which was sought by the writ petition was purely by way of damages such relief could have been subject matter of extra ordinary writ jurisdiction of the High Court under Article 226 of the Constitution of India. The quantification of the damages would require entering into disputed questions of facts and hence, the High Court ought to have relegated the writ petitioner to the competent Court for claiming damages, if so advised. (Para 22-23)

Legal Maxim- Nullus commodum capere potest de injuria sua propria - No one can be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is a sound principle that he who prevents a thing from being done shall not avail himself of the nonperformance he has occasioned. To put it differently, 'a wrong doer ought not to be permitted to make profit out of his own wrong'- Referred to Union of India v. Maj. Gen. Madan Lal Yadav (1996) 4 SCC 127. (Para 18-19)

Tapas Guha vs Union of India 2024 INSC 399 – Silchar Greenfield Airport – Environmental Clearance

Environment Law - Greenfield airport at Silchar- Environmental regulations are in place precisely to ensure that developmental projects, such as the establishment of airports, are undertaken in a manner that minimizes adverse ecological impacts and safeguards the well-being of both the environment and local communities. While acknowledging the importance of infrastructure development, it is paramount that such projects proceed in harmony with environmental laws to prevent irreparable damage to ecosystems and biodiversity. The requirement for Environmental Clearance serves as a crucial safeguard against unchecked exploitation of natural resources and helps uphold the principles of sustainable development- which safeguards the interests of both present and

future generations. Therefore, while the decision to establish an airport may serve broader policy objectives, it must be executed within the confines of legal frameworks designed to protect the environment and ensure responsible resource management. Failure to adhere to these norms not only undermines the integrity of environmental governance but also risks long-term environmental degradation and societal discord- when the law prescribes specific norms for carrying out activities requiring an Environmental Clearance, those provisions have to be strictly complied with- Directed that absolutely no activity shall be carried out in breach of the provisions of the Notification dated 14 September 2006 at the site of the proposed greenfield airport at Silchar.

Arvind Kejriwal vs Directorate Of Enforcement 2024 INSC 400 – Interim Bail – Elections

Interim Bail -While examining the question of grant of interim bail/release, the courts always take into consideration the peculiarities associated with the person in question and the surrounding circumstances- the power to grant regular bail includes the power to grant interim bail, particularly in view of Article 21 of the Constitution of India. (Para 8-10)

Summary: Arvind Kejriwal Case - Power to grant interim bail is commonly exercised in a number of cases. Interim bail is granted in the facts of each case. This case is not an exception- General Elections to Lok Sabha is the most significant and an important event this year, as it should be in a national election year. Between 650-700 million voters out of an electorate of about 970 million will cast their votes to elect the government of this country for the next five years. General Elections supply the vis viva to a democracy. Given the prodigious importance, we reject the argument raised on behalf of the prosecution that grant of interim bail/release on this account would be giving premium of placing the politicians in a benefic position compared to ordinary citizens of this country. While examining the question of grant of interim bail/release, the courts always take into consideration the peculiarities associated with the person in question and the surrounding circumstances- more holistic and libertarian view is justified, in the background that the

18th Lok Sabha General Elections are being held - Rejected the argument that the reasoning recorded results in grant of privilege or special status to politician - Interim Bail Granted - Conditions imposed.

**Mrugendra Indravadan Mehta vs Ahmedabad Municipal Corporation 2024
INSC 401 – O XLI R 31 CPC**

Code Of Civil Procedure,1908- Order XLI Rule 31 - The mere omission to frame the points for determination would not vitiate the judgment of the first appellate Court, provided that the first appellate Court recorded its reasons based on the evidence adduced by both parties - Even if the first appellate Court does not separately frame the points for determination arising in the first appeal, it would not prove fatal as long as that Court deals with all the issues that actually arise for deliberation in the said appeal. Substantial compliance with the mandate of Order 41 Rule 31 CPC in that regard is sufficient- Referred to G. Amalorpavam and others vs. R.C. Diocese of Madurai (2006) 3 SCC 224 and Laliteshwar Prasad Singh vs. S.P. Srivastava (D) (2017) 2 SCC 415. (Para 29-30)

Gujarat Town Planning and Urban Development Act, 1976 - a plot owner who has surrendered his original land for the purposes of the Town Planning Scheme is not even assured of allotment of a reconstituted plot in lieu thereof. In such an event, he is entitled only to compensation. Therefore, there is no guaranteed right vesting in a plot owner who surrendered his land in accordance with the Town Planning Scheme that he would be allotted another plot of land in lieu thereof, much less, a plot of the same area - The preparation or variation of a Town Planning Scheme, the rights in the earlier plots of land would stand extinguished. That being so, such rights, if any, which have become extinct cannot be the basis for a later cause of action- Further reduction of a plot notified in the original Town Planning Scheme is implicit in the general power of variation vesting in the authority under Section 71 of the Act of 1976. (Para 32-38)

State Of Orissa vs Santi Kumar Mitra 2024 INSC 402 – Lease

Summary: Trial Court dismissed the suit of the plaintiffs by arriving at a conclusion that plaintiffs had not applied for the renewal of the lease within three months before the expiry of the lease period- that the plaintiffs had not kept the building in proper repair- and all the lessees had not applied for the renewal of the lease except one - First Appellate Court allowed appeal and decreed the suit - Second Appeal was dismissed by the High Court - Supreme Court allowed appeal and restored Trial Court judgment.

Shriram Chits (India) Private Limited vs Raghachand Associates 2024 INSC 403 – Consumer Protection Act -Consumer – Onus Of Proof

Consumer Protection Act, 1986- Section 2(1)(7)(c)- Definition of consumer has three parts- The first part sets out the jurisdictional prerequisites for a person to qualify as a consumer – there must be purchase of goods, for consideration. The second part is an ‘exclusion clause’ [‘carve out’] which has the effect of excluding the person from the definition of a consumer. The carve out applies if the person has obtained goods for the purpose of ‘resale’ or for a ‘commercial purpose’. The third part is an exception to the exclusion clause – it relates to Explanation (a) to Section 2(7) which limits the scope of ‘commercial purpose’- The expression 'commercial purpose' does not include persons who bought goods ‘exclusively for the purpose of earning his livelihood, by means of self-employment’ - The onus of proving the first part i.e. that the person had bought goods/ availed services for a consideration, rests on the complainant himself. The carve out clause, in the second part, is invoked by the service providers to exclude the complainants from availing benefits under the Act. The onus of proving that the person falls within the carve out must necessarily rest on the service provider and not the complainant. Since it is always the service provider who pleads that the service was obtained for a commercial purpose, the onus of proving the same would have to be borne by it- A negative burden cannot be

placed on the complainant to show that the service available was not for a commercial purpose- The standard of proof has to be measured against a ‘preponderance of probabilities’. The test to determine whether service obtained qualified as a commercial purpose - Referred to Leelavathi Kirtilal Medical Trust v. Unique Shanti Developers – (2020) 2 SCC 265-If and only if, the service provider discharges its onus of showing that the service was availed, in fact for a commercial purpose, does the onus shift back to the complainant to bring its case within the third part, i.e. the Explanation (a) to Section 2(7) – To show that the service was obtained exclusively for the purpose of earning its livelihood by means of self-employment - The question of inquiring into the third part will only arise if the service provider succeeds in crossing the second part by discharging its onus and proving that the service obtained was for a commercial purpose. Unless the service provider discharges its onus, the onus does not shift back to the complainant to show that the service obtained was exclusively for earning its livelihood through the means of self-employment. (Para 15, 20-23)

Pleadings - A plea without proof and proof without plea is no evidence in the eyes of law. (Para 23)

Union Of India vs Mrityunjay Kumar Singh @ Mrityunjay @ Sonu Singh 2024 INSC 404 – Bail

Bail - Dismissing appeal filed by Union of India against bail granted to an accused in UAPA case, SC observed: An accused cannot be detained under the guise of punishing him by presuming the guilt and in Vaman Narain Ghiya v. State of Rajasthan, (2009) 2 SCC 28 - The broad probability of accused being involved in the committing of the offence alleged will have to be seen. This Court in NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1 - Referred to Himanshu Sharma v. State of Madhya Pradesh, 2024 SCC OnLine SC 187- Considerations for grant of bail and cancellation of bails are different and if conditions of bail is flouted or the accused had misused the liberty granted or bail was granted in ignorance of statutory provisions or bail was obtained by playing fraud then bail granted to the accused can be cancelled- In the absence of their being a strong *prima facie* case on the

conditions of the bail having been violated, it would not be appropriate for the said order being reversed or set aside after a lapse of fifteen (15) months- In fact, the apprehension of the Union of India that respondent is likely to pose threat to the witnesses and there was a threat posed to the complainant, Mr. Sanjay Kumar Tiwari, would not be a ground to set aside the impugned order enlarging the respondent on bail in as much in the case referred against the respondent for the said offence he has been granted bail. That apart we are of the considered view that there are no other overwhelming material on record to set aside the order granting bail which out weighs the liberty granted by the High Court under the impugned order.

Sant Bhagwan Baba Shikshan Mandal vs Gunwant 2024 INSC 405 – Service Law

Summary: Writ Petition filed by the respondent praying inter alia for being appointed to the post of Shikshan Sevak in the appellant School was allowed by the High Court and the appellants were directed to ensure that he is appointed to the subject post on or before 31st December, 2009, in accordance with law - Disposing appeal, SC moulded relief and directed appellants to pay a consolidated sum of ₹.10,00,000/- (Rupees Ten Lakhs) to the respondent on account of the financial loss incurred by him and for his non-appointment to the subject post.

Indian Medical Association vs Union Of India 2024 INSC 406 – Advertisement – Right Of Consumer

Advertisement - Before an advertisement is printed/aired/displayed, a Self declaration shall be submitted by the advertiser/advertising agency on the lines contemplated in Rule 7 of the Cable Television Networks Rules, 1994 - The Self-declaration shall be uploaded by the advertiser/advertising agency on the Broadcast Sewa Portal run under the aegis of the

Ministry of Information and Broadcasting. As for the advertisements in the Press/Print Media/Internet, the Ministry is directed to create a dedicated portal within four weeks from today. Immediately on the portal being activated, the advertisers shall upload a Self-declaration before any advertisement is issued in the Press/Print Media/Internet. Proof of uploading the Self-declaration shall be made available by the advertisers to the concerned broadcaster/printer/publisher/T.V. Channel/electronic media, as the case may be, for the records. No advertisements shall be permitted to be run on the relevant channels and/or in the print media/internet without uploading the selfdeclaration as directed above. (Para 24)

Guidelines for Prevention of Misleading Advertisements and Endorsements of Misleading Advertisements, 2022 -Advertisers/advertising agencies and endorsers are equally responsible for issuing false and misleading advertisements. Such endorsements that are routinely made by public figures, influencers, celebrities etc. go a long way in promoting a product. It is imperative for them to act with a sense of responsibility when endorsing any product and take responsibility for the same, as reflected in Guideline No.8 of the Guidelines, 2022 that relates to advertisements that address/target or use children for various purposes and Guideline No.12 that lays down the duties of manufacturers, service providers, advertisers and advertising agencies to ensure that the trust of the consumer is not abused or exploited due to sheer lack of knowledge or inexperience. Guideline No.13 requires a due diligence to be undertaken for endorsement of advertisements and requires a person who endorses a product to have adequate information about, or experience with a specific good, product or service that is proposed to be endorsed and ensure that it must not be deceptive.

Constitution of India,1950- Article 21 -Fundamental right to health encompasses the right of a consumer to be made aware of the quality of products being offered for sale by manufacturers, service providers, advertisers and advertising agencies. (Para 23)

Shento Varghese vs Julfikar Husen 2024 INSC 407 – S 102(3) CrPC – Non-Reporting Of Seizure Forthwith

Code Of Criminal Procedure, 1973- Section 102(3)- Non reporting of the seizure forthwith by the police officer to the jurisdictional court would not vitiate the seizure order- But it does not mean that there would be no consequence whatsoever as regards the police officer, upon whom the law has enjoined a duty to act in a certain way- in deciding whether the police officer has properly discharged his obligation under Section 102(3) Cr.P.C., the Magistrate would have to, firstly, examine whether the seizure was reported forthwith- The meaning of the word ‘forthwith’ discussed- In doing so, it ought to have regard to the interpretation of the expression, ‘forthwith’-If it finds that the report was not sent forthwith, then it must examine whether there is any explanation offered in support of the delay. If the Magistrate finds that the delay has been properly explained, it would leave the matter at that. However, if it finds that there is no reasonable explanation for the delay or that the official has acted with deliberate disregard/ wanton negligence, then it may direct for appropriate departmental action to be initiated against such erring official- However, the act of seizure would not get vitiated by virtue of such delay. (Para 16-23)

Code Of Criminal Procedure, 1973- Section 482- if delay in registration of FIR is no ground to quash the FIR, then delay in forwarding such FIR to the Magistrate can also afford no ground for nullification of the FIR- Unless serious prejudice is demonstrated to have been suffered as against the accused, mere delay in sending the FIR to the Magistrate by itself will not have any deteriorating effect on the case of the prosecution- If prejudice is demonstrated and the prosecution fails to explain the delay, then, at best, the effect of such delay would only be to render the date and time of lodging the FIR suspect and nothing more. (Para 16)

Words and Phrases - Forthwith- The expression ‘forthwith’ means ‘as soon as may be’, ‘with reasonable speed and expedition’, ‘with a sense of urgency’, and ‘without any unnecessary delay’. In other words, it would mean as soon as possible, judged in the context of the object sought to be achieved or accomplished- The interpretation of the word ‘forthwith’ would depend upon the terrain in which it travels and would take its colour depending upon the prevailing circumstances which can be variable. (Para 22-23)

Embio Limited vs Director General Of Foreign Trade 2024 INSC 408 – Foreign Trade (Development and Regulation) Act

Foreign Trade (Development and Regulation) Act, 1992- Section 11- Writ petition challenging the order imposing a penalty of Rs. 23,38,882/- under the provisions of Section 11(2) was dismissed by High Court- Allowing appeal, SC observed: There is no allegation against the appellant or its predecessor of making an export or import in contravention of the export and import policy. Section 11 (2) is a penal provision. It must be strictly construed. Thus, the demand for penalty cannot be sustained.

Union Of India vs Dr Asket Singh 2024 INSC 409 – Requisitioning and Acquisition of Immovable Property Act – Compensation

Requisitioning and Acquisition of Immovable Property Act, 1952 - Compensation must be paid to the owner of the acquired property within a reasonable time from the date on which the acquired property vested in the acquiring body. The requirement of making payment of compensation within a reasonable time from the date of vesting must be read into the 1952 Act. In fact, such a long delay of 12 years even in offering compensation will attract arbitrariness which is prohibited by Article 14 of the Constitution of India. (Para 9)

Bar Of Indian Lawyers vs D.K. Gandhi PS National Institute Of Communicable Diseases 2024 INSC 410 – Consumer Complaint Against Advocates Not Maintainable

Consumer Protection Act, 2019- Section 2 (42) - A complaint alleging “deficiency in service” against Advocates practising Legal Profession would not be maintainable - A service hired or availed of an Advocate is a service under “a contract of personal service,” and therefore would fall within the exclusionary part of the definition of “Service” contained in Section 2 (42) - The Legal Profession is *sui generis* i.e. unique in nature and cannot be compared with any other Profession. (Para 42)

Consumer Protection Act, 1986 - Indian Medical Association Vs. V.P. Shantha [1995] Supp. (5) S.C.R. 110- the wide amplitude of the definition of ‘service’ in the main part of Section 2(1)(o) would cover the services rendered by Medical Practitioners within the said Section 2(1)(o) -The said decision deserves to be revisited having regard to the history, object, purpose and the scheme of the CP Act- Neither the “Profession” could be treated as “business” or “trade” nor the services provided by the “Professionals” could be treated at par with the services provided by the Businessmen or the Traders, so as to bring them within the purview of the CP Act . (Para 21-24)

Relationship between an Advocate and his Client: Advocate can act for any person in any Court only when he is appointed by such person by executing the document called “Vakalatnama.” Such Advocate has certain authorities by virtue of such “Vakalatnama” but at the same time has certain duties too, i.e. the duties to the courts, to the client, to the opponent and to the colleagues as enumerated in the Bar Council of India Rule-Unique attributes 1) Advocates are generally perceived to be their client’s agents and owe fiduciary duties to their clients. 2) Advocates are fastened with all the traditional duties that agents owe to their principals. For example, Advocates have to respect the client’s autonomy to make 41 decisions at a minimum, as to the objectives of the representation. 3) Advocates are not entitled to make concessions or give any undertaking to the Court without express instructions from the Client. 4) It is the solemn duty of an Advocate not to transgress the authority conferred on him by his Client. 5) An Advocate is bound to seek appropriate instructions from the Client or his authorized agent before taking any action or making any statement or concession which may, directly or remotely, affect the legal rights of the Client. 6) The Advocate represents the client before the Court and conducts proceedings on

behalf of the client. He is the only link between the court and the client. Therefore, his responsibility is onerous. He is expected to follow the instructions of his client rather than substitute his judgment- Thus, a considerable amount of direct control is exercised by the Client over the manner in which an Advocate renders his services during the course of his employment. (Para 40-41)

Consumer Protection Act, 2019- Section 2 (42) -The question as to whether a given relationship should be classified as a contract ‘for services’ as opposed to a contract ‘of service’ [i.e. contract ‘of personal service’] is a vexed question of law and is incapable of being answered with exactitude without reference to the underlying facts in any given case.- The greater the amount of direct control exercised over the person rendering the services by the person contracting for them, the stronger would be the grounds for holding it to be a “contract of service.

Consumer Protection Act, 2019- The very purpose and object of the CP Act 1986 as re-enacted in 2019 was to provide protection to the consumers from the unfair trade practices and unethical business practices only. There is nothing on record to suggest that the Legislature ever intended to include the Professions or the Professionals within the purview of the Act- If the services provided by all the Professionals are also brought within the purview of the Act, there would be flood-gate of litigations in the commissions/forums established under the Act, particularly because the remedy provided under the Act is inexpensive and summary in nature-We do not propose to say that the professionals could not be sued or held liable for their alleged misconduct or tortious or criminal acts. In the process of overall depletion and erosion of ethical values and degradation of the professional ethics, the instances of professional misconduct are also on the rise. Undoubtedly, no professional either legal, medical or any other professional enjoys any immunity from being sued or from being held liable for his professional or otherwise misconduct or other misdeeds causing legal, monetary or other injuries to his clients or the persons hiring or availing his services. The fact that professionals are governed by their respective Councils like Bar Councils or Medical Councils also would not absolve them from their civil or criminal liability arising out of their professional misconduct or negligence. (Para 18-20)

Bhikchand vs Shamabai Dhanraj Gugale ((D) 2024 INSC 411 – S 144 CPC – Restitution – Auction Sale

Code Of Civil Procedure, 1908- Section 144 -Section 144 CPC statutorily recognises a pre-existing rule of justice, equity and fair play - Even away from Section 144 the court has inherent jurisdiction to order restitution so as to do complete justice between the parties- The factor attracting applicability of restitution is not the act of the court being wrongful or a mistake or error committed by the court- the test is whether on account of an act of the party persuading the court to pass an order held at the end as not sustainable, has resulted in one party gaining an advantage which it would not have otherwise earned- The obligation for restitution arises automatically on the reversal or modification of the decree and necessarily carries with it the right to restitution of all that has been done under the erroneous decree- and the Court in making restitution is bound to restore the parties, so far as they can be restored to the same position they were in at the time when the Court by its erroneous action had displaced them from- Where the decree holder is himself the auction purchaser, the sale cannot stand, if the decree is subsequently set aside-(Para 11-14) [In this case, the decree passed by the Trial Court was varied by the appeal court - However, in the meantime, the decree was executed by sale of the judgment debtor's property on in favour of the decree holders-After the decree was varied by the Appellate Court, the appellant/judgment debtor applied for restitution by invoking Section 144 CPC. The Trial Court, Appellate Court and the second Appellate Court rejected the application for restitution inter alia on the ground that the original decree was modified to the extent of interest payable and the judgment debtor not having deposited any amount in the court after the original decree and the property was put in auction, is not entitled to restitution- Allowing appeal, SC held: the appellants' application under Section 144 CPC is allowed and the sale of the attached properties belonging to the judgment debtor is set aside and the

parties are restored back to the position where the execution was positioned before the attachment of the immovable properties of the judgment debtor- Referred to Padanathil Rugmini Ama Vs. P.K. Abdulla (1996) 7 SCC 668.]

Code Of Civil Procedure, 1908- Order XXI Rule s 54, 66 - The object of attachment of immovable property in course of execution of decree is for realisation of the decretal amount by way of the sale of the attached property under Order XXI Rule 66 CPC - The sale proclamation should mention the estimated value of the property and such estimated value can also be given under Rule 54 Order XXI CPC. The fact that the Court is also entitled to enter in the proclamation of sale its own estimate of the value of the property clearly demonstrates that whenever the attached immovable property is to be sold in public auction the value thereof is required to be estimated. In between Rule 54 to Rule 66 of Order XXI CPC, there is no other provision requiring assessment of value of the property to be sold in auction -The provisions contained in Rule 54(1) Order XXI read with Rule 66 of Order XXI CPC wherein it is provided that either whole of the attached property or such portion thereof as may seem necessary to satisfy the decree shall be sold in auction. If there is no valuation of the property in the attachment Panchanama and there being no separate provision for valuation of the property put to auction, it is to be understood that the valuation of the property mentioned in attachment Panchanama prepared under Rule 54 can always provide the estimated value of the property otherwise the provisions enabling the court to auction only a part of the property which would be sufficient to satisfy the decree would be unworkable or redundant-When only one of the attached properties was sufficient to satisfy the decree there was no requirement for effecting the sale of the entire attached properties. (Para 20-22) - The court's power to auction any property or part thereof is not just a discretion but an obligation imposed on the Court and the sale held without examining this aspect and not in conformity with this mandatory requirement would be illegal and without jurisdiction- The execution of a decree by sale of the entire immovable property of the judgment debtor is not to penalise him but the same is provided to grant relief to the decree holder and to confer him the fruits of litigation. However, the right of a decree holder should never be construed to have bestowed upon him a bonanza only because he had obtained a decree for realisation of a certain amount. A

decree for realisation of a sum in favour of the plaintiff should not amount to exploitation of the judgment debtor by selling his entire property. (Para 25- 27)

**Divisional Forest Officer, Munnar, Kerala vs P.J. Antony 2024 INSC 412-S 69
Kerala Forest Act – Presumption**

Kerala Forest Act, 1961- Section 69- Presumption under Section 69 of the Forest Act is a remarkable one and the burden of proving the foundational facts, which would give rise to the presumption, would be upon the prosecution - whenever a statute provides for ‘reason to believe’, either the reasons should appear on the face of the notice or they must be available in the materials which are placed before the authority-Even though the formation of an opinion as to the expression ‘reason to believe’, may be subjective, it must be based on material on the record and cannot be arbitrary, capricious or whimsical. (Para 11-2)

Kerala Forest Act, 1961- Section 52,61A - When it is an admitted fact that the offence, if any, committed by accused in relation to the movement of the fallen and dried sandalwood, so as to stack it at one place, it would be relatable to the Kerala Preservation of Trees Act, 1986 and would not constitute an offence under the Forest Act. (Para 10)

**Rajendra Bhagwanji Umraniya vs State of Gujarat 2024 INSC 413 – S 357
CrPC – Victim Compensation -Sentencing**

Code Of Criminal Procedure, 1973- Section 357- Payment of victim compensation cannot be a consideration or a ground for reducing the sentence imposed upon the accused as victim compensation is not a punitive measure and only restitutory in nature and thus, has no bearing with the sentence that has been passed which is punitive in nature - . In criminal proceedings the courts should not conflate sentence with compensation to

victims. Sentences such as imprisonment and / or fine are imposed independently of any victim compensation and thus, the two stand on a completely different footing, either of them cannot vary the other. Where an accused is directed to pay compensation to victims, the same is not meant as punishment or atonement of the convict but rather as a step towards reparation to the victims who have suffered from the offence committed by the convict- If payment of compensation becomes a consideration for reducing sentence, then the same will have a catastrophic effect on the criminal justice administration. It will result in criminals with a purse full of money to buy their way out of justice, defeating the very purpose of criminal proceedings. (Para 23-26)

Code Of Criminal Procedure, 1973- Section 357- The sole factor for deciding the compensation to be paid is the victim's loss or injury as a result of the offence, and has nothing to do with the sentence that has been passed. Section 357 of CrPC is intended to reassure the victim that he/she is not forgotten in the criminal justice system. It is a constructive approach to crimes based on the premise that mere punishment of the offender may not give solace to the victim or its family- when deciding the compensation which is to be paid to a victim, the only factor that the court may take into consideration is the convict's capacity to pay the compensation and not the sentence that has been imposed. (Para 24-25) - The idea of victim compensation is based on the theory of victimology which recognizes the harsh reality that victims are unfortunately the forgotten people in the criminal justice delivery system. Victims are the worst sufferers. Victims' family is ruined particularly in cases of death and grievous bodily injuries. This is apart from the factors like loss of reputation, humiliation, etc. Theory of Victimology seeks to redress the same and underscores the importance for criminal justice administration system to take into consideration the effect of the offence on the victim's family even though human life cannot be restored but then monetary compensation will at least provide some solace. (Para 22)

Prabir Purkayastha vs State (NCT Of Delhi) 2024 INSC 414 – Article 22(1)
Constitution – Written Grounds Of Arrest – UAPA

Constitution of India, 1950- Article 22(1) - Any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as, this information would be the only effective means for the arrested person to consult his Advocate- oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India. (Para 20)- The requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be (Para 30)- Mere fact that a charge sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused. (Para 22)- - Difference in the phrase ‘reasons for arrest’ and ‘grounds of arrest’ - The ‘reasons for arrest’ as indicated in the arrest memo are purely formal parameters, viz., to prevent the accused person from committing any further offence- for proper investigation of the offence- to prevent the accused person from causing the evidence of the offence to disappear or tempering with such evidence in any manner- to prevent the arrested person for making inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer. These reasons would commonly apply to any person arrested on charge of a crime whereas the ‘grounds of

arrest' would be required to contain all such details in hand of the Investigating Officer which necessitated the arrest of the accused. Simultaneously, the grounds of arrest informed in writing must convey to the arrested accused all basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. Thus, the 'grounds of arrest' would invariably be personal to the accused and cannot be equated with the 'reasons of arrest' which are general in nature. (Para 49)

Unlawful Activities(Prevention) Act, 1967- Section 43B(1) -The interpretation of statutory mandate laid down in the case of Pankaj Bansal vs Union of India on the aspect of informing the arrested person the grounds of arrest in writing has to be applied pari passu to a person arrested in a case registered under the provisions of the UAPA. (Para 19)

Code Of Criminal Procedure, 1973- Section 154- FIR is not an encyclopaedia and is registered just to set the process of criminal justice in motion. The Investigating Officer has the power to investigate the matter and collect all relevant material which would form the basis of filing of charge sheet in the Court concerned. (Para 41)

Constitution of India, 1950- Article 141 - once this Court has interpreted the provisions of the statute in context to the constitutional scheme and has laid down that the grounds of arrest have to be conveyed to the accused in writing expeditiously, the said ratio becomes the law of the land binding on all the Courts in the country by virtue of Article 141 of the Constitution of India. (Para 46)

Dharnidhar Mishra (D) vs State of Bihar 2024 INSC 415- Ss 300A Constitution – Right To Property – Land Acquisition – Writ Petition – Delay & Latches

Constitution of India, 1950- Article 300A - The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a constitutional right under Article

300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article- Referred to K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1. (Para 18)

Constitution of India, 1950- Article 226 - Delay and Latches delay and laches cannot be raised in a case of a continuing cause of action or if the circumstances shock the judicial conscience of the court. The condition of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of the case - It would depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice- Referred to Vidya Devi v. The State of Himachal Pradesh (2020) 2 SCC 569. (Para 25)

C Subbiah @ Kadambur Jayaraj vs Superintendent Of Police 2024 INSC 416 – Benami – IPC

Benami Transactions (Prohibition), Act 1988- Section 4(1)- Since by virtue of the provisions contained in Sections 4(1) and 4(2) of the Benami Act, the complainant is prohibited from suing the accused for a civil wrong, in relation to these benami transactions, as a corollary, allowing criminal prosecution of the accused in relation to the self-same cause of action would be impermissible in law. (Para 36)

Indian Penal Code, 1860- Section 294(b)- The complainant alleged that the accused abused him by using profane language. Section 294(b) IPC would clearly not apply to such an act. (Para 44)

Summary: Madras- HC dismissed plea seeking quashing of proceedings for offences punishable under Sections 420 read with Section 120B, Section 294(b), Section 506(ii) read with Section 114 IPC - Allowing appeal, SC observed: The necessary ingredients of the offences punishable under Section 406 and Section 420 IPC are not made out against the

accused - In view of the clear bar contained in Section 4 of the Benami Act, the complainant could not have sued the accused appellants for the same set of facts and allegations which are made the foundation of the criminal proceedings. Since, if such allegations do not constitute an actionable civil wrong, in such circumstances, allowing the prosecution of the accused appellants for the very same set of facts, would tantamount to abuse of the process of law.

Dasari Srikanth vs State Of Telangana 2024 INSC 417 – Ss 354D, 506 IPC – Conviction Quashed As Accused-Complainant Married

Indian Penal Code, 1860- Section 354D and 506- Appeal by accused against High Court judgment upholding his conviction for offences under Sections 354D and 506-Part I of the Indian Penal Code, 1860 - Allowing appeal, SC observed: The offences under Section 354D IPC and Section 506 IPC are personal to the complainant and the accused appellant. The fact that the appellant and the complainant have married each other during the pendency of this appeal gives rise to a reasonable belief that both were involved in some kind of relationship even when the offences alleged were said to have been committed - Since, the appellant and the complainant have married each other, the affirmation of the judgment rendered by the High Court would have the disastrous consequence on the accused appellant being sent to jail which in turn could put his matrimonial relationship with the complainant in danger - Invoked Article 142 to quash the conviction.

Dinesh vs State Of Madhya Pradesh 2024 INSC 418 – Land Acquisition – RFCTLARR

RFCTLARR Act, 2013 - Section 3(e)-The Collector would be deemed to be the “appropriate Government” under the proviso to Section 3(e) of the Act of 2013 only when a land acquisition notification is issued by the appropriate Government that is the State Government indicating the limits of the area to be acquired for a public purpose and appointing the Collector as the authority empowered to acquire that particular area of land ‘in the district’ over which the officer holds jurisdiction. Hence, this proviso requires

notification by the State Government of a particular area within the district to be acquired for public purpose and only for such limited area, the Collector would be authorised by deeming fiction to act as the appropriate Government - [In this case, neither was the land acquisition notification issued by the District Collector nor was the acquisition limited to a particular district. Hence, the District Collector could not have exercised the powers of the appropriate Government by virtue of the proviso to Section 3(e) of the Act of 2013 which authority continued to vest in the State Government.] (Para 20-21)

Shivendra Pratap Singh Thakur @ Banti vs State Of Chhattisgarh 2024 INSC 419 -Criminal Proceedings Quashed

Summary: Appeal against HC judgment that dismissed plea for quashing criminal proceedings in relation to offences punishable under Sections 447, 427, 294, 506 read with Section 34 IPC - Allowing appeal, SC observed: The FIR which was lodged after 39 days of the incident, does not indicate the date or time, when the accused trespassed into the house of the complainant and caused damage to his property and committed the other offences for which the FIR came to be registered. The impugned FIR seems to be nothing but a tool to wreak vengeance against the appellant herein- Criminal proceedings quashed.

S Nitheen vs State Of Kerala 2024 INSC 420 – S 494 IPC – Bigamy

Indian Penal Code, 1860- Section 494- The essential ingredients of this offence are: (1) that the accused spouse must have contracted the first marriage (2) that while the first marriage was subsisting the spouse concerned must have contracted a second marriage,

and (3) that both the marriages must be valid in the sense that the necessary ceremonies required by the personal law governing the parties had been duly performed - Referred to Gopal Lal v. State of Rajasthan (1979) 2 SCC 170- no person other than the spouse to the second marriage could have been charged for the offence punishable under Section 494 IPC simplicitor (Para 15-16)

State of Himachal Pradesh vs Raghbir Singh 2024 INSC 421 – S 313 CrPC

Indian Penal Code, 1860- Section 375,376 -Absence of injuries on the person of the prosecutrix is by itself no ground to infer consent on the part of the prosecutrix. (Para 6)
Code Of Criminal Procedure, 1973- Section 313- The conviction cannot be based solely on the statements made by an accused under sub-section (1) of Section 313 of the Cr. PC. The statements of the accused cannot be considered in isolation but in conjunction with the evidence adduced by the prosecution. The statements may have more relevance when under a statute, an accused has burden of discharge. When the law requires an accused to discharge the burden, the accused can always do so by a preponderance of probability. But, while considering whether the accused has discharged the burden, the court can certainly consider his statement recorded under Section 313. (Para 6)

Summary: Appeal against HC judgment that convicted accused for the offence punishable under clause (g) of sub-section (2) of Section 376 of the Indian Penal Code, 1860 - Dismissed appeal.

Rajendra vs State Of Maharashtra 2024 INSC 422 – S 32 Evidence Act – Dying Declaration

Indian Evidence Act, 1872- Section 32- Once a dying declaration is found to be authentic inspiring confidence of the court, then the same can be relied upon and can be the sole basis for conviction without any corroboration. However, before accepting such a dying declaration, court must be satisfied that it was rendered voluntarily, it is consistent and credible and that it is devoid of any tutoring. Once such a conclusion is reached, a great deal of sanctity is attached to a dying declaration and as said earlier, it can form the sole basis for conviction. (Para 25) - when there are multiple dying declarations, each dying declaration has to be separately assessed and evaluated independently on their own merit as to the evidentiary value of each. One cannot be rejected merely because of certain variations in the other. (Para 34)

Solapur Municipal Corporation vs Shankarrao Govindrao Patil 2024 INSC 423

Summary: Employment status of the respondents herein in the service of Majarewadi Gram Panchayat - Matter remanded to High Court for reconsideration

Karnail Singh vs State Of Haryana 2024 INSC 424 – Review Powers – Precedent

Precedent- Ignoring the law laid down by the Constitution Bench of this Court in Bhagat Ram and taking a view totally contrary to the same itself would amount to a material error, manifest on the face of the order. Ignoring the judgment of the Constitution Bench, in our

view, would undermine its soundness. (Para 58)

Constitution of India, 1950- Article 137 - Review Jurisdiction- Review would be permissible only if there is a mistake or error apparent on the face of the record or any other sufficient reason is made out. We are also equally aware of the fact that the review proceedings cannot be equated with the original hearing of the case. The review of the judgment would be permissible only if a material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice. We are also aware that such an error should be an error apparent on the face of the record and should not be an error which has to be fished out and searched - Referred to Kamlesh Verma vs. Mayawati (2013) 8 SCC 320

RS Madireddy vs Union Of India 2024 INSC 425 – Writ Petition Not Maintainable Against Air India

Constitution of India, 1950- Article 12,226- Whether Air India Limited after having been taken over by a private corporate entity could have been subjected to writ jurisdiction of the High Court? AIL, the erstwhile Government run airline having been taken over by the private company Talace India Pvt. Ltd., unquestionably, is not performing any public duty inasmuch as it has taken over the Government company Air India Limited for the purpose of commercial operations, plain and simple, and thus no writ petition is maintainable against AIL. - The question of issuing a writ would only arise when the writ petition is being decided. Thus, the issue about exercise of extra ordinary writ jurisdiction under Article 226 of the Constitution of India would arise only on the date when the writ petitions were taken up for consideration and decision (Para 37-38)-The subsequent event i.e. the disinvestment of the Government company and its devolution into a private company would make the company immune from being subjected to writ jurisdiction

under Article 226 of the Constitution of India, even if the litigant had entered the portals of the Court while the employer was the Government. (Para 29)

TN Godavarman Thirumulpad vs Union of India (In Re: Shewalkar Developers Ltd) 2024 INSC 426

Summary: Applicant preferred an application to the CEC seeking permission to construct the health/eco-resort (nearby Pachmarhi Wildlife Sanctuary)- Allowing application, SC observed: The applicant is justified in claiming that its proprietary rights guaranteed under Article 300A of the Constitution of India cannot be infringed merely on account of the pending writ appeal before the Madhya Pradesh High Court- application filed by the applicant for raising construction on plot Nos. 14/3 and 14/4 shall be decided objectively by the CEC/Competent Authority of the local body keeping in view the location of the land with reference to the notified boundaries of the ESZ.

S Shivraj Reddy (D) vs S Raghuraj Reddy 2024 INSC 427 – Limitation – Partnership

Limitation Act, 1963- Section 3-Even if the plea of limitation is not set up as a defence, the Court has to dismiss the suit if it is barred by limitation- V.M. Salgaocar and Bros. v. Board of Trustees of Port of Mormugao (2005) 4 SCC 613 and Narne Rama Murthy v. Ravula Somasundaram (2005) 6 SCC 614 (Para 15-16, 18)

Partnership Act, 1932- Section 42 - In terms of Section 42(c) of the Act, the partnership stands dissolved upon the death of the partner - Referred to Davesh Nagalya(Dead) and Ors. v. Pradeep Kumar(Dead) (2021) 9 SCC 796- Unless and until there was a contract between the remaining partners of the firm to the contrary, the business activities even if carried on by the remaining partners of the firm after the death of the partner, would be deemed to be carried in their individual capacity. (Para 19)

Mukatlal vs Kailash Chand (D) 2024 INSC 428 -S 14(1) Hindu Succession Act

Hindu Succession Act, 1956- Section 14(1)- For establishing full ownership on the undivided joint family estate under Section 14(1) of the Succession Act the Hindu female must not only be possessed of the property but she must have acquired the property and such acquisition must be either by way of inheritance or devise, or at a partition or "in lieu of maintenance or arrears of maintenance" or by gift or be her own skill or exertion, or by purchase or by prescription. (Para 24)

Lehna Singh (D) vs Gurnam Singh (D) 2024 INSC 429 – Punjab Courts Act – Second Appeal

Punjab Courts Act, 1918- Section 41- Code of Civil Procedure, 1908- Section 100- The provision contained in Section 41 of the Punjab Act, as reproduced above, does not mandate framing of a substantial question of law for entertaining the second appeal. Therefore, a second appeal under Section 41 of Punjab Act can be entertained by the Punjab and Haryana High Court even without framing a substantial question of law - Referred to Pankajakshi (Dead) v. Chandrika (2016) 6 SCC 157. (Para 10)

Code of Civil Procedure, 1908- Section 96- The requirement of exercise of jurisdiction by the First Appellate Court under Section 96 of CPC - Referred to Chintamani Ammal vs. Nandagopal Gounder (2007) 4 SCC 163, Jagannath v. Arulappa (2005) 12 SCC 303, H.K.N. Swami v. Irshad Basith (D) (2005) 10 SCC 243- It would be wholly improper to allow first appeal without adverting to the specific findings of the trial court and that the First Appellate Court is required to address all the issues and determine the appeal upon assignment of cogent reasons. (Para 24-25)

Shyamo Devi vs State Of UP 2024 INSC 430 – UPZALR Act

Uttar Pradesh Zamindari Abolition and Land Reforms Act- Section 122-C- The power of the Collector is available to initiate suo moto action for cancellation of allotment under sub-section (6) of Section 122-C in case of fraud and such foundational facts would disclose the same, it would suffice to initiate the proceedings as fraud vitiates. (Para 17)

United India Insurance Co. Ltd. vs Hyundai Engineering & Construction Co. Ltd 2024 INSC 431 – Insurance – Exclusion

Insurance Law- Insurance is a contract of indemnification, being a contract for a specific purpose, which is to cover defined losses. The courts have to read the insurance contract strictly. Essentially, the insurer cannot be asked to cover a loss that is not mentioned. Exclusion clauses in insurance contracts are interpreted strictly and against the insurer as they have the effect of completely exempting the insurer of its liabilities-the burden of proving the applicability of an exclusionary clause lies on the insururer- But such a clause cannot be interpreted so that it conflicts with the main intention of the insurance. It is, therefore, the duty of the insurer to plead and lead cogent evidence to establish the

application of such a clause. The evidence must unequivocally establish that the event sought to be excluded is specifically covered by the exclusionary clause. (Para 16-17)

**Mahendra Kaur Arora vs HDFC Bank Ltd 2024 INSC 432 – Article 227
Constitution – Intra Court Appeal Maintainability**

Constitution of India, 1950- Article 227 - No intra-court appeal could have been preferred against an order passed by the Single Judge on a petition filed under Article 227 of the Constitution of India. (Para 11)

**Dani Wooltex Corporation vs Sheil Properties Pvt. Ltd. 2024 INSC 433 – S 32
Arbitration Act – Termination Of Proceedings**

Arbitration and Conciliation Act, 1996- Section 32-The power to terminate proceedings under Section 32(2)(c) of the Arbitration Act can be exercised only if, for some reason, the continuation of proceedings has become unnecessary or impossible. Unless the Arbitral Tribunal records its satisfaction based on the material on record that proceedings have become unnecessary or impossible, the power under clause (c) of subsection (2) of Section 32 cannot be exercised. If the said power is exercised casually, it will defeat the very object of enacting the Arbitration Act--It is the Arbitral Tribunal's duty to fix a meeting for hearing even if parties to the proceedings do not make such a request. It is the duty of the Arbitral Tribunal to adjudicate upon the dispute referred to it. If, on a date fixed for a meeting/hearing, the parties remain absent without any reasonable cause, the Arbitral Tribunal can always take recourse to the relevant provisions of the Arbitration Act, such as Section 25-- The failure of the claimant to request the Arbitral Tribunal to fix a date for hearing, per se, is no ground to conclude that the proceedings have become unnecessary- - The abandonment of the claim by a claimant can be a ground to invoke

clause (c) of subsection (2) of Section 32. The abandonment of the claim can be either express or implied. The abandonment cannot be readily inferred. There is an implied abandonment when admitted or proved facts are so clinching that the only inference which can be drawn is of the abandonment. Only if the established conduct of a claimant is such that it leads only to one conclusion that the claimant has given up his/her claim can an inference of abandonment be drawn. Even if it is to be implied, there must be convincing circumstances on record which lead to an inevitable inference about the abandonment. Only because a claimant, after filing his statement of claim, does not move the Arbitral Tribunal to fix a date for the hearing, the failure of the claimant, per se, will not amount to the abandonment of the claim.

Tarsem Lal vs Directorate Of Enforcement 2024 INSC 434 – PMLA – Arrests – S 200-204, 88 CrPC

Prevention of Money Laundering Act, 2002- Section 19- After cognizance is taken of the offence punishable under Section 4 of the PMLA based on a complaint under Section 44 (1)(b), the ED and its officers are powerless to exercise power under Section 19 to arrest a person shown as an accused in the complaint- and j) If the ED wants custody of the accused who appears after service of summons for conducting further investigation in the same offence, the ED will have to seek custody of the accused by applying to the Special Court. After hearing the accused, the Special Court must pass an order on the application by recording brief reasons. While hearing such an application, the Court may permit custody only if it is satisfied that custodial interrogation at that stage is required, even though the accused was never arrested under Section 19. However, when the ED wants to conduct a further investigation concerning the same offence, it may arrest a person not shown as an accused in the complaint already filed under Section 44(1)(b), provided the requirements of Section 19 are fulfilled.

Prevention of Money Laundering Act, 2002- Section 44(1)(b) -Code of Criminal Procedure, 1973- Sections 70,88, 200-205- a) Once a complaint under

Section 44 (1)(b) of the PMLA is filed, it will be governed by Sections 200 to 205 of the CrPC as none of the said provisions are inconsistent with any of the provisions of the PMLA- b) If the accused was not arrested by the ED till filing of the complaint, while taking cognizance on a complaint under Section 44(1)(b), as a normal rule, the Court should issue a summons to the accused and not a warrant. Even in a case where the accused is on bail, a summons must be issued- c) After a summons is issued under Section 204 of the CrPC on taking cognizance of the offence punishable under Section 4 of the PMLA on a complaint, if the accused appears before the Special Court pursuant to the summons, he shall not be treated as if he is in custody. Therefore, it is not necessary for him to apply for bail. However, the Special Court can direct the accused to furnish bond in terms of Section 88 of the CrPC- d) In a case where the accused appears pursuant to a summons before the Special Court, on a sufficient cause being shown, the Special Court can grant exemption from personal appearance to the accused by exercising power under Section 205 of the CrPC- e) If the accused does not appear after a summons is served or does not appear on a subsequent date, the Special Court will be well within its powers to issue a warrant in terms of Section 70 of the CrPC. Initially, the Special Court should issue a bailable warrant. If it is not possible to effect service of the bailable warrant, then the recourse can be taken to issue a nonbailable warrant (f) A bond furnished according to Section 88 is only an undertaking by an accused who is not in custody to appear before the Court on the date fixed. Thus, an order accepting bonds under Section 88 from the accused does not amount to a grant of bail- g) In a case where the accused has furnished bonds under Section 88 of the CrPC, if he fails to appear on subsequent dates, the Special Court has the powers under Section 89 read with Sections 70 of the CrPC to issue a warrant directing that the accused shall be arrested and produced before the Special Court- If such a warrant is issued, it will always be open for the accused to apply for cancellation of the warrant by giving an undertaking to the Special Court to appear before the said Court on all the dates fixed by it. While cancelling the warrant, the Court can always take an undertaking from the accused to appear before the Court on every date unless appearance is specifically exempted. When the ED has not taken the custody of the accused during the investigation, usually, the Special Court will exercise the power of cancellation of the warrant without insisting on taking the accused in custody provided an undertaking is furnished by the accused to appear regularly before the Court. When the Special Court deals with an application for

cancellation of a warrant, the Special Court is not dealing with an application for bail. Hence, Section 45(1) will have no application to such an application- h) When an accused appears pursuant to a summons, the Special Court is empowered to take bonds under Section 88 of the CrPC in a given case. However, it is not mandatory in every case to direct furnishing of bonds. However, if a warrant of arrest has been issued on account of non-appearance or proceedings under Section 82 and/or Section 83 of the CrPC have been issued against an accused, he cannot be let off by taking a bond under Section 88 of the CrPC, and the accused will have to apply for cancellation of the warrant.

Kolkata Municipal Corporation vs Bimal Kumar Shah 2024 INSC 435 – Constitutional Right To Property – Sub-Rights

Constitution of India, 1950- Article 300A - Right To Property -The binary reading of the constitutional right to property must give way to more meaningful renditions, where the larger right to property is seen as comprising intersecting sub-rights, each with a distinct character but interconnected to constitute the whole. These sub-rights weave themselves into each other, and as a consequence, State action or the legislation that results in the deprivation of private property must be measured against this constitutional net as a whole, and not just one or many of its strands. Seven such sub-rights can be identified, albeit non-exhaustive. These are: i) duty of the State to inform the person that it intends to acquire his property – the right to notice, ii) the duty of the State to hear objections to the acquisition – the right to be heard, iii) the duty of the State to inform the person of its decision to acquire – the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose – the duty to acquire only for public purpose, v) the duty of the State to restitute and rehabilitate – the right of restitution or fair compensation, vi) the duty of the State to conduct the process of

acquisition efficiently and within prescribed timelines of the proceedings – the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting – the right of conclusion-These seven sub-rights may be procedures, but they do constitute the real content of the right to property under Article 300A, noncompliance of these will amount to violation of the right, being without the authority of law- The Right to notice: (i) A prior notice informing the bearer of the right that the State intends to deprive them of the right to property is a right in itself- a linear extension of the right to know embedded in Article 19(1)(a). The Constitution does not contemplate acquisition by ambush. The notice to acquire must be clear, cogent and meaningful - The Right to be heard: (i) Following the right to a meaningful and effective prior notice of acquisition, is the right of the property-bearer to communicate his objections and concerns to the authority acquiring the property. This right to be heard against the proposed acquisition must be meaningful and not a sham- The Right to a reasoned decision: i) That the authorities have heard and considered the objections is evidenced only through a reasoned order. It is incumbent upon the authority to take an informed decision and communicate the same to the objector- The Duty to acquire only for public purpose: (i) That the acquisition must be for a public purpose is inherent and an important fetter on the discretion of the authorities to acquire. This requirement, which conditions the purpose of acquisition must stand to reason with the larger constitutional goals of a welfare state and distributive justice- The Right of restitution or fair compensation: (i) A person's right to hold and enjoy property is an integral part to the constitutional right under Article 300A. Deprivation or extinguishment of that right is permissible only upon restitution, be it in the form of monetary compensation, rehabilitation or other similar means. Compensation has always been considered to be an integral part of the process of acquisition - The Right to an efficient and expeditious process: (i) The acquisition process is traumatic for more than one reason. The administrative delays in identifying the land, conducting the enquiry and evaluating the objections, leading to a final declaration, consume time and energy. Further, passing of the award, payment of compensation and taking over the possession are equally time consuming. It is necessary for the administration to be efficient in concluding the process and within a reasonable time. This obligation must necessarily form part of Article 300A- The Right of conclusion: (i) Upon conclusion of process of acquisition and payment of compensation, the State takes possession of the property in

normal circumstances. The culmination of an acquisition process is not in the payment of compensation, but also in taking over the actual physical possession of the land. If possession is not taken, acquisition is not complete. With the taking over of actual possession after the normal procedures of acquisition, the private holding is divested and the right, title and interest in the property, along-with possession is vested in the State. Without final vesting, the State's, or its beneficiary's right, title and interest in the property is inconclusive and causes lot of difficulties. The obligation to conclude and complete the process of acquisition is also part of Article 300A. (Para 26-31)

**Ravikumar Dhansukhlal Maheta vs High Court Of Gujarat 2024 INSC 436 –
Gujarat Judicial Service Rules – Merit cum Seniority & Seniority cum Merit**

Service Law - Principles of ‘Merit-cum-Seniority’ and ‘Seniority-cum-Merit’ summarized- The principle of ‘Seniority-cum-Merit’ postulates that: - i. Minimum requirement of merit and suitability which is necessary for the higher post can be prescribed for the purpose of promotion. ii. Comparative Assessment amongst the candidates is not required. iii. Seniority of a candidate is not a determinative factor for promotion but has a predominant role. iv. Upon fulfilling the minimum qualifications, promotions must be based on inter-se seniority - The principle of ‘Merit-cum-Seniority’ postulates that: - i. Merit plays a predominant role in and seniority alone cannot be given primacy. ii. Comparative Assessment of Merit is a crucial, though not a mandatory, factor. iii. Only where merit is equal in all respects can inter-se seniority be considered. Meaning that a junior candidate can be promoted over the senior if the junior is more meritorious- Merit-cum-Seniority’ or ‘Seniority-cum-Merit’ are flexible in nature and do not prescribe any fixed or strait-jacket definitions. These definitions take character and substance from the context in which they are employed. Their full import and nuances only become visible when they are exposed to the guiding light of the overall promotional policy of the organisation.(Para 130)

Constitution of India, 1950- Article 235- When it comes to promotion of judicial

officers of the District Judiciary, the control vests with the High Court under Article 235 of the Constitution. The High Court being the sole authority in this regard can clearly lay down rules and policies pertaining to promotions which includes the power to specify the criteria and parameters it deems most suitable and appropriate for the purpose of promotion and the manner in which promotion is to be made as long as it is within the contours of what has been laid down in All India Judges' Association (3) - (Para 119)

Constitution of India, 1950- Article 32- The availability of an alternative remedy does not in any manner affect the maintainability of the writ petition under Article 32 of the Constitution. The rule behind relegating a party to first avail the alternative remedy before knocking the doors of this Court is a rule of selfrestraint that is exercised by this Court as a matter of convenience. Further, wherever the facts of the case are not in dispute, and the issue involves the interpretation of rules which are of significant importance having a far-reaching effect, it would be a fit case for this Court to exercise its discretion and entertain the writ petition under Article 32 even if there is an alternative remedy available. (Para 40-41)

Constitution of India, 1950- Article 226 -High Court on its judicial side can always review any decision or action taken by it on its administrative side. It would be erroneous to say that if any decision taken by the High Court on its administrative side is ultimately challenged on any legal ground on its judicial side, then the High Court may not undertake judicial review of such administrative decision dispassionately. (Para 42)

Gujarat State Judicial Service Rules, 2005 -Suggestions By SC: (i) Apart from the four components included in the Suitability Test, an additional fifth component in the form of an Interview or Viva Voce should also be included in order to assess the ability and knowledge of the candidates. (ii) The High Court may consider enhancing the minimum specified threshold of marks as prescribed in the suitability test and each of its component. (iii) The evaluation of judgments delivered by the judicial officer being considered for promotion should be of the last two years instead of one year. (iv) Instead of seniority being considered at the very last stage of the process, some marks may be allocated for

seniority at the stage of suitability test and thereafter, the final select list may be prepared on the basis of total marks. (Para 140)

Summary: Writ petition contended that the High Court of Gujarat erroneously applied the principle of ‘Seniority-cum-Merit’ in the recruitment undertaken by it in the year 2022 for promotion of Civil Judges (Senior Division) to the post of Additional District Judge against 65% quota, though Rule 5(1) of the 2005 Rules stipulates that the promotion shall be based on the principle of ‘Merit-cumSeniority’ - It was contended that the High Court wrongly subjected all eligible candidates in the feeder cadre i.e., Civil Judge (Senior Division) to a process of assessment of a specified level of minimum merit and then proceeded to prepare the final Select List strictly in accordance with the seniority of the candidates. This according to the petitioners is nothing but ‘Seniority-cum Merit’ - Dismissing WP, SC held: Select List dated 10.03.2023 is not contrary to the principle of ‘Merit-cum-Seniority’ as stipulated in Rule 5(1)(I) of the 2005 Rules- What has been conveyed, in so many words, by this Court in All India Judges’ Association (3) v. Union of India & Ors. reported in (2002) 4 SCC 247 is that the suitability of each candidate should be tested on their own merit. The aforesaid decision does not speak about comparative merit for the 65% promotional quota. In other words, what is stipulated is the determination of suitability of the candidates and assessment of their continued efficiency with adequate knowledge of case law. (B) For the 65% promotional quota this Court in All India Judges’ Association (3) (supra) did not state that after taking the suitability test, a merit list should be prepared and the judicial officers should be promoted only if they fall in the said merit list. It cannot be said to be a competitive exam. Only the suitability of the judicial officer is determined and once it is found that candidates have secured the requisite marks in the suitability test, they cannot be thereafter ignored for promotion. (C) However, we clarify that for the 65% promotional quota, it is for a particular High Court to prescribe or lay down its own minimum standard to judge the suitability of a judicial officer, including the requirement of comparative assessment, if necessary, for the purpose of determining merit to be objectively adjudged keeping in mind the statutory rules governing the promotion or any promotion policy in that regard -Promotion process adopted by the High Court of Gujarat as the same fulfills the twin requirements stipulated in paragraph 27 of All India Judges’ Association (3) (supra) being: - (I) The objective assessment of legal knowledge of the

judicial officer including adequate knowledge of case law and- (II) Evaluation of the continued efficiency of the individual candidates. (Para 141)

Priti Agarwalla vs State Of GNCT Of Delhi 2024 INSC 437 -Ss 3,4 SC-ST Act- S 156(3) CrPC

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989-
Section 3(1)(r) and 3(1)(s)- Intentional insult or abuse coupled with the humiliation is made in any place within public view. The expression “in any place within public view” has an important role to play in deciding whether the allegation attracts the ingredients of an offence or not- An important test for “in any place within public view” is within the view of persons other than the complainant. (Para 19-22)

Code Of Criminal Procedure, 1973- Section 156(3)- The Magistrate, under section 156(3) of the CrPC, asks himself a question: whether the complaint, as presented, makes out a case for directing the registration of an FIR or calls for inquiry or report from the jurisdictional police station. The inner and outer limit of the exercise of this jurisdiction is on a case-to-case basis dependent on the complaint, nature of allegations and offence set out by such a complaint- The Magistrate does not act mechanically and exercises his discretion judiciously by applying mind to the circumstances complained of and the offence alleged against the accused for taking one or the other step- To cause or register an FIR and consequential investigation based on the same petition filed under section 156(3) of the CrPC, the complaint satisfies the essential ingredients of the offences alleged. In other words, if such allegations in the petition are vague and do not specify the alleged offences, it cannot lead to an order for registration of an FIR and investigation. (Para 14-18)

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989-
Section 4- The commission or omission of any of the duties by the public servant becomes a cognizable offence against the public servant only on the recommendation of the administrative enquiry, for in law, an offence means any act or omission made punishable by any law for the time being in force. A combined reading of sub-sections (1),

(2) and (3) of section 4, would demonstrate that the commission or omission by a public servant has penal consequences and the willful neglect is recommended by an administrative enquiry and the cognizance can be taken thereafter. The recommendation of administrative enquiry on alleged failure of duty or function by a public servant would make the neglect of an offence clear and the cognizance of such an offence is legal. The competent court can take cognizance of the commission or omission of any duty specified under sub-section (2) of section 4 when made along with the recommendation and direct legal proceedings. Therefore, to constitute a *prima facie* case of negligence of duty, the proviso to subsection (2) of section 4 contemplates an administrative enquiry and recommendations- the purpose of an administrative enquiry is to find out the conduct of a public servant against whom allegations of failure of duty or function are made and the omission or commission is bonafide or willful. (Para 13.4)

Interpretation of Statutes- A proviso is a clause that introduces a condition by the word ‘provided’. The main function of a proviso is to put a qualification and to attach a condition to the main provision. It indicates the exceptions to the provision but may aid in explaining what is meant to be conveyed by its part. A proviso is “introduced to indicate the effect of certain things which are within the statute but accompanied by the peculiar conditions embraced within the proviso”. A proviso is enacted to modify the immediately preceding language. (Para 13.4)

Ajwar vs Waseem 2024 INSC 438 – Bail

Bail- While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the

courts of justice and the overall desirability of releasing the accused on bail- bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior Court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order (Para 26-27) -The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a *prima facie* case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused. (Para 28- 29)

Sundew Properties Limited vs Telangana State Electricity Regulatory Commission 2024 INSC 439 – Electricity Act

Electricity Act, 2003- Section 14- Andhra Pradesh Electricity Regulatory Commission (Distribution Licence) Regulations, 2013- Whether the designation of an entity as a SEZ developer by the MoCI ipso facto qualifies the entity to be a deemed distribution licensee, obviating the need for an application under section 14 of the Electricity Act?- Being a SEZ

developer in terms of the 2010 Notification does not ipso facto confer upon the appellant the status of a deemed licensee without any scrutiny and without being under any requirement to apply- it is required to make an application in accordance with the 2013 Regulations Whether regulation 12 of the 2013 Regulations, and by implication rule 3(2) of the 2005 Rules, are applicable to a SEZ developer recognised as a deemed distribution licensee under the proviso to section 14(b) of the Electricity Act read with regulation 13 of the 2013 Regulations?- he condition stipulated in rule 3(2) of the 2005 Rules, as imposed by the TSERC with a direction to infuse an additional capital of Rs. 26.90 crore is not justified and contrary to the statutory scheme. (Para 37)

Interpretation of Statutes- Reading down and reading up - Reading down refers to the practice of interpreting a statute narrowly, limiting its scope or application to specific situations or individuals. This approach is commonly employed when the language of a statute is ambiguous or when there is a need to avoid potential conflicts with other laws or constitutional provisions. For example, if a law is unclear about whether it applies to certain types of businesses, a court may choose to read down the statute to only include those businesses explicitly mentioned in the text -Reading up involves interpreting a statute broadly, extending its scope or application beyond what is expressly stated in the text. Reading up is a concept that is invoked with great caution within our legal framework because it can lead to judicial activism or judicial overreach, where courts expand the reach of laws beyond what the legislature intended. (Para 30) - The practice of reading up a provision can only be justified when it aligns with legislative intent, maintains the fundamental character of the law, and ensures that the resulting interpretation remains consistent with the original context to which the law applies. This holds especially true for subordinate legislation, which require greater scrutiny in this regard. Reading up a provision of subordinate legislation in a manner that it militates against the primary legislation is not permissible. (Para 32)

Chief Secretary Government Of Odisha vs Bharat Process & Mechanical Engineers Limited 2024 INSC 440 – Mining Lease

Summary: Appeal against HC judgment which upholds the directions given by the Company Judge, that the Central Government in consultation with the Government of Odisha and the Odisha Mineral Development Company Ltd shall form a High Powered committee of not more than three members representing the interests of the three stakeholders to take a decision by a reasoned order with regard to the renewal of mining leases-Allowing appeal, SC set aside the HC judgment.

**Employees State Insurance Corporation Ltd. vs Nagar Nigam Allahabad 2024
INSC 441 – ESI Act**

Employees' State Insurance Act, 1948- Appeal against HC judgment raised these issues (i) Whether the workshop of respondent-Nagar Nigam was indulged in manufacturing process while carrying out repairs and maintenance of the tractors, trailers, loaders belonging to the respondent-Nagar Nigam by employing more than 20 workmen? (ii) Whether the workshop of respondent-Nagar Nigam was covered under the definition of 'factory' within the meaning of Act of 1948? Allowing appeal, SC observed: High Court clearly erred in entertaining the writ petition and interfering with the recovery notice - it was a fit case wherein, rather than interfering in the matter in exercise of the writ jurisdiction, the respondent-Nagar Nigam should have been relegated by the learned Single Judge to approach the Insurance Court by filing an application under Section 75(1) (g) of the Act of 1948.

**Maharashtra State Electricity Distribution Co. Ltd. vs JSW Steel Ltd. 2024
INSC 442- Electricity**

Summary: Appellate Tribunal for Electricity set aside the Maharashtra Electricity

Regulatory Commission order imposing a reliability charge payable by all the consumers in the Pen Circle area - Appeal dismissed by SC.

Bano Saiyed Parwaz vs Chief Controlling Revenue Authority 2024 INSC 443 – Maharashtra Stamp Act

Summary: Writ Petition for refund of Stamp Duty paid towards an un-executed conveyance deed dismissed by HC - Allowing appeal SC observed: When the State deals with a citizen it should not ordinarily rely on technicalities, even though such defences may be open to it-The case of the appellant is fit for refund of stamp duty in so far as it is settled law that the period of expiry of limitation prescribed under any law may bar the remedy but not the right and the appellant is held entitled to claim the refund of 10 stamp duty amount on the basis of the fact that the appellant has been pursuing her case as per remedies available to her in law and she should not be denied the said refund merely on technicalities as the case of the appellant is a just one wherein she had in bonafide paid the stamp duty for registration but fraud was played on her by the Vendor which led to the cancellation of the conveyance deed.

Maharashtra Stamp Act, 1958- Section 47- The evidence required and enquiry to be made in terms of Section 47 of the Act is a separate process altogether and apropos circumstances for refund under Section 47 (c) [1] & [5] of the Act, evidence is not required to be filed along with the application- either the online application or separately on the same day by way of hard copy. (Para 38)

Rajesh Kumar vs Anand Kumar 2024 INSC 444 – Specific Relief Act -Power Of Attorney Holder – Readiness & Willingness

Specific Relief Act, 1963,Section 12- In a suit for specific performance wherein the plaintiff is required to aver and prove that he has performed or has always been ready and willing to perform the essential terms of the contract, a Power of Attorney Holder is not entitled to depose in place and instead of the plaintiff (principal). In other words, if the Power of Attorney Holder has rendered some ‘acts’ in pursuance of power of attorney, he may depose for the principal in respect of such acts, but he cannot depose for the principal for the act done by the principal and not by him. Similarly, he cannot depose for the principal in respect of the matter of which only the principal can have personal knowledge and in respect of which the principal is entitled to be cross-examined. If a plaintiff, in a suit for specific performance is required to prove that he was always ready and willing to perform his part of the contract, it is necessary for him to step into the witness box and depose the said fact and subject himself to cross-examination on that issue. A plaintiff cannot examine in his place, his attorney holder who did not have personal knowledge either of the transaction or of his readiness and willingness. The term ‘readiness and willingness’ refers to the state of mind and conduct of the purchaser, as also his capacity and preparedness, one without the other being not sufficient. Therefore, a third party having no personal knowledge about the transaction cannot give evidence about the readiness and willingness. (Para 12)

Specific Relief Act, 1963 - The effect of filing a suit for specific performance after long delay, may be at the fag end of period of limitation- The courts will also frown upon suits which are not filed immediately after the breach/refusal. The fact that limitation is three years does not mean that a purchaser can wait for one or two years to file a suit and obtain specific performance [In this case, the suit having been preferred after a long delay, the plaintiff was held not entitled for specific performance on this ground also.] (Para 14-18)

Bijay Kumar Manish Kumar HUF vs Ashwin Bhanulal Desai 2024 INSC 445 – Eviction Mesne Profit

Tenancy - Mesne Profit -The decree of eviction stands passed and the same having been stayed, gives rise to the question of payment of mesne profit- While the above-stated position is generally accepted, it is also within the bounds of law, that a tenant who once entered the property in question lawfully, continues in possession after his right to do so stands extinguished, is liable to compensate the landlord for such time period after the right of occupancy expires.

Tamil Nadu Medical Services Corporation Limited vs Tamil Nadu Medical Services Corporation Employees Welfare Union 2024 INSC 446 – Labour Law

Summary: Appeal from HC judgment raised inter alia this issue: Whether the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 would apply to the parties? Dismissing appeal, SC observed: Both requirements, of the establishment being covered under the definition of industrial establishment as provided and that of the employee having uninterruptedly continued in service for 480 days or more for 24 months, having been met we have no hesitation in holding that the Act would apply to the parties to the present dispute

National Investigation Agency vs Owais Amin @ Cherry 2024 INSC 447 – J & K Reorganisation Act

Jammu & Kashmir Reorganisation Act, 2019 - Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2019- CrPC, 1973 would govern the field only from the appointed day and consequently the CrPC, 1989 stands repealed- It would come into effect only from the appointed day, and therefore has got no retrospective application. To make this position clear, the CrPC, 1973 shall be pressed into service from 31.10.2019 onwards, and thus certainly not before the appointed day. (Para 18-20) - There is nothing to infer

either from the Act, 2019 or the Order, 2019 that CrPC, 1973 will have a retrospective application- While an investigation could continue after its initiation under the CrPC, 1989, by way of the application of the CrPC, 1973, it cannot be stated that even for a case where there was a clear non-compliance of the former, it can be ignored by the application of the latter.

Sunita Devi vs State Of Bihar 2024 INSC 448 – Speedy Trial – Sentencing – CrPC

Criminal Trial - Sentencing -There is a crying need for a clear sentencing policy, which should never be judge-centric as the society has to know the basis of a sentence- Sentencing shall not be a mere lottery. It shall also not be an outcome of a knee-jerk reaction.- The Government of India represented by the Secretary for the Ministry of Law and Justice shall file an affidavit on the feasibility of introducing a comprehensive sentencing policy and a report thereon, within a period of six months from today. (Para 32,33, 58)

Code of Criminal Procedure, 1973- Sections 207,238 - An accused shall be put to notice on the incriminating materials leading to the charges framed against him. As stated, the obligation so imposed is not only on the supply of the relevant documents, but such compliance should be at the appropriate stage so that it does not brook any delay. The idea is to enable an accused to face the trial by thoroughly understanding the case stated against him. However, a mere non-supply of a part of the documents would not lead to the trial being vitiated, unless an accused substantiates before the Court that it has caused prejudice to him. Obviously, it is ultimately for the Court to come to an appropriate conclusion by an adequate assessment of facts placed before it. (Para 16) -The right of an accused would arise, in getting the documents relied upon by the prosecution, after taking cognizance and before framing of the charges. Therefore, between taking cognizance and framing of charges, an accused should have sufficient window to go through the documents supplied to him as he is entitled to be heard at a later stage. (Para 17)

Code of Criminal Procedure, 1973- Section 227 - Before the stage of framing of charges, the Judge is expected to discharge an accused, if he is of the considered view that there is no sufficient ground to proceed against the accused. This being a judicial exercise, his discretion must be supported by adequate reasons. In discharge of his powers, he has to consider the records and documents submitted by the prosecution vis-à-vis the arguments adduced by both sides. The words “after hearing the submissions of the accused” would imply an effective and meaningful hearing. It is not a mere procedural compliance. A Judge has to satisfy himself that the accused had reasonable time to ponder over and prepare his arguments before seeking a discharge. At this stage, an accused gets a substantive right as there is a window of opportunity for him to get discharged, instead of facing a prolonged trial. Such an opportunity can only be exercised by not only supplying the documents needed, but also giving adequate and sufficient time to the defence to place its case. Granting time for the aforesaid purpose is the sole discretion of the Court - The duty of the Court is to see as to whether the materials produced by the prosecution are reasonably related to the offence attributed against the accused. What is to be seen is the existence of a *prima facie* case. The case is at a pre-framing stage and therefore, it cannot be a full-fledged pretrial. Adequacy and sufficiency are the relevant factors to be seen. The test is one of the degree of probability. .Section 227 of the CrPC, 1973, in fact, is a provision which gives effect to Article 22 of the Constitution of India, 1950. The right of an accused to be heard is inalienable. For exercising this right, there has to be due consultation. Such a right can never be termed as a procedural one. It would be a ground to challenge the proceeding at that stage, but the same would not vitiate the trial. Suffice it is to reiterate that it is the duty of the court to ensure that the accused is given sufficient opportunities to consult his lawyer. (Para 18-20)

Code of Criminal Procedure, 1973- Section 228 -The Judge, while framing any charge, is ordained to read and explain it to the accused. Thereafter, the accused shall be asked as to whether he pleads guilty of the offence charged or claims to be tried. As a matter of routine, video conferencing must be avoided, unless there are compelling reasons to do so. This is an occasion where the Judge avoids the lawyer and keeps in touch with the accused directly. He records the response of the accused. Under those circumstances, unless a situation so warrants otherwise, the presence of the accused shall be ensured. (Para 21)

Code of Criminal Procedure, 1973- Sections 230,231 - To ensure fair play, as a normal practice, the Court has to fix a date for the examination of the witnesses. The idea is to complete the examination-inchief and cross examination, both at the same time. While fixing the date, the Court is expected to take into consideration the relative convenience of the parties, though the discretion lies with it. Sub-section (1) of Section 231 of the CrPC, 1973 fixes a responsibility on the Court, the prosecution and the defence to go ahead with the examination of witnesses on the date so fixed. Therefore, even for this reason, the Court shall ascertain and then decide a convenient date for both sides, while being conscious about any attempt to drag the trial. Completion of such examination is a matter of rule as any deferment can at best be an exception, to the discretion of the Court. Obviously, the use of such a discretion, being judicial in nature, has to be on a case-to-case basis. Suffice it is to state that a balance has to be struck between the competing interests. (Para 22)

Code of Criminal Procedure, 1973- Section 354- Section 354 of the CrPC, 1973 though merely deals with the language and contents of judgment, also sheds light on the fact that a judgment contains two distinct parts, wherein the first part deals with the conviction and the second deals with the sentence. Sub-section (1)(c) of the aforesaid provision has to be understood to mean that a Judge is expected to consider the aggravating and mitigating circumstances. In such view of the matter, sub-section (3) of the aforesaid provision is more clarificatory, keeping in mind the nature of the offence committed. As a convict is heard on sentence, it follows that any decision on sentence has to indicate the reasons for exercise of judicial discretion by the Judge. (Para 42)

Code of Criminal Procedure, 1973- Section 233- If the accused applies for the issue of process to compel the attendance of any witnesses or production of document, the Judge shall issue such process. It is only when he comes to the conclusion, that an application filed for the aforesaid purpose on behalf of the defence is vexatious or filed to delay the proceedings or for defeating the ends of justice, it has to be refused. We have no hesitation in holding that when an application is moved invoking Section 233 of the CrPC, 1973 the Judge is duty bound to issue process, unless he is satisfied on the existence of the three

elements as aforesaid. Any denial would be an affront to the concept of a fair trial.

Code of Criminal Procedure, 1973- Section 309 -This section places emphasis on the continuation of the trial as any obstruction and delay would hamper the process of justice. In a criminal trial, continuity is of utmost importance, as it not only helps the court to concentrate, but ensures quality justice. However, the courts are not powerless in granting adjournments if the circumstances so warrant. Therefore, despite a bar under the second and fourth proviso to Section 309, an adjournment can be granted, provided the party who seeks so, satisfies the court. After all, a speedy trial enures to the benefit of the accused- (Para 24)

Code of Criminal Procedure, 1973- Section 465 - This provision is meant to uphold the decision of the trial court, even in a case where there is an apparent irregularity in procedure. If the evidence available has been duly taken note of by the Court, then such a decision cannot be reversed on account of a mere technical error. This is based on the principle that a procedural law is the handmaid of justice. However, the ultimate issue is as to whether such an error or omission has constituted a failure of justice, which is one of fact, to be decided on the touchstone of prejudice- If the Appellate Court is of the view that there is a continued noncompliance of the substantial provisions of the CrPC, 1973 then the rigour of Section 465 of the CrPC, 1973 would not apply and, in that case, an order of remand would be justified. (Para 25-26)

Code of Criminal Procedure, 1973- Section 386- An Appellate Court has got ample power to direct re-trial. However, such a power is to be exercised in exceptional cases. The irregularities found must be so material that a re-trial is the only option. In other words, the failure to follow the mandate of law must cause a serious prejudice vitiating the entire trial, which cannot be cured otherwise, except by way of a retrial. Once such a re-trial is ordered, the effect is that all the proceedings recorded by the court would get obliterated leading to a fresh trial, which is inclusive of the examination of witnesses. (Para 27)

Code Of Criminal Procedure, 1973- Section 360- Probation of Offenders Act, 1958- Sections 3,4,6- A trial court is duty bound to comply with the mandate of Section 360 of the CrPC, 1973 read with Sections 3, 4 and 6 of the Act, 1958 before embarking into the question of sentence. In this connection, we may note that sub-section (10) of Section 360

of the CrPC, 1973 makes a conscious effort to remind the Judge of the rigour of the beneficial provisions contained in the Act, 1958. (Para 28)

Rules for Video Conferencing for Courts, 2020 -Under Rule 11, an act of securing the presence of an accused through video conferencing at the time of judicial remand for the first time or police remand, is not a matter of course and, therefore, it is to be exercised only in exceptional circumstances for the reasons to be recorded in writing. Similar is the case qua recording of the statement of an accused under Section 313 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the “CrPC, 1973”), in which case, it is obligatory on the part of the Court to make sure that the accused is free from any form of coercion, threat or undue influence. (Para 4)

Criminal Trial - Fair Trial -The right to fair hearing is a part of Article 21 of the Constitution of India, 1950. A trial should be a real one and, therefore, not a mere pretence. There shall never be an impression over the decision of a Court that it has predetermined and pre-judged a case even before starting a trial, or else, such a trial would become an empty formality. (Para 7-10)- Speedy Trial -While a speedy trial is in the best interest of everyone, including the society, the pace can only be set through the procedural mechanism, and it cannot be done at the mere dictate of the Court in ignorance of the procedural law. At the same time, care has to be taken with the aid of the law, to prevent the miscarriage of justice, when the delay is caused on purpose. Thus, a speedy trial, being a facet of fair trial, cannot be permitted to destroy the latter by its recklessness. Any anxiety on the part of the Court, either to expedite the trial in contravention of law, or delay it unnecessarily, would seriously impede fair trial. In such a case, either the prosecution or the defence would bear the consequences.

Hindustan Petroleum Corporation Limited vs Dharamnath Singh 2024 INSC
449

Summary: The High Court set aside the action of the HPCL in terminating the license of the respondent- Allowing appeal, SC observed: the appeals are allowed keeping in view that the termination of the agreement inter se the parties was only based on the contravention of the terms of the dealership agreement.

Trisha Singh vs Anurag Kumar 2024 INSC 450 – Marriage Dissolved- Wife Conduct – Resiling From Settlement

Summary: SC dissolves marriage taking note of wife's conduct -[the petitioner-wife having taken advantage of the settlement executed before the Mediator has managed to get the matrimonial case instituted by the respondent-husband withdrawn. She has also accepted a sum of Rs.50 lakhs from the respondent-husband towards part payment of the permanent alimony and thereafter, she is trying to resile from the settlement without any justification. The conduct of the petitioner-wife is clearly, recalcitrant inasmuch as she has disregarded the terms and conditions agreed before the Mediator in the settlement proceedings which were undertaken pursuant to the directions of this Court. Not only this, because of her conduct, the respondenthusband has been put to grave disadvantage inasmuch as he has withdrawn the matrimonial case and has also paid a significant proportion of the permanent alimony to the petitioner-wife in terms of the settlement agreement.]

Shaji Poulose vs Institute Of Chartered Accountants Of India 2024 INSC 451 – Chartered Accountants Act- Restriction On Number Tax Audits

Chartered Accountants Act, 1949 - Guideline restricting the number of tax audits that a Chartered Accountant could carry out which was initially thirty and later raised to forty-five and thereafter to sixty in an assessment year- Clause 6.0, Chapter VI of the Guidelines

dated 08.08.2008 and its subsequent amendment is valid and is not violative of Article 19(1)(g) of the Constitution as it is a reasonable restriction on the right to practise the profession by a Chartered Accountant and is protected or justifiable under Article 19(6) of the Constitution- However, the said clause 6.0, Chapter VI of the Guidelines dated 08.08.2008 and its subsequent amendment is deemed not to be given effect to till 01.04.2024- The Council of the Institute having the legal competence to frame the Guidelines, the breach of which would result in professional misconduct.

Constitution of India, 1950- Article 19- A right to practice a profession is indeed an acknowledged fundamental right, but not unrestricted and is subject to any law imposing regulatory measures aiming to ensure standards of the profession and nature of public interest involved in the practice of the profession. (Para 12.1)

Union of India vs Barakatullah 2024 INSC 452 -S 18 UAPA – Bail – CrPC

Unlawful Activities (Prevention) Act, 1957- Section 18- For the purpose of considering the offence under Section 18, the commission of terrorist act as contemplated in Section 15 of UAPA is not required to be made out. What Section 18 contemplates is that whoever conspires or attempts to commit, or advocates, abets, advises or incites, directly or knowingly facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act would be punishable under the said provision. Hence, if there is any material or evidence to show that the accused had conspired or attempted to commit a terrorist act, or committed any act preparatory to the commission of a terrorist act, such material evidence would be sufficient to invoke Section 18. For attracting Section 18, the involvement of the accused in the actual commission of terrorist act as defined in Section 15 need not be shown. (Para 18)

Code Of Criminal Procedure, 1973- Section 173(2)- Chargesheet need not contain detailed analysis of the evidence- It is for the concerned court considering the application for bail to assess the material/evidence presented by the investigating authority along with the report under Section 173 Cr.P.C. in its entirety, to form its opinion as to whether there

are reasonable grounds for believing the accusation against the accused is *prima facie* true or not. (Para 13)

Unlawful Activities (Prevention) Act, 1957- Section 43(D)(5) -the question of discarding the material or document at the stage of considering the bail application of an accused, on the ground of being not reliable or inadmissible in evidence, is not permissible. The Court must look at the contents of the documents and take such documents into account as it is and satisfy itself on the basis of broad probabilities regarding the involvement of the accused in the commission of the alleged offences for recording whether a *prima facie* case is made out against the accused. (Para 19)

Unlawful Activities (Prevention) Act, 1957- Counter terrorism enactments are to strike a balance between the civil liberties of the accused, human rights of the victims and compelling interest of the state- National security is always of paramount importance and any act in aid to any terrorist act – violent or non-violent is liable to be restricted. The UAPA is one of such Acts which has been enacted to provide for effective prevention of certain unlawful activities of individuals and associations, and to deal with terrorist activities, as also to impose reasonable restrictions on the civil liberties of the persons in the interest of sovereignty and integrity of India. (Para 23)

Ali Hossain Mandal vs West Bengal Board Of Primary Education 2024 INSC 453 – WB Primary School Teachers Recruitment Rules

West Bengal Primary School Teachers Recruitment Rules 2016- Allowing appeal against Calcutta HC judgment, SC observed: The manner of shortlisting candidates for appointment as suggested by the Division Bench in the impugned judgments is inconsistent with the procedure laid down under Rule 8 of the Recruitment Rules, 2016, and those, cannot be sustained - The Panel or Merit List as notified on 15.02.2021 stood extinguished after expiry of one year i.e., on 15.02.2022, as per Rule 12 of the Recruitment Rules, 2016 - No extension by any competent authority was granted to the 15.02.2021

Panel and therefore no relief can be granted to candidates who approached the court in May 2022, i.e., long after the panel stood extinguished- No further appointments is permissible from the recruitment process initiated on 23.12.2020 when a fresh recruitment process has commenced.

Govt. Of NCT Of Delhi vs KL Rathi Steels Limited 2024 INSC 454 – Review Jurisdiction

Code of Civil Procedure, 1908- Section 114 & Order XLVII - No review is available upon a change or reversal of a proposition of law by a superior court or by a larger Bench of this Court overruling its earlier exposition of law whereon the judgment/order under review was based- The subsequent overruling of a decision and even its recall, for that matter, would not afford a ground for review within the parameters of Order XLVII of the CPC

Code of Civil Procedure, 1908- Section 114 & Order XLVII - Review power under section 114 read with Order XLVII, CPC is available to be exercised on setting up by the review petitioner any of the following grounds: (i) discovery of new and important matter or evidence- or (ii) mistake or error apparent on the face of the record- or (iii) any other sufficient reason. 40. Insofar as (i) (supra) is concerned, the review petitioner has to show that such evidence (a) was actually available on the date the court made the order/decrees, (b) with reasonable care and diligence, it could not be brought by him before the court at the time of the order/decrees, (c) it was relevant and material for a decision, and (d) by reason of its absence, a miscarriage of justice has been caused in the sense that had it been produced and considered by the court, the ultimate decision would have been otherwise- Regarding (ii) (supra), the review petitioner has to satisfy the court that the mistake or error committed by it is self-evident and such mistake or error can be pointed out without any long-drawn process of reasoning- and, if such mistake or error is not corrected and is

permitted to stand, the same will lead to a failure of justice. There cannot be a fit-in-all definition of “mistake or error apparent on the face of the record” and it has been considered prudent by the courts to determine whether any mistake or error does exist considering the facts of each individual case coming before it- With regard to (iii) (supra), we can do no better than refer to the traditional view in Chhajju Ram (supra), a decision of a Bench of seven Law Lords of the Judicial Committee of the Privy Council. It was held there that the words “any other sufficient reason” means “a reason sufficient on grounds at least analogous to those specified immediately previously”, meaning thereby (i) and (ii) (supra). (Para 39-42)

Code of Civil Procedure, 1908- Section 151- Inherent powers of the court under section 151, CPC cannot be invoked if there exists a remedy made available by the CPC itself. (Para 96)

Government Of NCT Of Delhi vs BSK Realtors LLP 2024 INSC 455 – Article 142 and Doctrine Of Merger – Res Judicata

Constitution of India, 1950- Article 142- Doctrine Of Merger- The doctrine of merger is not of universal or unlimited application and that the nature of jurisdiction exercised by the superior forum and the content or subject matter of challenge laid or which could have been laid shall have to be kept in view. The exception that has been carved out in Kunhayammed and others. V. State of Kerala (2000) 6 SCC 359, will only be permissible in the rarest of rare cases and such a deviation can be invoked sparingly only- Among such exceptions, the extraordinary constitutional powers vested in this Court under Article 142 of the Constitution of India, which is to be exercised with a view to do complete justice between the parties, remains unaffected and being an unfettered power, shall always be deemed to be preserved as an exception to the doctrine of merger and the rule of stare decisis. (Para 33)

Res Judicata- Res judicata, as a technical legal principle, operates to prevent the same parties from relitigating the same issues that have already been conclusively determined by

a court. However, it is crucial to note that the previous decision of this Court in the first round would not operate as res judicata to bar a decision on the lead matter and the other appeals- more so, because this rule may not apply hard and fast in situations where larger public interest is at stake. In such cases, a more flexible approach ought to be adopted by courts, recognizing that certain matters transcend individual disputes and have far-reaching public interest implications. (Para 25)

Practice and Procedure- Supression of Fact- The fact suppressed must be material in the sense that it would have an effect on the merits of the case. The concept of suppression or non-disclosure of facts transcends mere concealment- it necessitates the deliberate withholding of material facts—those of such critical import that their absence would render any decision unjust. Material facts, in this context, refer to those facts that possess the potential to significantly influence the decision-making process or alter its trajectory. This principle is not intended to arm one party with a weapon of technicality over its adversary but rather serves as a crucial safeguard against the abuse of the judicial process. (Para 30)

Delhi Development Authority vs Tejpal 2024 INSC 456 – Condonation Of Delay – Limitation – Subsequent Change Of Law

Limitation Act, 1963- Section 5- If subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora's Box where all the cases that were subsequently overruled, or the cases that had relied on the judgements that were subsequently overruled, would approach this Court and would seek a relief based on the new interpretation of law. There would be no finality to the proceedings and every time this Court would reach a different conclusion from its previous case, all such cases and the cases relying on it would be reopened. A lis will have to be decided as per the new interpretation if during its pendency, the law has been construed in a different manner by a subsequent judgement -subsequent change of law will not be attracted unless a case is pending before the competent court awaiting its final adjudication- If a case has already been decided, it cannot be re-opened and re-decided solely on the basis of a new interpretation given to that law (Para 22-32)- Mere good cause is not sufficient enough to

turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor - . The court must also desist from throwing the baby out with the bathwater. A justice-oriented approach must be prioritized over technicalities, as one motivation underlying such rules is to prevent parties from using dilatory tactics or abusing the judicial process. Pragmatism over pedanticism is therefore sometimes necessary – despite it appearing liberal or magnanimous. The expression ‘sufficient cause’ should be given liberal construction so as to advance substantial justice- In addition to “sufficient cause”, Section 5 also requires that such cause must be shown within the prescribed period. To satisfy the latter condition, the applicant must show sufficient cause for not filing the appeal/ application on the last day of the prescribed period and explain the delay made thereafter. Causes arising after the culmination of the limitation period, despite being sufficient in substance, would not suffice for condonation given this second prong of Section 5 of the Limitation Act. However, the applicant shall not be required to prove each day’s delay till the date of filing such appeal/application. (Para 12-14) - If delay were to be condoned merely on the basis of a broad general assertion of bureaucratic indifference, without requiring demonstration of bona fide or an act of mala fide on the part of specific individuals, it would create an artificial distinction between the private parties and the government entities vis-à-vis the law of limitation. This would not be in conformity with the spirit of equality before law as guaranteed under our Constitution. Allowing such latitude would further distort incentives for the government and encourage more laxity by the bureaucracy in its general functioning, thereby undermining quality governance. (Para 39)

Res Judicata- Even an erroneous decision operates as res judicata between the parties. (Para 29)

Alifiya Husenbhai Keshariya vs Siddiq Ismail Sindhi 2024 INSC 457 -CPC – Indigent Appeal

Code Of Civil Procedure, 1908- Order XXXIII -(i) It is an enabling provision for filing of a suit by an indigent person without paying the court fee at the initial stage. (ii) If the suit is decreed for the plaintiff, the court fee would be calculated as if the plaintiff had not originally filed the suit as an indigent person. The said amount is recoverable by the State in accordance with who may be ordered to pay the same in the decree. (iii) Even when a suit is dismissed, the court fee shall be recoverable by the State in the form of first charge on the subject-matter of the suit- there is only a provision for the deferred payment of the court fees and this benevolent provision is intended to help the poor litigants who are unable to pay the requisite court fee to file a suit because of their poverty- Referred to Union Bank of India v. Khader International Construction (2001) 5 SCC 22- They exemplify the cherished principle that lack of monetary capability does not preclude a person from knocking on the doors of the Court to seek vindication of his rights. (Para 10-11)

Summary: Whether person who is entitled to receive compensation by way of a claim before the Motor Accident Claims Tribunal can be said to have given up its status as an ‘indigent person’, by virtue of the amount slated to be received. In other words, whether a person being an award holder, of monetary compensation without actual receipt thereof, would be disentitled from filing an appeal seeking enhanced compensation as an indigent? - Allowing appeal, SC permitted the appellant to file appeal against MACT order as an indigent person observing thus: She had not yet received the money and, therefore, at the time of filing the appeal she was arguably indigent- and second, that the statutory requirement under the C.P.C., as described above, was not met – the order of the learned Single Judge has to be set aside.

Subodh Singh vs Union of India 2024 INSC 458

Summary: Writ Petition filed by the appellant herein praying inter alia for issuing directions to the respondents to pay additional compensation for the entire land area, subject matter of the Notification dated 12th December, 2008, issued under Section 20(E) (1) of the Indian Railways Act , 1989, at the rate higher than 5% per month – In appeal, SC observed: Appellant would be entitled to additional compensation for the delay in making the award @ not less than 5% of the value of the award for each month's delay- The appellant is held entitled to additional compensation for the left out portion of land at least @ 5% of the value of the award for a period spreading over 84 months.

Varad Balwant Vasant vs Union of India 2024 INSC 459 - CA Exams

Summary: The Chartered Accountant Examination for the Intermediate and final course is due to commence on 2 May 2024 and end on 17 May 2024- Phase-wise polling during the General Elections is scheduled to take place on 7 May and 13 May 2024 - The petitioners allege that the convening of the examination on the above two days (one day after the phasewise polling) will cause severe hardship to candidates- Dismissing writ petition, SC observed: such a course of action would not be fair because it will allow some students to opt out of certain papers and take them in the ensuing examination. This will cause prejudice to those students who have to be assessed on the basis that they have taken all the papers at one and the same time.

Anish M Rawther @ Anees Mohammed Rawther vs Hafeez Ur Rahman 2024 INSC 460

Summary: The suit is not pending, therefore, the appeal which arises out of an interim order passed by the Trial Court during pendency of the suit, has been rendered infructuous.

In Re Inhuman Conditions In 1382 Prisons 2024 INSC 461

Prisoners- Prisoners are persons who are entitled to Fundamental Rights even while in custody – Problems plaguing jails in India, some of which continue to linger till today- States/UTs, in their proposed affidavits, should address all issues holistically, including inmate-capacity enhancement/augmentation. Other logistics such as creation of posts of wardens/cooks/doctors/various jail staff etc. should also be factored in.

Surender Singh vs State (NCT Of Delhi) 2024 INSC 462 – Ss.299,300 IPC – S. 105 Evidence Act – S. 231 CrPC

Indian Penal Code, 1860- Section 299,300- Provocation itself is not enough to reduce the crime from murder to culpable homicide not amounting to murder. In order to convert a case of murder to a case of culpable homicide not amounting to murder, provocation must be such that would temporarily deprive the power of self-control of a “reasonable person”. What has also to be seen is the time gap between this alleged provocation and the act of homicide- the kind of weapon used- the number of blows, etc. These are again all questions of facts. There is no standard or test as to what reasonableness should be in these circumstances as this would again be a question of fact to be determined by a Court. (Para 25)

Criminal Trial -Long Adjournments -This may affect the fairness of the trial and may even endanger, in a given case, the safety of the witness. As far as possible, the defence should be asked to cross examine the witness the same day or the following day. Only in

very exceptional cases, and for reasons to be recorded, the cross examination should be deferred and a short adjournment can be given after taking precautions and care, for the witness, if it is required - A request for deferral must be premised on sufficient reasons, justifying the deferral of cross examination of the witness- The mandate of Section 231 of Cr.PC and the law laid down on the subject referred above must be followed in its letter and spirit. (Para 11-13)

Indian Evidence Act, 1872- Section 105- The burden of proof that the accused's case falls within the general exception is upon the accused himself- This burden of proof though is not as onerous as the burden of proof beyond all reasonable doubts which is on the prosecution, nevertheless some degree of reasonable satisfaction has to be established by the defence, when this plea is taken. (Para 21)

R Radhakrishna Prasad vs Swaminathan 2024 INSC 463 – Specific Performance Suit

Summary - Appeal Against High Court of Kerala judgment that allowed the appeal preferred by the defendant modified the decree passed by the Trial Court whereby, in a suit for specific performance, the Trial Court had directed the defendant no. 1 to refund a sum of Rs. 18,00,000/- (Rs. Eighteen Lakhs only) to the plaintiff- High Court allowed the plaintiff to recover only a sum of Rs. 3,00,000/- (Rs. Three Lakhs only) with 12% interest per annum from the date of suit till realisation from the defendant no. 1 - Dismissing appeal, SC observed: There is no reason why payment of such substantial amount of Rs. 15,00,000/- (Fifteen Lakhs only) would be missing in the suit notice. The only possible reason for this could be that the advocate who prepared the notice was not apprised of this fact. If such was the case, plaintiff's statement in Court, without any further corroboration, is not believable and the High Court has rightly found that the case of the plaintiff as to the subsequent payment of Rs. 15,00,000/- (Fifteen Lakhs only) is not established by positive evidence.

Naresh Kumar vs State Of Delhi 2024 INSC 464 – S 313 CrPC

Code of Criminal Procedure, 1973- Section 313 [Section 351 BNSS] - Though questioning under clause (a) of sub-Section (1) of Section 313, Cr.PC, is discretionary, the questioning under clause (b) thereof is mandatory. Needless to say, a fatal non-compliance in the matter of questioning under Clause (b) of sub-section (1) thereof, in case resulted in material prejudice to any convict in a criminal case the trial concerned, qua that convict should stand vitiating. (Para 1) - Non-questioning or inadequate questioning on incriminating circumstances to an accused by itself would not vitiate the trial qua the accused concerned and to hold the trial qua him is vitiating it is to be established further that it resulted in material prejudice to the accused. True that the onus to establish the prejudice or miscarriage on account of non-questioning or inadequate questioning on any incriminating circumstance(s), during the examination under Section 313, Cr.PC, is on the convict concerned. (Para 21)

Nipun Malhotra vs Sony Pictures Films India Private Limited 2024 INSC 465 – Art. 19(1)(a) Constitution – Representation Of Persons With Disabilities In Movies Etc. – Guidelines

Constitution of India, 1950- Article 19(1)(a)- The freedom under Article 19(1)(a), that is the creative freedom of the filmmaker cannot include the freedom to lampoon, stereotype, misrepresent or disparage those already marginalised - if the overall message of the work infringes the rights of persons with disabilities, it is not protected speech, obviating the need for any balancing. However, in appropriate cases, if stereotypical/ disparaging portrayal is justified by the overall message of the film, the filmmaker's right to retain such portrayal will have to be balanced against the fundamental and statutory

rights of those portrayed- Guidelines: Representation of persons with disabilities must regard the objective social context of their representation and not marginalise persons with disability: (i) Words cultivate institutional discrimination. Terms such as “cripple” and “spastic” have come to acquire devalued meanings in societal perceptions about persons with disabilities. They contribute to the negative self-image and perpetuate discriminatory attitudes and practices in society- (ii) Language that individualises the impairment and overlooks the disabling social barriers (e.g. terms such as “afflicted”, “suffering”, and “victim”) should be avoided or adequately flagged as contrary to the social model- (iii) Creators must check for accurate representation of a medical condition as much as possible. The misleading portrayal of what a condition such as night blindness entails may perpetuate misinformation about the condition, and entrench stereotypes about persons with such impairments, aggravating the disability v) Persons with disabilities are under-represented. Average people are unaware of the barriers persons with disabilities face. Visual media must reflect their lived experiences. Their portrayal must capture the multitudes of their lived realities, and should not be a uni-dimensional, ableist characterisation- (v) Visual media should strive to depict the diverse realities of persons with disabilities, showcasing not only their challenges but also their successes, talents, and contributions to society. This balanced representation can help dispel stereotypes and promote a more inclusive understanding of disability. Such portrayals should reflect the multifaceted lives of persons with disabilities, emphasizing their roles as active community members who contribute meaningfully across various spheres of life. By highlighting their achievements and everyday experiences, media can shift the narrative from one of limitation to one of potential and agency- (vi) They should neither be lampooned based on myths (such as, ‘blind people bump into objects in their path’) nor presented as ‘super cripples’ on the other extreme. This stereotype implies that persons with disabilities have extraordinary heroic abilities that merit their dignified treatment. For instance, the notion that visually impaired persons have enhanced spatial senses may not apply to everyone uniformly. It also implies that those who do not have such enhanced superpowers to compensate for the visual impairment are somehow less than ideal- (vii) Decision-making bodies must bear in mind the values of participation. The ‘nothing about us, without us’ principle is based on the promotion of participation of persons with disabilities and equalisation of opportunities. It must be put to practice in constituting statutory

committees and inviting expert opinions for assessing the overall message of films and their impact on dignity of individuals under the Cinematograph Act and Rules- (viii) The CPRD also requires consultation with and involvement of persons with disabilities in the implementation of measures to encourage portrayal that is consistent with it. Collaboration with disability advocacy groups can provide invaluable insights and guidance on respectful and accurate portrayals, ensuring that content aligns with the lived experiences of persons with disabilities- and (ix)Training and sensitization programs should be implemented for individuals involved in creating visual media content, including writers, directors, producers, and actors. These programs should emphasize the impact of their portrayals on public perceptions and the lived experiences of persons with disabilities. Topics should include the principles of the social model of disability, the importance of respectful language, and the need for accurate and empathetic representation. Regular workshops and collaboration with disability advocacy groups can foster a deeper understanding and commitment to responsible portrayal. (Para 74)

Cinematograph Act, 1952- Cinematograph (Certification) Rules, 2024 - Slow interference with the determination of an expert body under the Cinematograph Act, particularly to allow the exhibition of a film. It is for the Board to draw the line between permissible and impermissible portrayal of social ills through visual media, and ensure that the Guidelines are meant to be read as broad standards for the same. (72.1) - The Board must decide whether a disparaging portrayal stood redeemed by the overall message or not. No doubt this entails a complex balancing of interests as we noted at the outset. It would be ideal if the statutory bodies included subject matter experts. The 2024 Rules are a welcome acknowledgment of this principle and consultations with subject matter experts on disability would certainly better inform the perspective of the Board. The policy underlying the Act and the Rules already accounts for expert consultation. This Court cannot interfere merely because it could be better or that a better alternative is available, when the legality of such policy is not in question.¹²¹ The Court cannot read additional requirements into unambiguous provisions. It is beyond the remit of constitutional courts to specify the qualifications or expertise that the constituents of these bodies must possess or to direct that such a requirement be legislatively included into the statute.(Para 72.5)

Rights of Persons with Disabilities Act 2016- Section 7(d)- Section 7(d) is directed towards the appropriate government. While we have underlined that the principle of reasonable accommodation includes positive obligations of private parties to support persons with disabilities and facilitate their full participation, we cannot agree that Section 7(d) includes such an obligation against private person. Even otherwise, such a direction would amount to compelled speech. (Para 72.2)

Humour- ‘disabling humour’ that demeans and disparages persons with disability from ‘disability humour’ which challenges conventional wisdom about disability. While disability humour attempts to better understand and explain disability, disabling humour denigrates it. The two cannot be equated in their impact on dignity and on stereotypes about persons with disabilities. (Para 66)

Mahesh Chand Bareth vs State Of Rajasthan 2024 INSC 466 – Rajasthan Panchayati Raj Prabodhak Service Rules

Rajasthan Panchayati Raj Prabodhak Service Rules, 2008 - Is Rule 13(v) of the Rules, insofar as it provides age relaxation to the persons serving under educational projects discriminatory and contrary to Article 14 of the Constitution of India? The provisions generally including sub clause (v) are not arbitrary or discriminatory. Insofar as the clause (v) is concerned, the historical background leading to the enactment of the Rules itself provides a justification for granting relaxation to the persons serving under the educational project, if they fulfil the condition that they were within the age limit when they were initially engaged. (Para 22)

Har Narayan Tewari (D) vs Cantonment Board 2024 INSC 467 – S 11 CPC – Res Judicata – Co-Defendants

Code Of Civil Procedure, 1908- Section 11- Res Judicata-The principle of res judicata is applicable not only between the plaintiff and the defendants but also between the co-defendants. In applying the principle of res judicata between the co-defendants, primarily three conditions are necessary to be fulfilled, namely, (i) there must be a conflict of interest between the co-defendants- (ii) there is necessity to decide the said conflict in order to give relief to plaintiff- and (iii) there is final decision adjudicating the said conflict. Once all these conditions are satisfied, the principle of res judicata can be applied inter se the codefendants. (Para 23)

Code Of Civil Procedure, 1908- Section 11- Res Judicata- The general policy behind the principle of res judicata as enshrined under Section 11 CPC is to avoid parties to litigate on the same issue which has already been adjudicated upon and settled. This is in consonance with the public policy so as to bring to an end the conflict of interest on the same issue between the same parties. One of the basic essential ingredients for applying the principle of res judicata, as stated earlier also, is that the matter which is directly and substantially in issue in the previous litigation ought not to be permitted to be raised and adjudicated upon in the subsequent suit. (Para 23)

Suresh Dattu Bhojane vs State Of Maharashtra 2024 INSC 468

Indian Penal Code, 1860- Section 149 [Section 190 BNS] -When the charge is under Section 149, the presence of the accused as part of the unlawful assembly itself is sufficient for conviction- Their presence with the other co-accused amounted to an unlawful assembly which is sufficient for conviction, even if they may have not actively participated in the commission of the crime. (Para 29)

State Of West Bengal vs Dr. Sanat Kumar Ghosh 2024 INSC 469 – Search Cum Selection Committees – West Bengal Universities

Summary: Constitution of Search cum Selection Committee for Universities in West Bengal - Justice Uday Umesh Lalit, Former Chief Justice of India appointed as Chairperson of the Search cum Selection Committees for all the Universities- Eminent educationists, scientists, jurists, subject experts and administrators etc. shortlisted for the purpose of empanelment on Searchcum Selection Committee(s) .

Commissioner of Central Excise vs s Miraj Products Pvt. Ltd 2024 INSC 470 – Central Excise Act

Central Excise Act, 1944- Section 4A(1) - in view of sub-section (1) of Section 4A, the question is whether there is any requirement in the said Rules to declare the retail sale price of the commodity on the package. What is relevant is whether the package is of such nature that attracts any of the provisions of the said Rules, which mandatorily require the mention of retail price on the package. In case of a package that does not attract provisions of the said Rules regarding mentioning the retail price, even if the retail price is mentioned on the package, that itself will not attract sub-section (1) of Section 4A of the Excise Act. (Para 15)

Union Of India vs Pankaj Kumar Srivastava 2024 INSC 471 – Civil Service Examination

Summary: The respondent no.1 is 100 percent visually impaired. He appeared in the Civil Services Examination, 2008 (CSE2008). Respondent no.1 gave four preferences for services in the following order: Indian Administrative Services (IAS), Indian Revenue Services-Income Tax (IRS (IT)), Indian Railway Personnel Service (IRPS) and Indian Revenue Service (Customs and Excise) (IRS (C&E)). After having undergone the written test and interview, he was denied an appointment- SC held: The cases of respondent no.1 and the other 10 candidates belonging to the VI category who are Civil Appeal No.3303 of 2015 Page 11 of 12 above him in the merit list of CSE-2008 shall be considered for appointment against the backlog vacancies of PWD candidates either in IRS (IT) or in other service/branch-

Sardar Ravi Inder Singh vs State of Jharkhand 2024 INSC 472- S 362 CrPC

Code Of Criminal Procedure, 1973- Section 362- The second prayer in the writ petition could have been hit by Section 362 of the Cr.PC, as the prayer was to quash the order on the application for discharge (This prayer was sought in writ petition that was dismissed earlier). But the first prayer was for quashing the complaint itself. Therefore, dismissing the first prayer in the writ petition on the ground of the bar of Section 362 of the Cr.PC was erroneous. (Para 15)

Joy Devaraj vs State Of Kerala 2024 INSC 473 – Criminal Trial – S 300 IPC – Murder

Criminal Trial - The threshold for disbelieving a witness is not mere discrepancy or

inconsistency but material discrepancy and inconsistency, which renders the account narrated by the witnesses so highly improbable that the same may safely be discarded altogether from consideration. (Para 15)

Indian Evidence Act, 1872- Section 134 -No particular number of witnesses is required, in any case, to prove a fact. Therefore, it is not the law that a conviction cannot be recorded unless there is oral testimony of at least two witnesses matching with each other. It is the quality of evidence and not the quantity that matters. If the evidence of a solitary witness appeals to the court to be wholly reliable, the same can form the foundation for recording a conviction. (Para 17)

Indian Penal Code, 1860- Section 300- Death caused by a single stab wound can also be considered murder if the requirements of section 300, IPC are fulfilled. (Para 25)

Indian Penal Code, 1860- Section 299,300-Culpable homicide and murder are closely related concepts. It is often said that culpable homicide is the genus and murder is one of species in that genus. All murders are culpable homicide but not all culpable homicides are murder. (Para 21)

P Sasikumar vs State 2024 INSC 474 – Test Information Parade

Criminal Trial - Test Information Parade - TIP is only a part of Police investigation. The identification in TIP of an accused is not a substantive piece of evidence. The substantive piece of evidence, or what can be called evidence is only dock identification that is identification made by witness in Court during trial- In cases where accused is a stranger to a witness and there has been no TIP, the trial court should be very cautious while accepting the dock identification by such a witness- The relevance of a TIP, depends on the fact of a case. In a given case, TIP may not be necessary. The non conduct of a TIP may not prejudice the case of the prosecution or affect the identification of the accused. It

would all depend upon the facts of the case. It is possible that the evidence of prosecution witness who has identified the accused in a court is of a sterling nature, and therefore TIP may not be necessary. It is the task of the investigation team to see the relevance of a TIP in a given case. Not conducting TIP in a given case may prove fatal for the prosecution - (Para 12-13)

Lal Mohammad Manjur Ansari vs State Of Gujarat 2024 INSC 475 – Criminal Trial – Confession

Criminal Trial -The normal rule of human conduct is that a person would confess the commission of a serious crime to a person in whom he has implicit faith. The accused had worked in prosecution witness's shop only for five months in 2004. The accused was otherwise not known to him. Therefore, it is unnatural that the accused would call the deceased on the phone and confess. (Para 7)

Summary: Murder accused acquitted - concurrent conviction set aside.

X vs Y 2024 INSC 476 – Hindu Marriage Act – Desertion – Divorce

Hindu Marriage Act, 1956- Section 13- The desertion of the appellant at least from 2008 till the date of filing the divorce petition in 2013 continued without any reasonable cause. Therefore, a decree for divorce on the ground of desertion under Section 13(1)(ib) ought to have been passed. Thus, in our view, the High Court ought to have confirmed the decree of divorce on the ground of desertion. This is a case of a complete breakdown of marriage for last 16 years and more. (Para 14)

State of West Bengal vs Rajpath Contractors and Engineers Ltd 2024 INSC 477 – Arbitration Act- Prescribed Period

Arbitration and Conciliation Act, 1996- Section 34- The period of 30 days mentioned in the proviso that follows subsection (3) of Section 34 of the 1996 Act is not the “period of limitation” and, therefore, not the “prescribed period” for the purposes of making the application for setting aside the arbitral award. (Para 9-10)

Bombay Slum Redevelopment Corporation Private Limited vs Samir Narain Bhojwani 2024 INSC 478 – S 37 Arbitration Act – Remand

Arbitration and Conciliation Act, 1996- Section 37- The Appellate Court can exercise the power of remand only when exceptional circumstances make an order of remand unavoidable. There may be exceptional cases where remand in an appeal under Section 37 of the Arbitration Act may be warranted. Some of the exceptional cases can be stated by way of illustration: a. Summary disposal of a petition under Section 34 of the Arbitration Act is made without consideration of merits- b. Without service of notice to the respondent in a petition under Section 34, interference is made with the award- and c. Decision in proceedings under Section 34 is rendered when one or more contesting parties are dead, and their legal representatives have not been brought on record. (Para 18)

Practice and Procedure -The proceedings under Sections 34 and 37 are being treated as if the same are appeals under Section 96 of the CPC. When members of the bar take up so many grounds in petitions under Section 34, which are not covered by Section 34, there is a tendency to urge all those grounds which are not available in law and waste the Court’s time. The time of our Courts is precious, considering the huge pendency. This is happening

in a large number of cases. All this makes the arbitral procedure inefficient and unfair. It is high time that the members of the Bar show restraint by incorporating only legally permissible grounds in petitions under Section 34 and the appeals under Section 37. Everyone associated with the arbitral proceedings must remember that brevity will make the arbitral proceedings and the proceedings under Sections 34 and 37 more effective. All that we say is that all the stakeholders need to introspect. Otherwise, the very object of adopting the UNCITRAL model will be frustrated. Arbitration must become a tool for expeditious, effective, and cost effective dispute resolution. (Para 23)

Frank Vitus vs Narcotics Control Bureau 2024 INSC 479 – Bail Condition-Dropping Google Maps PIN

Bail - The condition of dropping a PIN on Google Maps cannot be imposed - Imposing any bail condition which enables the Police/Investigation Agency to track every movement of the accused released on bail by using any technology or otherwise would undoubtedly violate the right to privacy guaranteed under Article 21.

Dharmendra Kumar @ Dhamma vs State of Madhya Pradesh 2024 INSC 480 – S 161 CrPC -S 32 Evidence Act – FIR

Code Of Criminal Procedure, 1973- Section 161- Indian Evidence Act,1872- Section 32- A statement made by a person who is dead, as to the cause of his death or to

the circumstances of the transaction which resulted in his death, to a Police Officer and which has been recorded under Section 161 CrPC, shall be relevant and admissible, notwithstanding the express bar against use of such statement in evidence contained therein. In such eventuality, the statement recorded under Section 161 CrPC assumes the character of a dying declaration. Since extraordinary credence has been given to such dying declaration, the court ought to be extremely careful and cautious in placing reliance thereupon. (Para 65) -the mere nonobtainment of a medical fitness certificate will not deter this Court from considering a properly recorded statement under Section 161 CrPC to be a dying declaration. (Para 69)

Code Of Criminal Procedure,1973- Section 154-The object of the FIR is three-fold: firstly, to inform the jurisdictional Magistrate and the Police Administration of the offence that has been reported to the Police Station- secondly, to acquaint the Judicial Officer before whom the case is ultimately tried as to what are the actual facts stated immediately after the occurrence and on what materials the investigation commenced- thirdly and most importantly, to safeguard the accused against subsequent variations, exaggerations or additions. (Para 39) -e stipulations outlined in Section 154 CrPC concerning the reading over of the information after it is written down, the signing of the said information by the informant, and the entry of its substance in the prescribed manner are not obligatory. These requirements are procedural in nature, and the omission of any of them does not impact the legal consequences resulting from the information provided under the section. (Para 43)

Criminal Trial -It would be too unfair and unreasonable to expect a witness, unless parroted, to recall every minute detail of the occurrence and present it with a totally accumulative narrative. (Para 58)

Criminal Trial - The non explanation of human blood on the weapon of crime constitutes a circumstance against the accused. It is incumbent upon the accused to provide an explanation regarding the presence of human blood on the weapon. (Para 61)

Shiv Pratap Singh Rana vs State Of Madhya Pradesh 2024 INSC 481 – S 375

IPC – Rape

Indian Penal Code, 1860- Section 375 -The physical relationship between the prosecutrix and the appellant cannot be said to be against her will and without her consent. On the basis of the available materials, no case of rape or of criminal intimidation is made out - Criminal proceedings quashed.

Vishwanatha vs State Of Karnataka 2024 INSC 482 – Criminal Trial – TIP

Criminal Trial - In a case where the identity of the accused is not known and TIP has not been conducted, the court has to see if there was any description of the accused either in the FIR or in any of the statement of witness recorded during the investigation- The identification of an accused in court is acceptable without a prior TIP and absence of TIP may not be fatal for the prosecution. It would depend on facts of each case. (Para 16)

State Of Punjab vs Partap Singh Verka 2024 INSC 483 – Prevention Of Corruption Act – Sanction – S 319 CrPC

Code Of Criminal Procedure, 1973- Section 319 - Prevention Of Corruption Act, 1988 - Section 19- Courts cannot take cognizance against any public servant for offences committed under Sections 7,11,13 & 15 of the P.C. Act, even on an application under section

319 of the CrPC, without first following the requirements of Section 19 of the P.C Act. Here, the correct procedure should have been for the prosecution to obtain sanction under Section 19 of the P.C Act from the appropriate Government, before formally moving an application before the Court under Section 319 of CrPC. In fact, the Trial Court too should have insisted on the prior sanction, which it did not. In absence of the sanction the entire procedure remains flawed. (Para 11)

Excise Commissioner Karnataka vs Mysore Sales International Ltd. 2024

INSC 484 – S 206C Income Tax Act

Income Tax Act, 1961- Section 206C - Even though the statute may be silent regarding notice and hearing, the court would read into such provision the inherent requirement of notice and hearing before a prejudicial order is passed. We, therefore, hold that before an order is passed under Section 206C of the Income Tax Act, it is incumbent upon the assessing officer to put the person concerned to notice and afford him an adequate and reasonable opportunity of hearing, including a personal hearing. (Para 19)

Income Tax Act, 1961- Section 206C - Explanation(a)(iii) visualizes two conditions for a person to be excluded from the meaning of “buyer” as per the definition in Explanation(a). The first condition is that the goods are not obtained by him by way of auction. The second condition is that the sale price of such goods to be sold by the buyer is fixed under a state enactment. These two conditions are joined by the word ‘and’. The word ‘and’ is conjunctive to mean that both the conditions must be fulfilled- it is not either of the two. Therefore, to be excluded from the ambit of the definition of “buyer” as per Explanation(a)(iii), both the conditions must be satisfied- Section 206C of the Income Tax Act is not applicable in respect of Mysore Sales and that the liquor vendors(contractors) who bought the vending rights from the appellant on auction cannot be termed as “buyers” within the meaning of Explanation(a) to Section 206C of the Income Tax Act.

Shashidhar vs Ashwini Uma Mathad 2024 INSC 485 – Partition Suit

Summary : Partition suit -Appeals partly allowed.

Subodh Kumar Singh Rathour vs Chief Executive Officer 2024 INSC 486 – Art. 226 Constitution – Judicial Review – Contractual Matters

Constitution Of India, 1950- Article 14, 226- Although disputes arising purely out of contracts are not amenable to writ jurisdiction yet keeping in mind the obligation of the State to act fairly and not arbitrarily or capriciously, it is now well settled that when contractual power is being used for public purpose, it is certainly amenable to judicial review. (Para 59) - To ascertain whether an act is arbitrary or not, the court must carefully attend to the facts and the circumstances of the case. It should find out whether the impugned decision is based on any principle. If not, it may unerringly point to arbitrariness. If the act betrays caprice or the mere exhibition of the whim of the authority it would sufficiently bear the insignia of arbitrariness. In this regard supporting an order with a rationale which in the circumstances is found to be reasonable will go a long way to repel a challenge to State action. No doubt the reasons need not in every case be part of the order as such. If there is absence of good faith and the action is actuated with an oblique motive, it could be characterised as being arbitrary. A total non-application of mind without due regard to the rights of the parties and public interest may be a clear indicator of arbitrary action. One another way, to assess whether an action complained of could be termed as arbitrary is by way of scrutinizing the reasons that have been assigned to such an action. It involves overseeing whether the reasons which have been cited if at all genuinely formed part of the decision-making process or whether they are merely a ruse. All decisions that are taken must earnestly be in lieu of the reasons and considerations that have been assigned to it. The Court must be mindful of the fact that it is not supposed to

delve into every minute details of the reasoning assigned, it need not to go into a detailed exercise of assessing the pros and cons of the reasons itself, but should only see whether the reasons were earnest, genuine and had a rationale with the ultimate decision. What is under scrutiny in judicial review of an action is the decision-making process and whether there is any element of arbitrariness or mala fide. - Thus, the question to be answered in such situations is whether the decision was based on valid considerations. This is undertaken to ensure that the reasons assigned were the true motivations behind the action and it involves checking for the presence of any ulterior motives or irrelevant considerations that might have influenced the decision. The approach of the court must be to respect the expertise and discretion of administrative authorities while still protecting against arbitrary and capricious actions. (Para 69-71) Once a decision is made, all opinions and deliberations pertaining to the said decision in the internal file-notings become a part of the process by which the decision is arrived at, and can be looked into for the purposes of judicial review. In other words, any internal discussions or notings that have been approved and formalized into a decision by an authority can be examined to ascertain the reasons and purposes behind such decisions for the overall judicial review of such decision-making process and whether it conforms to the principles enshrined in Article 14 of the Constitution. (Para 87) Public authorities cautioned to be circumspect in disturbing or wriggling out of its contractual obligations through means beyond the terms of the contract in exercise of their executive powers. We do not say for a moment that the State has no power to alter or cancel a contract that it has entered into. However, if the State deems it necessary to alter or cancel a contract on the ground of public interest or change in policy then such considerations must be bona-fide and should be earnestly reflected in the decision-making process and also in the final decision itself. We say so because otherwise, it would have a very chilling effect as participating and winning a tender would tend to be viewed as a situation worse than losing one at the threshold. (Para 129)

Ratnu Yadav vs State Of Chhattisgarh 2024 INSC 487 – Extra Judicial Confession

Criminal Trial -An extra-judicial confession is used against its maker but as a matter of caution, advisable for the court to look for a corroboration with the other evidence on record - The normal rule of human conduct is that if a person wants to confess to the crime committed by him, he will do so before the person in whom he has implicit faith. (Para 9-10)

Gaurav Maini vs State Of Haryana 2024 INSC 488 – S 311 CrPC, Ss 65B,165 Evidence Act

Code Of Criminal Procedure, 1973- Section 311- Indian Evidence Act, 1872-

Section 165- The trial Court is under an obligation not to act as a mere spectator and should proactively participate in the trial proceedings, so as to ensure that neither any extraneous material is permitted to be brought on record nor any relevant fact is left out. It is the duty of the trial Court to ensure that all such evidence which is essential for the just decision of the case is brought on record irrespective of the fact that the party concerned omits to do so. (Para 48)

Indian Evidence Act, 1872- Section 65B- When the prosecution admittedly, did not prove the call detail records in accordance with the mandate of Section 65B of the Evidence Act and hence, the call detail records cannot be read in evidence. (Para 51)

State Of Punjab vs Randhir Singh 2024 INSC 489

Summary: Murder accused acquittal upheld - the probability of the victim having caught accidental fire while preparing tea is higher rather than the theory set up by prosecution

witnesses that it is a case of intentional immolation.

Vinod Jaswantray Vyas (D) vs State Of Gujarat 2024 INSC 490 – Evidence Act

Indian Evidence Act, 1872- Mere marking of exhibit upon the letter without the expert deposing about the opinion given therein would not dispense with the proof of contents of the document as per the mandate of the Indian Evidence Act, 1872. (Para 36)

Criminal Trial -Where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved. (Para 45)

Maharaj Singh vs Karan Singh (D) 2024 INSC 491 – Specific Relief Act

Specific Relief Act, 1963- Section 19- In view of clause (b) of Section 19, the defendants who are claiming under the sale deeds executed after the execution of the suit agreement can be subjected to a decree of specific performance as the suit agreement can be enforced specifically against such defendants unless they are bona-fide purchasers without the notice of the original contract. When, in a given case, the defendants, who are subsequent purchasers, fail to prove that they entered into the sale deed in good faith and without notice of the suit agreement, in view of Section 19(b), a decree for specific performance can be passed against such defendants. Therefore, in such a case where Section 19(b) is applicable, under the decree of specific performance, the subsequent purchasers can be directed to execute the sale deed along with the original vendor. There is no necessity to pray for the cancellation of the subsequent sale deeds. (Para 16)

Naseem Kahnam vs Zaheda Begum (D) 2024 INSC 492 – Interpretation Of Deed

Contract Law -In interpretation of a deed, the question is not what the parties to the deed may have intended to do by entering into that deed, but what is the meaning of the words used in the deed. The Court can understand the true intent of the deed only by the words used in the deed. It does not matter what the parties, in their most state of mind, thought what the terms meant. They may have meant different things, but still the terms or the language used in the deed should bind them. It is for the court to interpret such terms or language used in the deed - in construing a document, the fundamental rule is to ascertain the intention from the words of the deed- the surrounding circumstances are to be considered but that is only for the purposes of finding out the meaning of the words which have been actually employed in the deed. (Para 13-14)

GM Shahul Hameed vs Jayanthi R Hegde 2024 INSC 493 – S 151 CPC – Insufficient Stamping

Code Of Civil Procedure, 1908- Section 151- Whether upon admission of an instrument in evidence and its marking as an exhibit by a court (despite the instrument being chargeable to duty but is insufficiently stamped), such a process can be recalled by the court in exercise of inherent powers saved by section 151 CPC? Trial Court did have the authority to revisit and recall the process of admission and marking of the instrument, not in the sense of exercising a power of review under section 114 read with Order XLVII, CPC but in exercise of its inherent power saved by section 151 thereof - (Para 10) - The legislature has reposed responsibility on the courts and trusted them to ensure that requisite stamp duty, along with penalty, is duly paid if an unstamped or insufficiently

stamped instrument is placed before it for admission in support of the case of a party. It is incumbent upon the courts to uphold the sanctity of the legal framework governing stamp duty, as the same are crucial for the authenticity and enforceability of instruments. Allowing an instrument with insufficient stamp duty to pass unchallenged, merely due to technicalities, would undermine the legislative intent and the fiscal interests of the state. The courts ought to ensure that compliance with all substantive and procedural requirements of a statute akin to the 1957 Act are adhered to by the interested parties. This duty of the court is paramount, and any deviation would set a detrimental precedent, eroding the integrity of the legal system. Thus, the court must vigilantly prevent any circumvention of these legal obligations, ensuring due compliance and strict adherence for upholding the rule of law. (Para 21)

Thankamma George vs Lilly Thomas 2024 INSC 494 – Contract – Agency

Indian Contract Act, 1872- Section 207-208 -In the absence of a particular mode suggested for revocation of the authority of an agent, the manner adopted by the principal to revoke the authority of the agent must be one which clearly and unequivocally communicates to the parties i.e., to be affected by such revocation, that the agent's authority has been withdrawn. In the framework of Sections 207 and 208 of the Act, the revocation/renunciation of authority may be made by express words or may be implied from the words and conduct of the principal, viz., which is inconsistent with the continuance of the agency. This is one facet of renunciation or revocation of authority of an agent- the other facet is governed by Section 208 of the Act. Section 208 provides for the effective time and date of termination of the agent's authority and third parties. From a plain reading, Section 208 infers and gives effect to revocation upon the twin conditions being satisfied, (i) communication to the agent and (ii) knowledge to a third party i.e., one who deals with or is likely to deal with the agent. Then, the revocation of authority becomes known to the agent and the said third parties. In other words, an idea in the mind of the principal to revoke cannot be construed as implied revocation or renunciation of

agency. There ought to be an act or conduct of the principal which implies that the agency is revoked or withdrawn. If the revocation is expressed, such as by publication in newspapers, public notice or advertisement, communication to the agent etc., the parties who deal with the agent have a reasonable opportunity to know the revocation of agency by the principal. Two stages of revocation are, firstly, one dealing with the agent, and secondly, one which applies to the third parties. For attracting the consequence of revocation to either of the situations, the revocation of the agent's authority is made by the principal in a manner that clearly implies that the principal has withdrawn the authority to act on his or her behalf by the agent. (Para 21)

Thatireddigari Maheswara Reddy vs State of Andhra Pradesh 2024 INSC 495 – Murder Case

Summary : Murder conviction upheld

Daimler Chrysler India Pvt. Ltd. vs Controls & Switchgear Company Ltd. 2024 INSC 496 – Consumer Protection Act – Commercial Purpose

Consumer Protection Act, 1986- Section 2(1)(d)- Whether the purchase of a vehicle/good by a Company for the use/personal use of its directors would amount to purchase for “commercial purpose” within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986 (now re-enacted as Consumer Protection Act, 2019)? to determine whether the goods purchased by a person (which would include a legal entity like a company) were for a commercial purpose or not, within the definition of a “consumer” as contemplated in Section 12 2(1)(d) of the said Act, would depend upon facts and circumstances of each case. However ordinarily “commercial purpose” is understood to

include manufacturing/industrial activity or business-to-business transactions between commercial entities. The purchase of the goods should have a close and direct nexus with a profit generating activity. It has to be seen whether the dominant intention or dominant purpose for the transaction was to facilitate some kind of profit generation for the purchaser and/or their beneficiary. If it is found that the dominant purpose behind purchasing the goods was for the personal use and consumption of the purchaser and/or their beneficiary, or was otherwise not linked to any commercial activity, the question of whether such a purchase was for the purpose of “generating livelihood by means of self-employment” need not be looked into. Again, the said determination cannot be restricted in a straitjacket formula and it has to be decided on case-to-case basis. (Para 16)

Consumer Protection Act, 1986- Section 2(1)(r)- A trade practice which for the purpose of promoting the sale of any goods by adopting deceptive practice like falsely representing that the goods are of a particular standard, quality, style or model, would amount to “unfair trade practice” within the meaning of Section 2(1)(r) of the said Act. (Para 39)

Ujagar Singh (D) vs Punjab State 2024 INSC 497 – S 21 Punjab Land Reforms Act, 1972

Punjab Land Reforms Act, 1972- Section 21 - Section 21 of the Land Reforms Act bars the jurisdiction of Civil Courts only in specific circumstances: (a) suits for specific performance of a contract for transfer of land, and (b) questioning the validity of any proceeding or order taken or made under the Act - The Civil Court alone has the jurisdiction to decide and declare whether the land belonged to the religious shrine or to Tikka Devinder Singh in his personal capacity

**Ram @ Ramdas Sheshrao Neharkar vs Sheshrao Baburao Neharkar 2024
INSC 498 – Partition Suit**

Summary: In a suit filed for partition and separate possession claiming that the appellant/plaintiff was the son of respondent no. 1/defendant no. 1, born from his marriage with Padminibai, very heavy burden was on the appellant/plaintiff to prove this fact, when the factum of marriage was denied by the respondent no. 1/defendant no. 1, as he was married to Sheshbai (respondent no. 4/defendant no. 4). From the evidence led by the appellant/plaintiff, he had failed to discharge that burden. - Dismissal of Partition Suit upheld

Muthyala Sunil Kumar vs Union Of India 2024 INSC 499 -All India Tourist Vehicles (Permit) Rules, 2023

All India Tourist Vehicles (Permit) Rules, 2023 - legality of different State Governments levying and collecting Authorization Fee/Border Tax in violation of All India Tourist Vehicles (Permit) Rules, 2023- Whether levy and realization of taxes by the respective states is covered by the Act and Rules framed by the respective States under Entries 56 & 57 of List II of Schedule VII of the Constitution or not.- The State enactments, rules and regulations being not under challenge, it cannot be said that the demand of Border Tax/Authorization Fee at the borders by the respective State Governments is bad under law.

Al-Can Export Pvt Ltd. vs Prestige HM Polycontainers Ltd. 2024 INSC 500 – Writ Jurisdiction – CPC

Constitution Of India,1950- Article 226- Code Of Civil Procedure,1908 -

Section 141 and Order XXI Rule 90- The provisions of the CPC do not apply to writ petitions under Article 226 of the Constitution of India except some of the principles enshrined therein like res judicata, delay and laches, addition of parties, matters which have not been specifically dealt with by the writ rules framed by the respective High Court - The High Court while exercising jurisdiction under Article 226 of the Constitution has jurisdiction to pass appropriate orders. Such power can neither be controlled nor affected by the provisions of Order XXI Rule 90 of the CPC. It would not be correct to say that the terms of Order XXI Rule 90 should be mandatorily complied with while exercising jurisdiction under Article 226 of the Constitution. Proceedings under Article 226 of the Constitution stand on a different footing when compared to the proceedings in suits or appeals arising therefrom. (Para 48-49)

Constitution Of India,1950- Article 226- Issuance of a writ or quashing/setting aside of an order if revives another pernicious or wrong or illegal order then in that eventuality the writ court should not interfere in the matter and should refuse to exercise its discretionary power conferred upon it under Article 226 of the Constitution of India. The writ court should not quash the order if it revives a wrong or illegal order. (Para 74)

Army Welfare Education Society vs Sunil Kumar Sharma 2024 INSC 501

Constitution of India, 1950- Article 226,12- Imparting education involves public duty and therefore public law element could also be said to be involved. If there is a breach of a covenant of a private contract, the same does not touch any public law element. The school cannot be said to be discharging any public duty in connection with the employment of the respondents. (Para 42)

Doctrine of legitimate expectation: a. First, legitimate expectation must be based on a

right as opposed to a mere hope, wish or anticipation- b. Secondly, legitimate expectation must arise either from an express or implied promise- or a consistent past practice or custom followed by an authority in its dealings- c. Thirdly, expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be treated as a legitimate expectation- d. Fourthly, legitimate expectation operates in relation to both substantive and procedural matters- e. Fifthly, legitimate expectation operates in the realm of public law, that is, a plea of legitimate action can be taken only when a public authority breaches a promise or deviates from a consistent past practice, without any reasonable basis. f. Sixthly, a plea of legitimate expectation based on past practice can only be taken by someone who has dealings, or negotiations with a public authority. It cannot be invoked by a total stranger to the authority merely on the ground that the authority has a duty to act fairly generally -legitimate expectation, jurisprudentially, was a device created in order to maintain a check on arbitrariness in state action. It does not extend to and cannot govern the operation of contracts between private parties, wherein the doctrine of promissory estoppel holds the field. (Para 48-49)

State Of West Bengal vs Union Of India 2024 INSC 502 – CBI – SC Rules – Articles 32,131,136 Constitution

Supreme Court Rules,2013- Order XXVI Rule 6- A plaint is liable to be rejected where it does not disclose a cause of action or where the suit appears from the statement in the plaint to be barred by any law.- Order XXVI Rule 6 (a) and (b) are analogous to the provisions in clauses (a) and (d) of Order VII Rule 11 of the CPC -For considering objections under Order VII Rule 11 (a) and (d) of the CPC, what needs to be looked into is only the averments made in the plaint- If the averments made in the plaint are germane then the pleas taken by the defendant in the written statement would be wholly irrelevant

at this stage- The averments made in the plaint have to be read as a whole and not in isolation. (Para 22-27)

Constitution of India,1950- Article 32, 131,136- Article 131 of the Constitution is a special provision which deals with the original jurisdiction of this Court in case of a dispute between the Federal Government and the State Governments. It provides for a special jurisdiction to this Court to decide any question on which the existence or extent of a legal right depends. Any dispute either between the Government of India and one or more States- or between the Government of India and any State or States on one side and one or more other States on the other- or between two or more States which involve a question on which the existence or extent of a legal right depends are covered by this provision. A special provision has been made for deciding the question on which the existence or extent of a legal right between the special parties mentioned therein has been provided. Therefore, the words “subject to the provisions of this Constitution” will have to be considered in that context. The jurisdiction under Article 131 of the Constitution would only be subject to any other provision in the Constitution which provides for entertaining a dispute between the parties mentioned therein- Article 32 of the Constitution provides for remedy for enforcement of rights conferred by Part-III of the Constitution whereas Article 136 provides for remedy by way of special leave to appeal before this Court. These are the general remedies available to “any party”. Merely because, in any of the proceedings initiated under Article 32 or Article 136 or even Article 226 of the Constitution, one of the parties is common, the pendency of such proceedings would not come in the way of a specific party mentioned in Article 131 of the Constitution to take recourse to the remedy available therein -A remedy under Article 131 of the Constitution is a special remedy available only to the parties mentioned therein and for the purposes mentioned therein. (Para 75-77)

Summary: In the present suit, the plaintiff is raising the legal issue as to whether after withdrawal of the consent under Section 6 of the DSPE Act, the CBI via the defendant – Union of India can continue to register and investigate cases in its area in violation of the provisions of Section 6 of the DSPE Act. The same has been sought to be attacked by the defendant – Union of India by raising various contentions challenging the maintainability

of the suit. In our considered opinion, the contentions raised by the defendant, do not merit acceptance and for the reasons given hereinbefore, are rejected. The preliminary objection is, therefore, rejected.

Mir Mustafa Ali Hasmi vs State Of A.P. 2024 INSC 503- Prevention Of Corruption Act

Prevention Of Corruption Act, 1988- Sections 7 and 13(1)(d) , 13(2)-In order to bring home the guilt of the accused, the prosecution has to prove the demand of illegal gratification and the subsequent acceptance, by either direct or circumstantial evidence. (Para 28)

Shanmugasekar vs State of Tamil Nadu 2024 INSC 504

Indian Penal Code,1860- Section 300 -If there was no intention on the part of the accused to cause bodily injury to the deceased and other injured witnesses, there was no reason for him to go back to his house and bring the weapon. He brought the billhook from his home, obviously to make an assault. It is not the defence of the accused that the deceased was the aggressor. The deceased had come to the spot only to resolve the fight among the family members of the accused. Hence, it cannot be said that there was a sudden and grave provocation due to any act on the part of the deceased. The accused himself started the dispute by questioning the PW-4 on non-payment of the electricity bill. Therefore, the appellant's case will not fall under Exception 1 or Exception 4 of Section 300 of the IPC. (Para 7)

Kazi Akiloodin vs State Of Maharashtra 2024 INSC 505 – Land Acquisition

Land Acquisition - The purpose for which the land is acquired must be taken into consideration while determining development charges- market value is determined based on the price of a willing buyer- a willing seller at arm's length - When there is a choice between an exemplar where the transaction is between unrelated parties dealing at arm's length and between an exemplar where the transaction is between related parties of a higher value, both of which are broadly around the same period, prudence would dictate and common sense would command that we accept the value of set out in the transaction between unrelated parties. (Para 62-67)

Mohd. Abdul Samad vs State Of Telangana 2024 INSC 506 – S 125 CrPC – Muslim Women

Code Of Criminal Procedure, 1973- Section 125 [Section 144 BNSS]- Muslim Women (Protection of Rights on Divorce) Act, 1986 - Section 125 of the CrPC applies to all married women including Muslim married women - Section 125 of the CrPC applies to all non-Muslim divorced women- If Muslim women are married and divorced under Muslim law then Section 125 of the CrPC as well as the provisions of the 1986 Act are applicable. Option lies with the Muslim divorced women to seek remedy under either of the two laws or both laws. This is because the 1986 Act is not in derogation of Section 125 of the CrPC but in addition to the said provision. If Section 125 of the CrPC is also resorted to by a divorced Muslim woman, as per the definition under the 1986 Act, then any order passed under the provisions of 1986 Act shall be taken into consideration under Section 127(3)(b) of the CrPC. -The 1986 Act could be resorted to by a divorced Muslim woman, as defined under the said Act, by filing an application thereunder which could be disposed of in accordance with the said enactment.

Code Of Criminal Procedure, 1973- Section 125 [Section 144 BNSS]- Muslim Women (Protection of Rights on Marriage) Act, 2019- Section 5 -In case of an illegal

divorce as per the provisions of the 2019 Act then, i) relief under Section 5 of the said Act could be availed for seeking subsistence allowance or, at the option of such a Muslim woman, remedy under Section 125 of the CrPC could also be availed ii) If during the pendency of a petition filed under Section 125 of the CrPC, a Muslim woman is ‘divorced’ then she can take recourse under Section 125 of the CrPC or file a petition under the 2019 Act. iii) The provisions of the 2019 Act provide remedy in addition to and not in derogation of Section 125 of the CrPC.

Pydi Ramana @ Ramulu vs Davarasety Manmadha Rao 2024 INSC 507

Specific Relief Act, 1963- Section 16- To obtain a decree for specific performance, the plaintiff must aver and prove that he has performed his part of the contract and has always been ready and willing to perform the terms of the contract which are to be performed by him. Section 16(c) of the Specific Relief Act mandates ‘readiness and willingness’ of the plaintiff to be averred and proved and it is a condition precedent to obtain the relief of specific performance-There is a distinction between the terms ‘readiness’ and ‘willingness’. ‘Readiness’ is the capacity of the plaintiff to perform the contract which includes his financial position to pay the sale consideration. ‘Willingness’ is the conduct of the party. -The continuous readiness and willingness is a condition precedent to grant the relief of specific performance. (Para 13-14)

New Okhla Industrial Development Authority vs Darshan Lal Bohra 2024 INSC 508

Land Acquisition Act, 1894- Section 5A- A “person interested” under Section 5A(1), can seek annulment of the acquisition process if no opportunity to file objections, is

accorded. However, such person cannot seek hearing as a statutory right unless has lodged the objections. (Para 22)

Land Acquisition Act, 1894- Section 4- Notification issued under Section 4 of the 1894 Act creates an impediment on the transfer of title in a property.¹⁶ The subsequent purchasers do not acquire an unencumbered title over the property and they deliberately run the risk of securing a defective title. The axiom that ‘a public right cannot be altered by the agreement of private persons’, will thus clog their right to raise objection against the acquisition. (Para 26)

Legal maxim - ‘Omnia Consensus Tollit Errorem’- Every assent removes error. (Para 22)

Legal maxim - ‘omnia praesumuntur rite esse acta’ -The act can be presumed to have been rightly and regularly done. The Court would presume that the official act was done rightly and effectively and the burden to prove contrary lies on the party who disputes the sanctity of such act. (Para 40)

New Okhla Industrial Development Authority vs Harnand Singh (D) 2024
INSC 509 – Land Acquisition

Land Acquisition Act,1894- Sale exemplars reflecting the prices paid by a willing buyer to a willing seller would be the most relevant piece of evidence for determination of such value.. However, for utilizing these sale deeds as the foundation for determining compensation, it is imperative that these sale instances satisfy certain criteria of comparability. In this regard, it is necessary that the sale deeds adhere to the following factors: i. the sale must be a genuine transaction- ii. the sale deed must have been executed at the time proximate to the date of the notification issued under Section 4 of the 1894 Act- iii. the land covered by the sale must be in the vicinity of the acquired land- and iv. the nature of such land, including its size, must be similar to the acquired land.,(Para 24-25)

Land Acquisition Act,1894 - Guesstimation- Guesstimation is a heuristic device that enables the court, in the absence of direct evidence and relevant sale exemplars, to make a reasonable and informed guess or estimation of the market value of the land under acquisition, and concomitantly the compensation payable by the appropriate Government. In that sense, guesstimation hinges on the Court's ability to exercise informed judgement and expertise in assessing the market value of land, especially when the evidence does not tender a straightforward answer. 32. This principle accentuates the fundamental understanding that determining compensation for land is not a matter of exact science but involves a significant element of estimation. Indeed, this holds true for valuation of land in general, which is affected by a multitude of factors such as its location, surrounding market conditions, feasible uses etc. Accordingly, while evidence and calculations can aid in estimating the land value, they ultimately serve as tools for approximation rather than precision. Instead, land valuation—and consequently the affixation of compensation -While the Court can use the principle of guesstimation in reasonably estimating the value of land in the absence of direct evidence, the exercise ought not to be purely hypothetical. Instead, the Court must embrace a holistic view and consider all relevant factors and existing evidence, even if not directly comparable, to arrive at a fair determination of compensation. (Para 34)

Yogesh Goyanka vs Govind 2024 INSC 510

Transfer of Property Act,1881- Section 52- The doctrine of lis pendens as provided under Section 52 of the Act does not render all transfers pendente lite to be void ab-initio, it merely renders rights arising from such transfers as subservient to the rights of the parties to the pending litigation and subject to any direction that the Court may pass thereunder -

Therefore, the mere fact that the Registered Sale Deed was executed during the pendency of the Underlying Suit does not automatically render it null and void. (Para 16-17)

Md. Rahim Ali @ Abdur Rahim vs State Of Assam 2024 INSC 511 – Foreigners Act

Summary: Supreme court declares a person as an Indian citizen and not a foreigner. It sets aside the Foreigner's Tribunal order that rejected his citizenship claim.

Foreigners Act, 1946- Section 9 - Does Section 9 of the Act empower the Executive to pick a person at random, knock at his/her/their door, tell him/her/they/them 'We suspect you of being a foreigner.', and then rest easy basis Section 9? It is for the authorities concerned to have in their knowledge or possession, some material basis or information to suspect that a person is a foreigner and not an Indian- *Ipsa facto* just an allegation/ accusation cannot lead to shifting of the burden to the accused, unless he/she is confronted with the allegation as also the material backing such allegation. Of course, at such stage, the evidentiary value of the material would not be required to be gone into, as the same would be done by the Tribunal in the reference. However, mere allegation, that too, being as vague as to mechanically reproduce simply the words which mirror the text of provisions in the Act cannot be permitted under law. Even for the person to discharge the burden statutorily imposed on him by virtue of Section 9 of the Act, the person has to be intimated of the information and material available against him, such that he/she can contest and defend the proceedings against him. (Para 34-35)

Arvind Kejriwal vs Directorate Of Enforcement 2024 INSC 512 – PMLA – Referred To Larger Bench

PMLA - Section 19- The following questions of law referred for consideration by a larger Bench: (a) Whether the “need and necessity to arrest” is a separate ground to challenge the order of arrest passed in terms of Section 19(1) of the PML Act? (b) Whether the “need and necessity to arrest” refers to the satisfaction of formal parameters to arrest and take a person into custody, or it relates to other personal grounds and reasons regarding necessity to arrest a person in the facts and circumstances of the said case? (c) If questions (a) and (b) are answered in the affirmative, what are the parameters and facts that are to be taken into consideration by the court while examining the question of “need and necessity to arrest”?

Central Information Commission vs DDA 2024 INSC 513 – RTI Act

RTI Act,2006- The CIC must be allowed to operate independently and exercise its powers of superintendence, direction, and management without external constraints. The principle of non-interference is crucial for maintaining the integrity and efficacy of the CIC. Allowing the Commission to function autonomously ensures that it can fulfil its role in promoting transparency and accountability, which are the cornerstones of the RTI Act. The ability to form benches and allocate work among Information Commissioners is essential for the CIC to manage its workload effectively and uphold the citizens' right to information- The Chief Information Commissioner's powers to frame Regulations pertaining to constitution of Benches of the Commission are upheld as such powers are within the ambit of Section 12(4) of the RTI Act

Chief Conservator Of Forest vs Virendra Kumar 2024 INSC 514

Summary: security amount deposited by the Respondents rightly deserves to be forfeited by the Appellant

Uniworld Logistics Pvt. Ltd. vs Indev Logistics Pvt. Ltd 2024 INSC 515- Civil Suit

Civil Suit -Suit for possession and suit for claiming damages for use and occupation of the property are two different causes of action. There being different consideration for adjudication in our opinion, second suit filed by the respondent claiming damages for use and occupation of the premises was maintainable- The case in hand stands on a better footing, inasmuch as, the plaintiff-respondent had specifically reserved its rights in the first suit regarding claim against warehousing charges, damages for illegal use and occupation etc. and further had applied for leave before the Trial Court for filing a separate suit, which leave had been granted. There was neither any relinquishment at any stage, nor omission to claim relief. Both the causes of action being separate, the second suit was clearly maintainable. (Para 16-17)

Duni Chand vs Vikram Singh 2024 INSC 516 – S 41 TP Act

Transfer Of Property Act, 1882- Section 41 - A plain reading of the above provision clearly requires the consent, be it express or implied, of the persons interested in the immovable property -Further the proviso to section 41 of the TP Act requires that the transferees to take reasonable care in ascertaining that the transferor had power to make

the transfer and that they had acted in good faith. This again would require specific pleading and evidence by the transferees. (Para 12-13)

Vikas Kanaujia vs Sarita 2024 INSC 517 -Irretrievable Breakdown of Marriage

Summary: marriage has failed completely and there is no possibility of parties living together and thus the continuation of further legal relationship is unjustified- decree of divorce on account of irretrievable breakdown of marriage. As both the parties are professionally qualified medical doctors and have sufficient and equal earnings, permanent alimony not awarded.

State Of Punjab vs Bhagwantpal Singh Alias Bhagwant Singh(D) 2024 INSC 518 – Revenue Records – Limitation

Revenue Records- Merely because the name of the plaintiff continued in the revenue records (Jama Bandis), it would not confer any title upon him. Revenue records (Jama Bandis) are only entries for the purpose of realising tax by the Municipal Corporations or land revenue by Gram Sabhas. (Para 27)

Limitation - When the suit is barred by any law, the plaintiff cannot be allowed to circumvent that provision by means of clever drafting so as to avoid mention of those circumstances, by which the suit is barred by law of limitation. (Para 17)

Rohini Sudarshan Gangurde vs State Of Maharashtra 2024 INSC 519- S 306
IPC – Abetment Of Suicide

Indian Penal Code, 1860- Section 107,306 - There must be either an instigation, or an engagement or intentional aid to ‘doing of a thing’. When we apply these three criteria to Section 306, it means that the accused must have encouraged the person to commit suicide or engaged in conspiracy with others to encourage the person to commit suicide or acted (or failed to act) intentionally to aid the person to commit suicide. (Para 8)

Omsairam Steels & Alloys Pvt. Ltd. vs Director Of Mines & Geology BBSR 2024
INSC 520 – Judicial Review – Tender

Constitution Of India, 1950- Article 226- While undertaking the exercise of judicial review of matters relating to tenders, the court has to strike a fair balance between the interests of the Government, which is always expected to advance the financial interests of the State, and private entities -Not every small mistake must be perceived through the lens of a magnifying glass and blown up unreasonably. (Para 14)

Sun Pharmaceuticals Industries Ltd vs Union Of India 2024 INSC 521 – Drugs (Price Control) Order – Dealer

Drugs (Price Control) Order, 1995 - A ‘dealer’, as defined in the DPCO, would be a wholesaler or retailer who undertakes the purchase or sale of the drug while a ‘distributor’, as defined thereunder, would include a distributor of the drugs or a stockist appointed by a manufacturer. Though the definition of ‘wholesaler’ under Paragraph 2(y) of the DPCO blurs the distinction between a ‘dealer’ and a ‘distributor’, by including a dealer as well as a

stockist appointed by a manufacturer, the fact remains that a ‘distributor’ under Paragraph 2(c) of the DPCO has links with the manufacturer directly while a ‘dealer’ does not, as he obtains his supply of drugs from the said ‘distributor’. It is obvious that the definitions of ‘distributor’ and ‘dealer’ under the DPCO are not mutually exclusive and it is very much possible in this scheme that a ‘distributor’ may play a dual role by becoming a ‘wholesaler’ or ‘retailer’ also and thereby satisfy the definition of ‘dealer’ under Paragraph 2(d) of DPCO.

Ram Prakash Chadha vs State Of Uttar Pradesh 2024 INSC 522- S 227 CrPC – Discharge- Criminal Conspiracy -S 120A IPC

Code Of Criminal Procedure, 1973- Section 227- At the stage of consideration of an application for discharge, defence case or material, if produced at all by the accused, cannot be looked at all. Once “the record of the case and the documents submitted therewith” are before the Court they alone can be looked into for considering the application for discharge and thereafter if it considers that there is no sufficient ground for proceeding against the accused concerned then he shall be discharged after recording reasons therefor. In that regard, it is only appropriate to consider the authorities dealing with the question as to what exactly is the scope of consideration and what should be the manner of consideration while exercising such power-in a case where an application is filed for discharge under Section 227, Cr.PC, it is an irrecusable duty and obligation of the Court to apply its mind and answer to it regarding the existence of or otherwise, of ground for proceeding against the accused, by confining such consideration based only on the record of the case and the documents submitted therewith and after hearing the submissions of the accused and the prosecution in that behalf. To wit, such conclusion on existence or otherwise of ground to proceed against the accused concerned should not be and could not be based on mere suppositions or suspicions or conjectures, especially not founded upon material available before the Court - Normally, the Court is to record his reasons only for discharging an accused at the stage of Section 227, Cr.PC. However, when

an application for discharge is filed under Section 227, Cr.PC, the Court concerned is bound to disclose the reason(s), though, not in detail, for finding sufficient ground for rejecting the application or in other words, for finding prima facie case, as it will enable the superior Court to examine the challenge against the order of rejection(Para 22)

Indian Penal Code, 1860- Section 120A,120B -Conspiracy is hatched in privacy and not in secrecy, and such it would rarely be possible to establish conspiracy by direct evidence. A few bits here and a few bits there, on which the prosecution may rely, are not sufficient to connect an accused with the commission of the crime of criminal conspiracy- To constitute even an accusation of criminal conspiracy, first and foremost, there must at least be an accusation of meeting of minds of two or more persons for doing an illegal act or an act, which is not illegal in itself, by illegal means. (Para 26-27)

Baba Natarajan Prasad vs M. Revathi 2024 INSC 523 – S 494 IPC – Bigamy – Sentencing

Indian Penal Code, 1860- Section 494 [Section 82(1) BNS]- High Court after restoring conviction for the offence under Section 494 I.P.C., sentenced accused to undergo imprisonment till the rising of the court and to pay a fine of Rs.20,000/- each with default sentence to undergo simple imprisonment for a period of three months- Allowing appeal, SC observed: An offence under Section 494 I.P.C., is a serious offence, the circumstances obtaining in this case would constrain us to hold that the imposition of ‘imprisonment till the rising of the court’ is not a proper sentence falling in tune with the rule of proportionality in providing punishment as mentioned hereinbefore- Imposition of sentence of ‘imprisonment till the rising of the court’ upon conviction for an offence under Section 494 I.P.C., on them was unconscionably lenient or a flea-bite sentence - The sentence awarded to accused Nos.1 and 2 for the conviction under Section 494 I.P.C., modified to six months each, making the nature of the sentence as simple imprisonment

for the said period -Fine imposed reduced from Rs. 20,000/- each to Rs. 2,000/- each, as originally awarded by the trial Court.

Criminal Trial - Sentencing - Following the rule of proportionality in imposing punishment would promote and bring order and orderliness in society - It is the solemn duty of the Court to strike a proper balance awarding sentence proportionate to the gravity of the offence committed by the accused concerned upon his conviction for serious offence(s).

State Of Uttar Pradesh vs Virendra Bahadur Katheria 2024 INSC 524 – Doctrine Of Merger – Service Law

Doctrine of Merger - if Special Leave was not granted and the petition was dismissed by a reasoned or unreasoned order, the order against which such Special Leave Petition is filed would not merge with the order of dismissal. However, once leave has been granted in a Special Leave Petition, regardless of whether such appeal is subsequently dismissed with or without reasons, the doctrine of merger comes into play resulting in merger of the order under challenge with that of the appellate forum, and only the latter would hold the field. Consequently, it is the decision of the superior court which remains effective, enforceable, and binding in the eyes of the law, whether the appeal is dismissed by a speaking order or not. (Para 43)

Judgment - State has no authority whatsoever to annul a Court decision through its administrative fiat. Even legislative power cannot be resorted to, to overrule a binding judicial dictum, except that the legislature can remove the basis on which such judgment is founded upon. (Para 45)

Limitation - no undue leverage can be extended to the State or its entities in condonation

of delay and that no special privilege can be extended to the State or its instrumentalities. (Para 49)

Service Law - prescription of pay scale for a post entails Policy decision based upon the recommendations of an expert body like Pay Commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder cadre. Similarly, pay parity cannot be claimed as an indefeasible enforceable right save and except where the Competent Authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or distinct qualifications. Incidental grant of same pay scale to two or more posts, without any express equation amongst such posts, cannot be termed as an anomaly in a pay scale of a nature which can be said to have infringed the right to equality under Article 16 of our Constitution- The creation, merger, de-merger or amalgamation of cadres within a service to bring efficacy or in the administrative exigencies, is the State's prerogative. The Court in exercise of its power of judicial review would sparingly interfere in such a policy decision, unless it is found to have brazenly offended Articles 14 and 16 of the Constitution. (Para 53-54)

Balasaheb Keshawrao Bhapkar vs Securities and Exchange Board of India
2024 INSC 525

Summary: Sai Prasad Group of Companies - constitution of a High-Powered Sale Committee to auction the immovable assets of the companies, to the extent they are required to satisfy the investors' claims and liquidate all other statutory liabilities of the Companies.

State Of Punjab vs Punjab Spintex Ltd. 2024 INSC 526 – Industrial Policy, 2003

Industrial Policy, 2003- The Market fees and Rural Development fees are distinct and, there being no exemption from Rural Development fees mentioned in the 2003 Policy, it only encompasses exemption from Market fees in its ambit. The two fees under the two different statutory frameworks cannot be equated as one by the Respondent and they cannot assume that exemption from “Market fees” would subsume in itself “Rural Development fees” also.

Amro Devi vs Julfi Ram (D) 2024 INSC 527 – Order XXIII Rule 3 CPC – Lis Pendens

Code Of Civil Procedure, 1908- Order XXIII Rule 3- For a valid compromise in a suit there has to be a lawful agreement or compromise in writing and signed by the parties which would then require it to be proved to the satisfaction of the Court. In the absence

of any document in writing, the question of the parties signing it does not arise. Even the question of proving such document to the satisfaction of the Court to be lawful, also did not arise- Mere statements of the parties before court about such said compromise, cannot satisfy the requirements of Order XXIII Rule 3 of the CPC. (Para 20-23)

Transfer of Property Act, 1882- Section 52- Transfer of suit property pendente lite is not void ab initio, as it remains subservient to the pending litigation. The purchaser of any such property takes the bargain subject to the rights of the plaintiff in pending suit. (Para 18)

Dr. Bhimrao Ambedkar Vichar Manch vs State Of Bihar 2024 INSC 528 – Article 341 Constitution

Constitution of India, 1950- Article 341- The list specified under the Notification under Clause-1 can be amended, altered only by law made by Parliament and, second, it prohibits that but for a law made by Parliament a notification issued under sub-Clause-1 cannot be varied by any subsequent notification. That is to say that neither the Central Government, nor the President can make any amendments or changes in the notification issued under Clause-1 specifying the castes in relation to the States or Union territory, as the case may be- It does not deal with merely castes, races or tribes but also parts of or groups within castes, races or tribes, therefore, if any change is to be made with respect to inclusion or exclusion not only of any caste, race or tribe but also of a part of or group within any of the caste, race or tribe the same has to be done by law made by the Parliament. (Para 12-13)

Summary: Bihar State Government had passed a resolution based upon consideration of recommendations by the State Backward Commission which had recommended that in the list of Extremely Backward Classes published under the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991, the caste "Tanti-Tantwa" recorded at Serial No.33 be deleted and the said "Tanti-Tantwa" be merged in the Scheduled Castes list with the caste 'Pan/Sawasi' mentioned at Serial No.20 so that they could get benefit of the Scheduled Castes- Supreme Court held: State Government had no competence/ authority/power to tinker with the lists of Scheduled Castes published under Article 341 of the Constitution - The State may be justified in deleting "Tanti-Tantwa" from the Extremely Backward Classes list on the recommendation of the State Backward Commission, but beyond that to merge "Tanti-Tantwa" with 'Pan, Sawasi, Panr' under Entry 20 of the list of Scheduled Castes was nothing short of mala fide exercise for whatever good, bad or indifferent reasons, the State may have thought at that moment. Whether synonymous or not, any inclusion or exclusion of any caste, race or tribe or part of or group within the castes, races or tribes has to be, by law made by the Parliament, and not by any other mode or manner.

Shailendra Kumar Srivastava vs State Of Uttar Pradesh 2024 INSC 529 – S 321
CrPC -Withdrawal Of Prosecution

Code of Criminal Procedure, 1973- Section 321 [Section 360 BNSS]- Merely because an accused person is elected to the Legislative Assembly cannot be a testament to their image among the general public. Matters of a gruesome crime akin to the double murder in the present case do not warrant withdrawal of prosecution merely on the ground of good public image of an accused named in the charge sheet after thorough investigation. Contrary to the Trial Court's view, such withdrawal cannot be said to be allowed in public interest. This reasoning cannot be accepted especially in cases of involvement of influential people. [In this case, Trial Court allowed the application for withdrawal of prosecution for

one of the accused persons] (Para 12)

Kiran Jyoti Maini vs Anish Pramod Patel 2024 INSC 530 – Permanent Alimony

Permanent Alimony- the award of maintenance or permanent alimony should not be penal but should be for the purposes of ensuring a decent living standard for the wife. (Para 32)

Summary: Supreme Court dissolves a marriage and directs: Keeping in view the totality of the circumstances, the social and financial status of the parties, their current employments as well as future prospects, standards of living, and their obligations, liabilities, and other expenses, a onetime settlement amount of Rs. 2 Crores would be a balanced and fair amount. This amount would also cover all pending and future claims. Thus, we fix the said amount as permanent alimony to be paid by the respondent to the appellant within a period of four months.

Bihar Staff Selection Commission vs Himal Kumari 2024 INSC 531 – Service Law

Bihar City Manager Cadre (Appointment and Service Conditions) Rules, 2014
-A conjoint reading of the Rules, 2014 in particular rules 5 and 11, with the advertisement and giving it a pragmatic and harmonious construction, what emerges is that 32% in the written examination would make a candidate eligible and qualified to be placed in the consideration zone. [In this case, candidate received 22.5 marks out of 70, 32.14 per cent,

above the minimum qualifying marks of 32 per cent as per the advertisement, the Court held that the Commission was not right by denying her a place on the merit list.]

SBI General Insurance Co. Ltd vs Krish Spinning 2024 INSC 532 – S 11 Arbitration Act – Plea of “accord and satisfaction”

Arbitration and Conciliation Act, 1996- Section 11(6)- Scope and standard of judicial scrutiny that an application under Section 11(6) of the Act, 1996 can be subjected to when a plea of “accord and satisfaction” is taken by the defendant-The scope of enquiry at the stage of appointment of arbitrator is limited to the scrutiny of prima facie existence of the arbitration agreement, and nothing else (Para 114) -The dispute pertaining to the “accord and satisfaction” of claims is not one which attacks or questions the existence of the arbitration agreement in any way (Para 115)- The question of “accord and satisfaction”, being a mixed question of law and fact, comes within the exclusive jurisdiction of the arbitral tribunal, if not otherwise agreed upon between the parties (Para 116)- If the referral court , goes beyond the scope of enquiry as provided under the section and examines the issue of “accord and satisfaction”, then it would amount to usurpation of the power which the parties had intended to be exercisable by the arbitral tribunal alone and not by the national courts. Such a scenario would impeach arbitral autonomy and would not fit well with the scheme of the Act, 1996. (Para 122) - if the referral courts go into the details of issues pertaining to “accord and satisfaction” and the like, then it would become rather difficult to achieve the objective of expediency and simplification of pleadings. (Para 124) - Tests like the “eye of the needle” and “ex-facie meritless”, although try to minimise the extent of judicial interference, yet they require the referral court to examine contested facts and appreciate prima facie evidence (however limited the scope of enquiry may be) and thus are not in conformity with the principles of modern arbitration which place arbitral autonomy and judicial non-interference on the highest pedestal. (Para 118)

Arbitration and Conciliation Act, 1996- Section 11(6)- While determining the issue of limitation in exercise of the powers under Section 11(6) of the Act, 1996, the referral court should limit its enquiry to examining whether Section 11(6) application has been filed within the period of limitation of three years or not. The date of commencement of limitation period for this purpose shall have to be construed as per the decision in M/s Arif Azim Co. Ltd. v. M/s Aptech Ltd. reported in 2024 INSC 155 - the referral courts, at the stage of deciding an application for appointment of arbitrator, must not conduct an intricate evidentiary enquiry into the question whether the claims raised by the applicant are time barred and should leave that question for determination by the arbitrator. Such an approach gives true meaning to the legislative intention underlying Section 11(6-A) of the Act. (Para 133)

Arbitration and Conciliation Act, 1996- Section 7- The arbitration agreement, being separate and independent from the underlying substantive contract in which it is contained, continues to remain in existence even after the original contract stands discharged by “accord and satisfaction”- Once the full and final settlement of the original contract itself becomes a matter of dispute and disagreement between the parties, then such a dispute can be categorised as one arising “in relation to” or “in connection with” or “upon” the original contract which can be referred to arbitration in accordance with the arbitration clause contained in the original contract, notwithstanding the plea that there was a full and final settlement between the parties. (Para 59)

P Ravindranath vs Sasikala 2024 INSC 533 – Specific Relief Act

Specific Relief Act, 1963- Section 16- Relief of specific performance of contract is a discretionary relief. As such, the Courts while exercising power to grant specific performance of contract, need to be extra careful and cautious in dealing with the pleadings and the evidence in particular led by the plaintiffs. The plaintiffs have to stand

on their own legs to establish that they have made out case for grant of relief of specific performance of contract. The Act, 1963 provides certain checks and balances which must be fulfilled and established by the plaintiffs before they can become entitled for such a relief. The pleadings in a suit for specific performance have to be very direct, specific and accurate. A suit for specific performance based on bald and vague pleadings must necessarily be rejected. Section 16(C) of the 1963 Act requires readiness and willingness to be pleaded and proved by the plaintiff in a suit for specific performance of contract. The said provision has been widely interpreted and held to be mandatory. (Para 22(i))

**Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs State Of Uttar Pradesh
2024 INSC 534**

Bail- An accused is entitled to a speedy trial- An accused or an undertrial has a fundamental right to speedy trial which is traceable to Article 21 of the Constitution of India. If the alleged offence is a serious one, it is all the more necessary for the prosecution to ensure that the trial is concluded expeditiously. When a trial gets prolonged, it is not open to the prosecution to oppose bail of the accused-undertrial on the ground that the charges are very serious. Bail cannot be denied only on the ground that the charges are very serious though there is no end in sight for the trial to conclude- Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under

a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. (Para 22-32)

New Win Export vs A Subramaniam 2024 INSC 535 – Negotiable Instruments Act- Compounding

Negotiable Instruments Act, 1882- Section 138 & 147- Section 147 of the Negotiable Instruments Act, 1881 makes all offences under NI Act compoundable offences - Settlement agreement can be treated to be compounding of the offence - All the same, Section 320 (5) of CrPC provides that if compounding has to be done after conviction, then it can only be done with the leave of the Court where appeal against such conviction is pending- In cases where the accused relies upon some document for compounding the offence at the appellate stage, courts shall try to check the veracity of such document, which can be done in multiple ways - Dishonour of cheques is a regulatory offence which was made an offence only in view of public interest so that the reliability of these instruments can be ensured - A large number of cases involving dishonour of cheques are pending before courts which is a serious concern for our judicial system. Keeping in mind that the ‘compensatory aspect’ of remedy shall have priority over the ‘punitive aspect’, courts should encourage compounding of offences under the NI Act if parties are willing to do so. (Para 4-7)

Elfit Arabia vs Concept Hotel BARONS Limited 2024 INSC 536 – S 11 Arbitration Act

Arbitration and Conciliation Act, 1996- Section 11 - The initiation of arbitration and criminal proceedings under Section 138 of the Negotiable Instruments Act 1881 are

separate and independent proceedings that arise from two separate causes of action. Therefore, the institution of the proceedings under Section 138 does not imply a 'continuing cause of action' for the purpose of initiating arbitration. (Para 9)

Arbitration and Conciliation Act, 1996- Section 11 -Whether a claim is barred by limitation lies ordinarily within the domain of the arbitral tribunal. However, a court exercising jurisdiction under Section 11(6) of the Act may reject ex facie non-arbitrable or dead claims, to protect the other party from being drawn into a protracted arbitration process, that is bound to eventually fail. The court must 'cut the deadwood' by refraining from appointing an arbitrator when claims are ex facie time-barred and dead, or there is no subsisting dispute. This examination does not involve a full review of contested facts but only a primary review, where uncontested facts speak for themselves. Such limited scrutiny is necessary as it is the duty of the court to protect the parties from being compelled to arbitrate when the claim is demonstrably barred by limitation. If courts do not intervene within this limited compass and mechanically refer every dispute to arbitration, it may undermine the effectiveness of the arbitration process itself. (Para 5)

State of Meghalaya vs Lalrintluanga Sailo 2024 INSC 537 – S 37 NDPS Act – Bail

NDPS Act, 1986- Section 37- While considering the application for bail made by an accused involved in an offence under NDPS Act a liberal approach ignoring the mandate under Section 37 of the NDPS Act is impermissible. Recording a finding mandated under Section 37 of the NDPS Act, which is sine qua non for granting bail to an accused under the NDPS Act cannot be avoided while passing orders on such applications - When the twin conditions under Section 37 of the NDPS Act, are not satisfied, the sole reason that the accused is a HIV patient cannot be a reason to enlarge her on bail. (Para 8-10)

Bank Of India vs Pankaj Srivastava 2024 INSC 538 – Compassionate Appointment

Summary: Appeal against HC order directing the bank to consider appellants- claim for appointment on compassionate ground- Dismissing appeal, SC held: In the facts of the case in hand, the deceased employee was not placed under suspension on account of contemplation of the disciplinary proceedings and the charge sheet was also not issued. It is merely said that the charge sheet was under preparation, however, in absence of any relevant material disclosed, it might not be presumed to be a case of *prima facie* award of major penalty on account of contemplation of disciplinary proceedings.

Rewa Tollway P. Ltd vs State Of Madhya Pradesh 2024 INSC 539 – Principle of Promissory Estoppel Or Legitimate Expectation

Principle of Promissory Estoppel Or Legitimate Expectation - A prior executive decision does not bar the State legislature from enacting a law or framing any policy contrary to or in conflict with the previous executive decision in furtherance of larger public interest. Nor can it be canvassed that the law laid down by the legislature would be hit by principle of promissory estoppel or legitimate expectation because earlier the executive had expressed its view differently- Promissory estoppel or legitimate expectation can be dealt with on the same status of the executive decision when the prior as well as the subsequent decisions are both taken by the same or similarly placed authorities. Where the executive takes a decision based upon which a party acts and, later on, the executive

withdraws that decision to the detriment of the party acting upon the earlier decision, it can be said to be estopped from withdrawing its promise or depriving the party from its legitimate expectation of what had been promised- If the previous executive decision is withdrawn, modified or amended in any manner in exercise of legislative power in larger public interest, then the earlier promise upon which the party acts, cannot be enforced as a right and neither can the authorities be estopped from withdrawing its promise, as such an expectation does not give any enforceable right to the party. (Para 25-27)

Kaushik Premkumar Mishra vs Kanji Ravaria @ Kanji 2024 INSC 540 – Transfer Of Property Act

Doctrine of bona fide purchaser -The doctrine of bona fide purchaser for value applies in situations where the seller appears to have some semblance of legitimate ownership rights. However, this principle does not protect a subsequent purchaser if the vendor had already transferred those rights through a prior sale deed. In a case where the vendor deceitfully executes a second sale deed years after the initial transfer, without disclosing the earlier transaction and without any ongoing litigation regarding the property, the subsequent purchaser cannot claim the benefits of a bona fide purchaser. Essentially, if the vendor's rights were already severed by the first sale, any later sale deed made without transparency and in bad faith is invalid. The subsequent purchaser, even if unaware of the prior sale, cannot be considered bona fide because the vendor no longer had the legal right to sell the property. Thus, the protection afforded by the bona fide purchaser doctrine is nullified by the vendor's deceitful conduct and the pre-existing transfer of rights. This ensures that the original purchaser's rights are upheld and prevents unjust enrichment through fraudulent transactions. (Para 35)

Transfer Of Property Act, 1882- Section 54 - Registration Act, 1908 - If the purchaser has no means to pay stamp duty or exorbitant demand of stamp duty is made by

the registering authority which the purchaser is unable to pay at that time but he remains satisfied with the fact that the vendor has fairly and duly executed the sale deed presented it for registration and put him in possession of the purchased property which he is peacefully enjoying, he is always at liberty to pay the deficiency of stamp duty at any point of time. The document presented for registration will remain with the Registering Authority till such time, the deficiency is removed. However, this pendency of registration on account of deficiency cannot enure any benefit to the vendor, who has already eliminated all his rights by executing the sale deed after receiving the sale consideration. He cannot become the owner of the transferred land merely because the document of sale is pending for registration. It is the purchaser who cannot produce such document which is pending registration with respect to the immovable property in evidence before the Court of law as the same would be inadmissible in view of statutory provision contained in the TP Act as also the Act, 1908. (Para 33.13)

Shika Banyal vs Akashmani Singh 2024 INSC 541 – Mutual Consent Divorce

Summary: Marriage between parties dissolved.

**Kaushik Narsinhbhai Patel vs S.J.R. Prime Corporation Private Limited 2024
INSC 542 – CPC – Written Statement – Consumer Protection Act**

Code of Civil Procedure, 1908- Even if the defendant/opposite party failed to file a

written statement and, in that matter, even if forfeiture of the right to file written statement has occasioned it would not disentitle that party from participating in the further proceedings, without filing a written statement and in such circumstances, the said party would also be having the right to cross-examine the witness(es), if any, of the plaintiff/complainant. (Para 15)

Consumer Protection Act,2019 - Practice and Procedure - In the absence of any specific provisions dealing with non-filing of written statements/forfeiture of the right to file a written statement, it can only be held that it should bar the opposite party in a proceeding before the Consumer Redressal Forums to bring in pleadings, indirectly to introduce its/his case and evidence to support such case. In the situations mentioned above, the right of the opposite party is confined to participate in the proceedings without filing a written statement and to cross-examine witness(es), if any, examined by the complainant(s). (Para 18)

Amit Rana @ Koka vs State Of Haryana 2024 INSC 543 – S 307 IPC – Attempt To Murder

Indian Penal Code, 1860- Section 307 [Section 109 BNSS]-The victim need not suffer any kind of bodily injury. The offence to commit murder punishable under Section 307, IPC is constituted by the concurrence of mens rea followed by actus reus, to commit an attempt to murder though its accomplishment or sufferance of any kind of bodily injury to the victim is not a ‘sine qua non’ - if a man commits an act with such intention or knowledge and under such circumstances that if death had been caused, the offence would have amounted to murder or the act itself is of such a nature as would have caused death in the usual course of an event, but something beyond his control prevented that result, his act would constitute the offence punishable as an attempt to murder under Section 307, IPC. (Para 6) - In case the victim suffered hurt in terms of the second part of Section 307,

IPC, the convict can be sentenced to undergo imprisonment for life. In the event the court did not consider that imprisonment for life is not to be imposed the other option, going by the provision, is only to impose such punishment as is mentioned in the first part of Section 307, IPC.

Legal Maxim - ‘Culpae poena per esto’ - Let the punishment be proportionate to the offence- let the punishment fit the crime.

S Tirupathi Rao vs M Lingamaiah 2024 INSC 544 – CPC – Review – Contempt Of Court

Contempt of Courts Act, 1971- Section 20 - In a case where a civil contempt is alleged by a party by referring to a “continuing wrong/breach/offence” and such allegation prima facie satisfies the court, the action for contempt is not liable to be nipped in the bud merely on the ground of it being presented beyond the period of one year as in section 20 of the Act. Applicability of the principle underlying Order VII Rule 6, CPC for granting exemption would only be just and proper having regard to the object and purpose for which the jurisdiction to punish for contempt is exercised by the courts if, of course, the court is satisfied that benefit of such an exemption ought to be extended in a given case. At the same time, it must be remembered that the court cannot grant exemption from limitation on equitable consideration or on the ground of hardship - e. For a “continuing wrong/breach/offence” to be accepted as a ground for seeking exemption in an action for contempt, the party petitioning the court not only has to comprehend what the phrase actually means but would also be required to show, from his pleadings, the ground resting whereon he seeks exemption from limitation. Should the party fail to satisfy the court, the petition is liable to outright rejection. Also, the court has to be vigilant. Stale claims of contempt, camouflaged as a “continuing wrong/breach/offence” ought not to be entertained, having regard to the legislative intent for introducing section 20 in the Act

which has been noticed above. Contempt being a personal action directed against a particular person alleged to be in contempt, much of the efficacy of the proceedings would be lost by passage of time. Even if a contempt is committed and within the stipulated period of one year from such commission no action is brought before the court on the specious ground that the contempt has been continuing, no party should be encouraged to wait indefinitely to choose his own time to approach the court. If the bogey of "continuing wrong/breach/offence" is mechanically accepted whenever it is advanced as a ground for claiming exemption, an applicant may knock the doors of the Court any time suiting his convenience. If an action for contempt is brought belatedly, say any time after the initial period of limitation and years after the date of first breach, it is the prestige of the court that would seem to become a casualty during the period the breach continues. Once the dignity of the court is lowered in the eyes of the public by non-compliance of its order, it would be farcical to suddenly initiate proceedings after long lapse of time. Not only would the delay militate against the legislative intent of inserting section 20 in the Act (a provision not found in the predecessor statutes of the Act) rendering the section a dead letter, the damage caused to the majesty of the court could be rendered irreparable. It is, therefore, the essence of justice that in a case of proved civil contempt, the contemnor is suitably dealt with, including imposition of punishment, and direction as well is issued to bridge the breach. (Para 55-57)

Constitution of India, 1950- Article 129,215- Contempt of Courts Act, 1971- The power of the Supreme Court and a high court to punish for breach of its orders is expressly recognised by Articles 129 and 215 of the Constitution, respectively. It is an inherent power, distinguishable from a power derived from a statute. (Para 29)- Despite such a power being conferred by the Constitution, what would constitute contempt - civil and criminal - and also, what would be the procedure for initiating action and how to punish for contempt is provided by the Act. (Para 33).

Contempt of Courts Act, 1971- In the vast majority of cases seeking invocation of the provisions of the Act for an alleged civil contempt, institution of proceedings is through a petition or an application containing information made available by a party alleging that the facts disclosed by him do constitute contempt of court and, thus, provide the court the

premise for initiating proceedings to commit for contempt. The role of such a party, who brings a petition for contempt and activates the court's machinery, is merely that of an informer. Despite such a party figuring in the memo of parties as a petitioner, the matter relating to entertainment of his petition and the punishment to be imposed, in case of a proved contempt, relate to the exclusive jurisdiction and authority of the high courts to punish for contempt and is substantially a matter between the court and the alleged contemnor. Whether or not to take the assistance of the petitioning informer is a question which invariably must be left entirely to the discretion of the court seized of the proceedings. (Para 45)

Contempt of Courts Act, 1971- Insofar as an interim order is concerned, despite an element of contempt being involved, if a defence appearing to be valid in law and having substance is raised before the high court by a party in default which shakes the very foundation of the order alleged to have been violated and upon the high court reaching a satisfaction of such a defence being valid to the extent that the subject order ought not to have been passed, it would always be open to the said court, depending on the nature of order and the breach alleged, to first secure compliance of the order by allowing the contemnor to purge the contempt without prejudice to his rights and contentions and, after such compliance, to revisit the order as per law and the circumstances present before it and then pass appropriate orders. There could be exceptional situations where the consequences of complying with an interim order, apparently erroneous or without jurisdiction and which has attained finality, could bring about irretrievable consequences. In such a case, where the high court is satisfied that securing compliance of its order would cause more injustice than justice, notwithstanding the finality attached to such order, the high court's authority ought to be conceded to pass such order as the justice of the case before it demand. (Para 47)

Contempt of Courts Act, 1971- State of Uttar Pradesh v. Association of Retired Supreme Court & High Court Judges (2024) 3 SCC 1-Standard Operating Procedure for being followed by the high courts while summoning public officials, alleged to be in contempt, to be physically present in court- Deeply concerned with the lack of self-

restraint shown in the exercise of contempt power in certain cases, the Bench directed framing of rules by all the high courts in terms of the SoP, as devised- This Court noted in such decision that mandating the physical presence of a contemnor, specifically in the case of public officials, comes at a cost to the public interest and efficiency of public administration, and thus ought not to be resorted to at the drop of a hat -Concomitantly, there lies a bounden duty on the contemnor to comply with the court's order without any delay, in a case where legal recourse has not been taken to set aside/review/vacate the order which is alleged to have been breached. A public official against whom an allegation of contempt is levelled, upon being noticed either by issuance of a rule for contempt or by court notice, must work out his remedy in accordance with law if he wishes not to comply with the court's direction. He must not wait for compliance to be secured only upon all the phased steps to be taken by the high courts in terms of paragraph 44 of State of Uttar Pradesh (supra), forming part of the SoP, are complete. A public official who is arrayed as a contemnor is as much bound by an unchallenged order of a high court as a private party is, and cannot consider himself not bound by the law by virtue of the office he holds. Being under a duty to comply with a final and binding order of a high court, the contemnor ought not to drag his feet in doing the same until the coercive measure of summoning the contemnor to be physically present is resorted to by the high court. (Para 38-39)

Code Of Civil Procedure,1908- Section 114 and Order XLVII - Review - The exercise of review jurisdiction is not an inherent power given to the court- the power to review has to be specifically conferred by law - The provisions contained in section 114 and Order XLVII of the CPC relating to review of an order or decree are mandatory in nature and any petition for review not satisfying the rigours therein cannot be entertained ex debito justitiae, by a court of law. (Para 12) - The general impression is that more the number of grounds, less the likelihood of existence of a case for review. To succeed in a motion for review, viewed through the prism of 'error apparent on the face of the record', it does neither require long-drawn arguments nor an elaborate process of reasoning as these may be required, in a given case, when exercising the power of merit review. An error apparent on the face of the record has to be self-evident. Where, conceivably, two opinions can be formed in a given set of facts and circumstances and one opinion of the two has been formed, there is no error apparent on the face of the record. (Para 25) An applicant

seeking review on the basis of discovery of new evidence has to demonstrate: first, that there has been discovery of new evidence, of which he had no prior knowledge or that it could not be produced at the time the decree was passed or the order made despite due diligence- and secondly, that the new evidence is material to the order/decree being reviewed in the sense that if the evidence were produced in court when the decree was passed or the order made, the decision of the court would have been otherwise. Ultimately, it is for the court to decide whether a review sought for by an applicant, if granted, would prevent abuse of the process of law and/or miscarriage of justice. (Para 16)

Constitution of India, 1950- Article 226- The principles flowing from the CPC may safely be taken as a guide to decide writ proceedings but to the extent the same can be made applicable. (Para 13)

Legal Maxim - Secundum allegata et probate - The court will arrive at its decision on the basis of the claims and proof led by the parties. (Para 71)

Pleadings - When a point is not traceable in the pleas set out either in a plaint or a written statement, findings rendered on such point by the court would be unsustainable as that would amount to an altogether new case being made out for the party. (Para 71)

Gene Campaign vs Union of India 2024 INSC 545 – GM Corps – Judicial Review

Constitution of India, 1950- Article 32, 226 - Judicial Review of the decision taken by the bodies concerned in the matter of Genetically Modified Organisms is permissible- Directions issued: The respondent-Union of India is directed to evolve a National Policy with regard to GM crops in the realm of research, cultivation, trade and commerce in the country. The said National Policy shall be formulated in consultation with all stakeholders,

such as, experts in the field of agriculture, biotechnology, State Governments, representatives of the farmers, etc. The National Policy to be formulated shall be given due publicity. ii. For the aforesaid purpose, the MoEF&CC shall conduct a national consultation, preferably within the next four months, with the aim of formulating the National Policy on GM crops. The State Governments shall be involved in evolving the National Policy on GM crops. iii. Respondent – Union of India must ensure that all credentials and past records of any expert who participates in the decision-making process should be scrupulously verified and conflict of interest, if any, should be declared and suitably mitigated by ensuring representation to wide range of interests. Rules in this regard may be formulated having a statutory force. iv. In the matter of importing of GM food and more particularly GM edible oil, the respondent shall comply with the requirements of Section 23 of FSSA, 2006, which deals with packaging and labelling of foods.

Legal Maxim - Expressio unius est exclusio alterius- When a manner is specified for doing a certain thing, then all other modes for carrying out such act are expressly excluded -When a statute contemplates a specific procedure to be adhered to in order to arrive at a desired end, such procedure cannot be substituted by an alternative procedure which is not contemplated under the statute. Further, if an action is to be carried out by way of issuance of a particular statutory instrument on the basis of certain requirements, such action cannot be validly carried out by way of issuance of an instrument when the same is not contemplated under the statute [Referred to Taylor vs. Taylor, (1875) LR 1 Ch D 426 (“Taylor”) and Nazir Ahmad vs. King-Emperor, 1936 SCC OnLine PC 41 : (1935-36) 63 IA 372 (“Nazir Ahmad”) - Parbhani Transport Cooperative Society Ltd. vs. Regional Transport Authority Aurangabad, (1960) 3 SCR 177 : AIR 1960 SC 801, Dipak Babaria vs. State of Gujarat, (2014) 3 SCC 502 , Kameng Dolo vs. Atum Welly, (2017) 7 SCC 512, Tahsildar, Taluk Office, Thanjore vs. G. Thambidurai, (2017) 12 SCC 642, Union of India vs. Charanjit S. Gill, (2000) 5 SCC 742. (Para 42.19-42.20 of Justice BV Nagarathna opinion)

Parvinder Singh Khurana vs Directorate of Enforcement 2024 INSC 546 – Cancellation Of Bail – Stay Order

Code Of Criminal Procedure, 1973- Section 439 - [Section 483 BNSS] - In an application made under Section 439(2) of the CrPC or Section 483(3) of the BNSS or other proceedings filed seeking cancellation of bail, the power to grant an interim stay of operation of order to bail can be exercised only in exceptional cases when a very strong *prima facie* case of the existence of the grounds for cancellation of bail is made out. While granting a stay of an order of grant of bail, the Court must record brief reasons for coming to a conclusion that the case was an exceptional one and a strong *prima facie* case is made out - As a normal rule, the *ex parte* stay of the bail order should not be granted. The said power can be exercised only in rare and very exceptional cases where the situation demands the passing of such drastic order. Where such a drastic *ex parte* order of stay is passed, it is the duty of the Court to immediately hear the accused on the prayer for continuation of the interim relief. When the Court exercises the power of granting *ex parte* ad interim stay of an order granting bail, the Court is duty bound to record reasons why it came to the conclusion that it was a very rare and exceptional case where a drastic order of *ex parte* interim stay was warranted. (Para 20)

Navayuga Engineering Co. Ltd. vs Union Of India-2024 INSC 547- Customs Act

Customs Act, 1962- Section 124,125,28,28AB- The owner of goods has a liability to pay customs duty, even after confiscated goods are redeemed after payment of fine under Section 125 of the Act. Furthermore, when confiscation proceedings are initiated under Section 124 of the Act, the obligation to pay duty and other charges under Section 125 will arise only when the owner of goods exercises the option to pay fine for redemption of goods and the Department accepts it. Liability to pay customs duty in such confiscation

proceedings under Section 125(2) is distinct from the assessment and determination of duty, which can rise only under Section 28. The duty liability arising under Section 125(2) must be assessed under Section 28 - Once Section 28 applies for determination of duty, interest on delayed payment of duty under Section 28AB follows. (Para 1)

**BRS Ventures Investments Ltd. vs SREI Infrastructure Finance Ltd. 2024
INSC 548 – IBC – Contract Act**

Insolvency and Bankruptcy Code,2016- A holding company and its subsidiary are always distinct legal entities. The holding company would own shares of the subsidiary company. That does not make the holding company the owner of the subsidiary's assets.- Therefore, the assets of the subsidiaries cannot be included in the resolution plan of the holding company. (Para 21,28)

Insolvency and Bankruptcy Code,2016- Section 7- The financial creditor can always file separate applications under Section 7 of the IBC against the corporate debtor and the corporate guarantor. The applications can be filed simultaneously as well. (Para 19,28)

Indian Contract Act, 1872- Section 126-137- The liability of the surety and the principal debtor is co-extensive. The creditor has remedies available to recover the amount payable by the principal borrower by proceeding against both or any of them. The creditor can proceed against the guarantor first without exhausting its remedies against the principal borrower- if any variance is made without surety's consent in the terms of the contract between the principal debtor and the creditor, it amounts to discharge of the surety as to the transactions subsequent to the variance. Under the provisions of Section 133, surety can be discharged only when there is a variance made in the terms of the contract between the principal debtor and the creditor. Section 134 contemplates a situation where the principal debtor is released by a contract between the creditor and the

principal debtor. In such a case, the surety is discharged. If by any act or omission on the part of the creditor, the legal consequence of which is the discharge of the principal debtor, the surety stands discharged. Section 135 is based on the same principle on which Section 133 is based. If there is a contract between the creditor and the principal debtor by which the creditor makes a composition or promise with the principal debtor, or gives time to the principal debtor or agrees not to sue the principal debtor, it amounts to discharge of the surety provided the surety has not assented to such a contract. If the creditor contracts with a third party to give time to the principal debtor, and when the principal debtor is not a party to such a contract, the surety is not discharged. Section 137 lays down a settled principle that it is not necessary for the creditor to first sue the principal debtor or adopt a remedy against him. If the creditor omits to do that, unless there is a contract to the contrary, it will not amount to discharge of the surety. This means that without proceeding to recover the debt against the principal debtor, the creditor can proceed against the surety unless there is a contract to the contrary. Even if the creditor discharges one surety, it will not amount to the discharge of the other surety- If the creditor recovers a part of the amount guaranteed by the surety from the surety and agrees not to proceed against the surety for the balance amount, that will not extinguish the remaining debt payable by the principal borrower. In such a case, the creditor can proceed against the principal borrower to recover the balance amount. Similarly, if there is a compromise or settlement between the creditor and the surety to which the principal borrower is not a consenting party, the liability of the borrower qua the creditor will remain unaffected. The provisions regarding the discharge of the surety discussed above show that involuntary acts of the principal borrower or creditor do not result in the discharge of surety. (Para 14-15)

Bihar State Electricity Board vs Dharamdeo Das 2024 INSC 549 – Service Law – Promotion

Service Law - Promotion is effective from the date it is granted and not from the date

when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself - Once employed, the employees are entitled for being considered for promotion to the next higher post subject to their satisfying the eligibility criteria, as per the applicable rules. Failure to consider an employee for promotion even after satisfying the eligibility criteria would violate her fundamental right. However, a clear distinction has been drawn between the stage of considering an employee for being promoted to taking the next step of recognizing the said right as a vested right for promotion. That is where the line has to be drawn. Stated differently, a right to be considered for promotion being a facet of the right to equal opportunity in employment and appointment, would have to be treated as a fundamental right guaranteed under Articles 14 and 16(1) of the Constitution of India but such a right cannot translate into a vested right of the employee for being necessarily promoted to the promotional post, unless the rules expressly provide for such a situation-promotion to a post should only be granted from the date of the promotion and not from the date on which a vacancy may have arisen- No employee can lay a claim for being promoted to the next higher post merely on completing the minimum qualifying service. (Para 18-27)

Union Of India vs Shishu Pal @ Shiv Pal 2024 INSC 550 – Service Law

Summary : Appeal against HC Judgment Setting aside the order of termination of services of the respondent - Allowing appeal, SC held: respondent had complete knowledge of the registration of the FIR and pendency of the criminal cases. Despite that, he had wilfully withheld material information from the appellants while filling up the Verification Roll. He had further misconducted himself when the appellants issued him a show-cause notice calling upon him to explain his position and falsely denied the allegations levelled against him in his reply to the notice to show cause that ultimately led to initiation of disciplinary proceedings against him.

**Shri Gurudatta Sugars Marketing Pvt. Ltd. vs Prithviraj Sayajirao Deshmukh
2024 INSC 551 – Ss 141, 143A NI Act**

Negotiable Instruments Act, 1881- Section 143A, 141- The drawer under Section 143A refers specifically to the issuer of the cheque, not the authorized signatories - Liability under Section 141 arises from the conduct or omission of the individual involved, not merely their position within the company - The distinction between legal entities and individuals acting as authorized signatories is crucial. Authorized signatories act on behalf of the company but do not assume the company's legal identity. This principle, fundamental to corporate law, ensures that while authorized signatories can bind the company through their actions, they do not merge their legal status with that of the company. (Para 28-35)

Rajinder Kaur (D) vs Gurbajan Kaur (D) 2024 INSC 552 – Partition

Summary: Appeal arose from a partition suit- Appeals allowed.

Vanshika Yadav vs Union Of India 2024 INSC 553 – NEET 2024

Summary: Writ petition seeking a direction for convening a re-test on the ground that (i) there was a leakage of the question paper- and (ii) there are systemic deficiencies in the modalities envisaged for the conduct of the examination- SC Held: Ordering the cancellation of the entire NEET (UG) 2024 examination is not justified-There are no abnormalities in the results for 2024 when compared with the results for the past two years - The leak of the paper does not appear to be widespread or systemic. It appears to be restricted to isolated incidents in some cities, which have been identified by the police or are in the process of being identified by the CBI- The manner in which NTA has organised the exam this year gives rise to serious concerns. The Court is cognizant of the fact that national-level exams with participation from tens of lakhs of students require immense resources, coordination, and planning. But that is precisely the reason for the existence of a body such as NTA. It is no excuse to say that the exam is conducted in myriad centres or that a large number of aspirants appear for the exam.

Mineral Area Development Authority vs Steel Authority of India 2024 INSC 554 – Constitution – MMDR Act – Royalty

Constitution Of India, 1950- Seventh Schedule -Mines and Minerals (Development and Regulation) Act, 1957 - Royalty is not a tax. Royalty is a contractual consideration paid by the mining lessee to the lessor for enjoyment of mineral rights. The liability to pay royalty arises out of the contractual conditions of the mining lease. The payments made to the Government cannot be deemed to be a tax merely because the statute provides for their recovery as arrears- b. Entry 50 of List II does not constitute an exception to the position of law laid down in M P V Sundararamier (supra). The legislative power to tax mineral rights vests with the State legislatures. Parliament does not have legislative competence to tax mineral rights under Entry 54 of List I, it being

a general entry. Since the power to tax mineral rights is enumerated in Entry 50 of List II, Parliament cannot use its residuary powers with respect to that subject-matter- c. Entry 50 of List II envisages that Parliament can impose “any limitations” on the legislative field created by that entry under a law relating to mineral development. The MMDR Act as it stands has not imposed any limitations as envisaged in Entry 50 of List II- d. The scope of the expression “any limitations” under Entry 50 of List II is wide enough to include the imposition of restrictions, conditions, principles, as well as a prohibition- e. The State legislatures have legislative competence under Article 246 read with Entry 49 of List II to tax lands which comprise of mines and quarries. Mineralbearing land falls within the description of “lands” under Entry 49 of List II- f. The yield of mineral bearing land, in terms of the quantity of mineral produced or the royalty, can be used as a measure to tax the land under Entry 49 of List II. . Entries 49 and 50 of List II deal with distinct subject matters and operate in different fields. Mineral value or mineral produce can be used as a measure to impose a tax on lands under Entry 49 of List II- h. The “limitations” imposed by Parliament in a law relating to mineral development with respect to Entry 50 of List II do not operate on Entry 49 of List II because there is no specific stipulation under the Constitution to that effect.

UP Roadways Retired Officials & Officers Association vs State Of UP 2024
INSC 555 – Pension

Constitution Of India, 1950- Article 226 - Pension - Pension is a right and not a bounty. It is a constitutional right for which an employee is entitled on his superannuation. However, pension can be claimed only when it is permissible under the relevant rules or a scheme. If an employee is covered under the Provident Fund Scheme and is not holding a pensionable post, he cannot claim pension, nor the writ court can issue mandamus directing the employer to provide pension to an employee who is not covered under the rules. (Para 35) [The employees of Roadways who were not holding any pensionable post

prior to their deputation or absorption in the Corporation, are not entitled to pension, as their service conditions in the erstwhile Roadways did not provide that they are entitled to pension. Thus, they have not been put to any inferior service conditions on their joining the services in the Corporation]

**Chairman, National Highways Authority of India vs Arvind Kumar Thakur
2024 INSC 556 – NHAI**

Summary: Appeal by the National Highways Authority of India against HC direction that NHAI, will not levy and collect any fee from the users at Runni Toll Plaza on Muzaffarpur-Sonbarsa section of National Highway-77 with effect from 07.07.2015. It was further directed that the appellant, NHAI, shall not levy any fee in exercise of its power under Rule 3(1) of the National Highways Fee (Determination of Rates and Collection) Rules, 20082 till completion of the project- SC Allowed appeal and set aside HC directions.

Vidya vs Parsvnath Developers Ltd. 2024 INSC 557 – Consumer

Summary: Appeal against NCDRC Order - Partly allowing appeal, SC held: Direction made by the learned Commission for refund of the entire amount deposited by the complainants-appellants is upheld. However, the direction with regard to interest is modified to the extent that it shall be paid at the rate of 12% per annum from the date of respective deposit till the date of refund

Gaurav Kumar vs Union Of India 2024 INSC 558 – Advocates Act- Enrollment Fees

Advocates Act, 1960- Section 24- The State Bar Councils (SBC) cannot charge “enrolment fees” beyond the express legal stipulation under Section 24(1)(f) as it currently stands- Section 24(1)(f) specifically lays down the fiscal pre-conditions subject to which an advocate can be enrolled on State rolls. The SBCs and the BCI cannot demand payment of fees other than the stipulated enrolment fee and stamp duty, if any, as a pre-condition to enrolment- The decision of the SBCs to charge fees and charges at the time of enrolment in excess of the legal stipulation under Section 24(1)(f) violates Article 14 and Article 19(1)(g) of the Constitution- This decision will have prospective effect. The SBCs are not required to refund the excess enrolment fees collected before the date of this judgment. (Para 109)

Yash Developers vs Harihar Krupa Cooperative Housing Society Limited 2024 INSC 559 – Performance Audit Of Statute

Constitution of India,1950- Article 32,226- Performance audit of statute:- Constitutional courts are fully justified in giving such directions as they are in a unique position of perceiving the working of a statute while exercising judicial review, during which they could identify the fault-lines in the implementation of a statute. This extraordinary capacity to assess the working of a statute is available to the judicial institution because of its unique position where, i) disputes, based on the statutory provisions unfold before it, ii) claims of rights or allegations of dereliction of duties are raised with varied, and sometimes, contradictory interpretations of the same text of the statute, iii) submissions of lawyers opens up a debate and as officers of the Court experienced lawyers would lay bare the fault-lines in the statutory scheme, iv) many a

times court silently witnesses the play of statutory power relegating the deserving to the backseat, and the undeserving taking away all the benefits. (Para 37)

Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 -Two facets of Section 13 (2) of the Act are that- a) the SRA has the power to redevelop the project if it is satisfied that the development is not proceeding within the time specified, and b) that power of SRA is coupled with a duty to ensure that the project is completed within time. We hold that the SRA is accountable for the performance of this duty. Accountability need not be superimposed by the text of a statute, it exists wherever power is granted to accomplish statutory purpose- The primary responsibility to implement Section 13 of the Act and allied provisions and to monitor compliances of schemes and agreements vests with the CEO. If the actions of CEO are based on the directions of the SRA, then the SRA must equally bear the responsibility. The CEO and/or the SRA must explain the delay in implementation, failing which, the consequences as determined by the court will follow. (Para 14)

Manharan Rajwade vs State Of Chhattisgarh 2024 INSC 560 – S 106 Evidence Act

Indian Evidence Act,1872- Section 106- When the prosecution has not discharged the burden on it to prove that the accused was last seen together with the deceased wife- Section 106 of the Evidence Act cannot be invoked to shift the burden on the accused. (Para 7)

Goa Foundation vs Goa State Environment Impact Assessment Authority 2024 INSC 561- National Green Tribunal Act

National Green Tribunal Act, 2010 - One of the main objects of the 2010 Act is to uphold and protect the right of the citizens to healthy environment which is a part of the right to life guaranteed under Article 21 of the Constitution of India. The objects and reasons of the 2010 Act indicate that the object of setting up the Tribunal was to protect the said fundamental right. In this case, it was the duty of the Tribunal to address the issues raised by the appellant on merits. The duty of the Tribunal was to decide the issues especially when the contention of the appellant was that the construction of the proposed bridge will cause harm to the environment. (Para 6)

State Of Punjab vs Davinder Singh 2024 INSC 562 – Sub-Categorization Of SC-STs – Reservation – Creamy Layer Principle

Constitution of India, 1950- Article 15,16- The judgment in EV Chinniah v. State of Andhra Pradesh [[2004] Supp. (5) S.C.R. 972] 2004 INSC 644], which held that sub-classification amongst the Scheduled Castes for the purpose of giving more beneficial treatment to a group in the larger group of the Scheduled Castes is not permissible, does not lay down a good law- (ii) that sub-classification amongst the Scheduled Castes for giving more beneficial treatment is permissible in law- (iii) that for doing so, the State will have to justify that the group for which more beneficial treatment is provided is inadequately

represented as compared to the other castes in the said List- (iv) that while doing so, the State will have to justify the same on the basis of empirical data that a sub-class in whose favour such more beneficial treatment is provided is not adequately represented- (v) that, however, while providing for sub-classification, the State would not be entitled to reserve 100% seats available for Scheduled Castes in favour of a sub-class to the exclusion of other castes in the List- (vi) that such a sub-classification would be permissible only if there is a reservation for a sub-class as well as the larger class- (vii) that the finding of M. Nagaraj, Jarnail Singh and Davinder Singh to the effect that creamy layer principle is also applicable to Scheduled Castes and Scheduled Tribes lays down the correct position of law- (viii) that the criteria for exclusion of the creamy layer from the Scheduled Castes and Scheduled Tribes for the purpose of affirmative action could be different from the criteria as applicable to the Other Backward Classes.

[Conclusion of Judgment by BR Gavai J is the majority judgment]

Union Of India vs Prohlad Guha 2024 INSC 563 -Compassionate Appointment – Article 311 Constitution

Compassionate Appointment - Fraud vitiates all proceedings. Compassionate appointment is granted to those persons whose families are left deeply troubled or destitute by the primary breadwinner either having been incapacitated or having passed away. So when persons seeking appointment on such ground attempt to falsely establish their eligibility, as has been done in this case, such positions cannot be allowed to be retained - SC expressed surprise towards the actions of the appellant-employer who appointed the respondent-employees on the basis of questionable documentation, which was later found to be forged, fabricated and bogus: How could someone be appointed to a government job without proper checking and verification of documents? The Railways are recorded to be one of the largest employers in the country and yet such incidents falling through the cracks, ought to be checked. (Para 11)

Constitution of India, 1950- Article 311 -A person who held a post which he had obtained by fraud, could not be said to be holding a post within the meaning of Article 311 of the Constitution of India. In this case, a person who was not a member of Scheduled Castes, obtained a false certificate of belonging to such category and, as a result thereof, was appointed to a position in the Indian Police Service reserved for applicants from such category. (Para 13-15)

[Delhi Transport Corporation vs Ashok Kumar Sharma 2024 INSC 564 – Disciplinary Enquiry](#)

Summary: Central Administrative Tribunal set aside an order dismissing an employee from service - HC upheld it - Dismissing appeal, SC observed: Disciplinary Authority must indicate an independent application of mind to the findings in the enquiry report followed by opportunity of hearing to the charged officer and only thereafter, the order imposing a major penalty can be passed against the charged officer-Disciplinary Authority must afford an opportunity of hearing to the charged officer before proceeding to impose the major penalty like dismissal from service- Even in a case of ex parte enquiry, it is essential that the department must lead evidence of witnesses to bring home the charges levelled against the delinquent employee.

[Pro Knits vs Board Of Directors Of Canara Bank 2024 INSC 565 – MSMED Act – Banking Regulation Act](#)

Micro, Small and Medium Enterprises Development Act, 2006- Section 9 -“Framework for

Revival and Rehabilitation of MSMEs"- The Instructions/Directions issued by the Central Government under Section 9 of the MSMED Act and by the RBI under Section 21 and Section 35A have statutory force and are binding to all the Banking companies- when it is mandatory or obligatory on the part of the Banks to follow the Instructions/Directions issued by the Central Government and the Reserve Bank of India with regard to the Framework for Revival and Rehabilitation of MSMEs, it would be equally incumbent on the part of the concerned MSMEs to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the concerned Banks, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework. (Para 17-18)

Banking Regulation Act, 1949- Section 21,35A- Directions issued by the Reserve Bank of India to the Banking companies are binding on them and they are bound to comply with such directions- Section 21 and Section 35A of the said Act empower the Reserve Bank of India to frame the policy and give directions to the banking companies in relation to the advances to be followed by the banking companies. Such directions have got to be read as supplement to the provisions of the Banking Regulation Act and accordingly are required to be construed as having statutory force and mandatory. (Para 9-13)

National Housing Bank vs Bherudan Dugar Housing Finance Ltd. 2024 INSC 566 – National Housing Bank Act

National Housing Bank Act, 1987- Section 50 - Sub-Section (1) of Section 50 is pari materia with Section 141 of the Negotiable Instruments Act- Unless assertions, as required by sub-Section (1) of Section 50, are made, vicarious liability of the Directors of the first accused company is not attracted- in the absence of the averments as contemplated by sub-section (1) of Section 50 of the 1984 Act in the complaint, the Trial Court could not have taken cognizance of the offence against the third to seventh accused, who are allegedly the directors of the first accused company.

Sudeep Chatterjee vs State of Bihar 2024 INSC 567- S 438 CrPC -Anticipatory Bail Conditions

Code Of Criminal Procedure, 1973- Section 438 [Section 482 BNSS] - After forming an opinion, taking note of all relevant aspects, that bail is grantable, conditions shall not be put to make it impossible and impracticable for the grantee to comply with - The ultimate purpose of putting conditions while granting pre-arrest bail is to secure the presence of the accused and thus, eventually to ensure a fair trial and also for the smooth flow of the investigating process - Courts have to be very cautious in imposing conditions while granting bail upon finding pre-arrest bail to be grantable. [Putting conditions requiring a person to give an affidavit carrying a specific statement in the form of an undertaking that he would fulfil all physical as well as financial requirements of the other spouse so that she could lead a dignified life without interference of any of the family members of the appellant, can only be described as an absolutely improbable and impracticable condition]- We stress upon the need to put compliable conditions while granting bail, recognizing the human right to live with dignity and with a view to secure the presence of the accused as also unhindered course of investigation, ultimately to ensure a fair trial. In respect of matters relating to matrimonial cases, conditions shall be put in such a way to make the grantee of the bail as also the grieved to regain the lost love and affection and to come back to peaceful domesticity. (Para 7-9)

Legal Maxim - ‘Lex non cogit ad impossibilia’ -The law does not compel a man to do what he cannot possibly perform. (Para 1)

Vanshika Yadav vs Union Of India 2024 INSC 553 & 2024 INSC 568 – NEET 2024

Summary: Writ petition seeking a direction for convening a re-test on the ground that (i)

there was a leakage of the question paper- and (ii) there are systemic deficiencies in the modalities envisaged for the conduct of the examination- SC Held: Ordering the cancellation of the entire NEET (UG) 2024 examination is not justified-There are no abnormalities in the results for 2024 when compared with the results for the past two years - The leak of the paper does not appear to be widespread or systemic. It appears to be restricted to isolated incidents in some cities, which have been identified by the police or are in the process of being identified by the CBI- The manner in which NTA has organised the exam this year gives rise to serious concerns. The Court is cognizant of the fact that national-level exams with participation from tens of lakhs of students require immense resources, coordination, and planning. But that is precisely the reason for the existence of a body such as NTA. It is no excuse to say that the exam is conducted in myriad centres or that a large number of aspirants appear for the exam.

Examinations - The cancellation of an examination, either for the purposes of gaining admission into professional and other courses or for the purpose of recruitment to a government post, is justified only in cases where the sanctity of the exam is found to be compromised at a systemic level. Courts may direct the cancellation of an examination or approve such cancellation by the competent authority only if it is not possible to separate the tainted candidates from the untainted ones- The purpose of testing whether the integrity of the exam has been compromised at a systemic level is to ensure that the cancellation of the exam which has already taken place and the conduct of a fresh examination is a proportionate response.¹⁴ This is also why courts are required to assess the extent of the use of unfair means and separately, consider whether it is possible to separate tainted and untainted candidates. A holistic view must be taken - In arriving at a conclusion as to whether an examination suffers from widespread issues, courts must ensure that allegations of malpractice are substantiated and that the material on record, including investigative reports, point to that conclusion. There must be at least some evidence to allow the Court to reach that conclusion. This standard need not be unduly strict. To elaborate, it is not necessary for the material on record to point to one and only conclusion which is that malpractice has taken place at a systemic level. However, there must be a real possibility of systemic malaise as borne out by the material before the Court.

(Para 64-67)

Read Order 2024 INSC 568ad Judgment

Rakshit Shivam Prakash vs Union Of India 2024 INSC 569 – UPSC

Summary: Supreme Court directed the respondents to re-schedule the re-medical test that was to be conducted on 14.07.2015, which the petitioner (UPSC candidate) unfortunately missed.

Order

City Montessori School vs State of U.P. 2024 INSC 570 – Grant Of State Largesse

Grant Of State Largesse- Even assuming that the alleged lessee has leasehold rights concerning the plot, the rights of the State as the owner and lessor can be transferred only by adopting a fair and transparent process by which the State fetches the best possible price. In case of the sale of a leasehold plot by the lessor, the rights of the lawful lessees do not get affected, as their tenancy will be attorned to the purchaser in view of Section 109 of the Transfer of Property Act,1882. Therefore, the rights of the State as the lessor can only be sold by a public auction or by any other transparent method by which apart from the lessee, others too get a right to submit their offer. Selling the plot to its alleged lessee at a nominal price will not be a fair and transparent method at all. It will be arbitrary and violative of Article 14 of the Constitution of India. (Para 8-9)

State Of Gujarat vs Ambuja Cement Ltd. 2024 INSC 571 & 572 – GVAT Act

Gujarat Value Added Tax Act, 2003- Section 11(3) - The purchase price would not include purchases on which no value added tax was claimed nor granted and the component of

value added tax stood already paid on purchases. Accordingly, the taxable turnover of purchases would have to be calculated after deducting both the components as has been detailed aforesaid. Therefore, the calculation of taxable turnover of the purchases and reduction value of purchases on which no tax credit was claimed nor granted, and component of value added tax already paid on purchases, was rightly excluded from the total turnover of the Respondent dealer while computing his tax liability under Section 11(3)(b) of the GVAT Act. (Para 17-18)

Interpretation of Statutes - The first and foremost duty of the Court is to read the statute as it is and if the words therein are clear and unambiguous then only one meaning can be inferred. The Courts are bound to give effect to the said meaning irrespective of the consequences so far as the taxation statutes are concerned. Article 265 of the Constitution of India, 1950 prohibits the State from extracting tax from the citizens without the authority of law. The tax statute have to be interpreted strictly which means that the legislature mandates taxing certain persons in certain circumstances which cannot be expanded or interpreted to include those who were not intended or comprehended. The assessee is not to be taxed without clear words and, for that purpose, the same must be according to the natural construction of the words which have been used in that statute. These words have to be read as it is and thus cannot be added or substituted which may give a meaning other than what is expressed in the provision. (Para 12)

Meenakshi vs Oriental Insurance Co.Ltd 2024 INSC 573 – Motor Accident Compensation

Motor Accident Compensation Claims -The perquisites/allowances have to be added to the basic salary of the deceased before applying the rise by future prospects -Components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor.

Nek Pal vs Nagar Palika Parishad 2024 INSC 574 – S 100 CPC – Second Appeal

Code Of Civil Procedure,1908- Section 100- Unless substantial questions of law are formulated at the time of admission of the appeal or any time subsequent thereto, a second appeal cannot be finally heard. The reason is that a second appeal can be finally heard only on a substantial question of law formulated earlier. In fact, the act of finally hearing a second appeal without framing any substantial question of law is itself illegal. (Para 3)

Ajay Kumar Bhalla vs Prakash Kumar Dixit 2024 INSC 575 – Contempt – LPA

Contempt Of Courts Act, 1971- Section 19- An appeal under Section 19 lies only against an order imposing punishment for contempt -If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

Devendra Singh vs State Of Uttar Pradesh 2024 INSC 576 – S 304 IPC

Summary: Conviction modified from Section 302 IPC to Section 304 Part 1 IPC - Taking into consideration the nature of injuries sustained by both the accused persons as well as the deceased, the possibility of the incident taking place in a sudden fight in the heat of passion, upon a sudden quarrel cannot be ruled out.

e Judgment

Mool Chandra vs Union Of India 2024 INSC 577 – Limitation – Delay Condonation

Limitation Act, 1961- Section 5- No litigant stands to benefit in approaching the courts belatedly. It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of “sufficient cause”, irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned -While deciding an application for condonation of delay the High Court ought not to have gone into the merits of the case. (Para 20-21)

Government Of NCT Of Delhi vs Office Of Lieutenant Governor Of Delhi 2024 INSC 578 – DMC Act

Delhi Municipal Corporation Act, 1957- Section 3(3)(b)(i)- The Lieutenant Governor of National Capital Territory of Delhi shall nominate 10 persons with special knowledge in municipal administration to the DMC -Whether the Lt. Governor can exercise that power of nomination as a statutory duty attached to his office or he is bound by the aid and advice of the Council of Ministers of NCTD as provided in Article 239AA(4) of the Constitution- Section 3(3)(b)(i) of the Delhi Municipal Corporation Act is a Parliamentary enactment vesting the power of nomination of persons with special knowledge in municipal administration with the Lt. Governor. The power is to be exercised as a statutory duty of the Lt. Governor and not as the executive power of the Government of NCTD. (Para 39)

Constitution Of India, 1950- 239AA(4) - Relations between the Union and the NCTD -A.

Legislative Relationship

- (i) Legislative Assembly of NCTD shall have power to make laws (legislative power) for NCTD with respect to ‘any of the matters’ enumerated in State List or Concurrent List. (except entries 1, 2 and 18 of State List). (Article 239AA(3)(a)).
- (ii) Notwithstanding the above, Parliament shall have power to make laws (legislative power) for NCTD with respect to ‘any matter’ in the three lists. This is where there is a departure from the legislative powers of Parliament with respect to States. While Parliament does not have legislative competence over entries in List II for States, it has the power to make laws even with respect to matters enumerated in List II for NCTD [(Article 239AA(3)(b))].
- (iii) Law made by the Parliament shall prevail, whether made before or after any law made by the Legislative Assembly of NCTD, and the law made by the Legislative Assembly, to the extent of repugnancy, shall be void. Only exception is when the law made by Legislative Assembly of NCTD receives Presidential assent. (proviso to Article 239AA(3)(c))
- (iv) Once Parliament exercises its legislative power and makes a law on a subject in List II or List III, the Legislative Assembly of NCTD is denuded of its legislative competence to make laws with respect to that subject. Once there is no legislative power for Legislative Assembly of NCTD, there would be no executive power as executive power is always coextensive and coterminous with legislative power - **Executive Relationship**
- (v) Government of NCTD has the executive power in relation to all matters with respect to which Legislative Assembly of NCTD has power to make laws. The executive power extends to all matters enumerated in the Concurrent List as well as State List (Except Entries 1, 2 and 18 of State List).
- (vi) Union of India shall have exclusive executive power with respect to matters in Entries 1, 2 and 18 of the State List, which are specifically excluded from the legislative power of NCTD.
- (vii) The executive power of Government of NCTD shall be exercised through the Lt. Governor who shall act on the aid and advice of the Council of Ministers [Art 239AA(4)] read with Section 44 of the GNCTD Act. Another constitutionally recognized departure for NCTD is that while Governor of a State under Article 163 acts on the aid and advice of Council of Ministers on all matters except when he is by or under the Constitution required to exercise his functions in his discretion, the Lt. Governor, under Article 239AA(4) is to exercise discretion, ‘in so far as he is, by or under any law, required to act in his discretion’. ‘Law’ requiring him to act in his discretion could be a law of the Legislative Assembly of

NCTD or a Parliamentary law. -C. Statutory Regulation (viii) Once Parliament makes Law on a subject over which NCTD also has legislative competence and consequently executive power, the powers, duties and obligations of the authorities will then be governed by the mandate of the Law made. This position is already mentioned in statements (iii) and (iv). If the Law vests a power, duty or an obligation on the Lt. Governor, the Lt. Governor will act under the mandate of the Act and not as per the 'executive power' of Government of NCTD. Therefore, statutory provision alone will determine whether the power is intended to be exercised by the Lt. Governor on his own accord or on the aid and advise of the Council of Ministers.(ix) The statutory power under Section 3(3)(b)(i) to nominate persons of special knowledge was vested in the Lt. Governor for the first time by the 1993 amendment to the Delhi Municipal Corporation Act, 1957 to incorporate the Constitutional changes through Articles 239AA, 239AB and introduction of Part IX-A relating to municipalities. The power to nominate is therefore not a vestige of the past or a power of the Administrator that is continued by default. It is made to incorporate change in the Constitutional structure of NCTD. (x) The 'text' of Section 3(3)(b)(i) of the DMC Act, 1957 as amended by Act 67/1993 expressly enables the 'Lt. Governor' to nominate persons having special knowledge to the Corporation. The power expressed by the statute in the name of Lt. Governor, also seen in the 'context' of other provisions of the statute, demonstrates the statutory scheme in which powers and duties are distributed among authorities under the Act. The context in which the power is located confirms that the Lt. Governor is intended to act as per the mandate of the statute and not to be guided by the aid and advice of the Council of Ministers. (Para 22, 38)

Constitution Of India, 1950- Article 163, 239AA(4)- There is a clear distinction between the discretionary power of the Governor under Article 163 and that of the Lt. Governor under Article 239AA(4). While Article 163 requires Governor of a State to act on the aid and advice of the Council of Ministers, 'except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion', the exception in so far as the Lt. Governor, under Article 239AA(4) is concerned, he will act in his discretion, 'in so far as he is required by or under any law'. Article 239AA of the Constitution takes into account the unique position of NCTD and therefore adopts the mandate of 'law' as a distinct feature for exercise of discretion. (Para 21)

Kishorchandra Chhangal Rathod vs Union Of India 2024 INSC 579 – Delimitation – Judicial Review

Constitution Of India, 1950- Article 226,329- While the Courts shall always be guided by the settled principles regarding scope, ambit and limitations on the exercise of judicial review in delimitation matters, there is nothing that precludes them to check the validity of orders passed by Delimitation Commission on the touchstone of the Constitution -If the order is found to be manifestly arbitrary and irreconcilable to the constitutional values, the Court can grant the appropriate remedy to rectify the situation- Although Article 329 undeniably restricts the scope of judicial scrutiny re: validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, it cannot be construed to have imposed for every action of delimitation exercise. If judicial intervention is deemed completely barred, citizens would not have any forum to plead their grievances, leaving them solely at the mercy of the Delimitation Commission. As a constitutional court and guardian of public interest, permitting such a scenario would be contrary to the Court's duties and the principle of separation of powers. (Para 5-7)

Shifana PS vs State Of Kerala 2024 INSC 580 – Service Law – Equivalence

Service Law- The equivalence of a qualification is not a matter that can be determined in the exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine- equivalence is a technical academic matter, it cannot be implied or assumed. Any decision of the academic body of the University relating to equivalence should be by specific order or resolution, duly published.

Rajasthan Agricultural University Bikaner vs Dr. Zabar Singh Solanki 2024 INSC 581 - Service - Redesignation & Regular Appointment

Service Law - Distinction between re-designation and regular appointment - Redesignation cannot be said to be a regular appointment as it is only that one post/category/cadre which is given equivalence with another existing post/category/cadre - Whenever a Scheme/Policy is brought into force, ceteris paribus, the Court could not and would not import something which is not present therein and which may not be proper to be interfered with, especially when it relates to financial matters where primacy is required to be granted to the pay-master as to what scale was to be granted to the category of staff concerned. By its very nature, such exercise would fall under the realm of policy-formulation .

Peoples Right And Social Research Centre (PRASAR) vs Union Of India 2024 INSC 582- Silicosis Prone Industries

Summary: NGT directed to oversee the impact of silicosisprone industries and factories across India and ensure that the CPCB and the respective SPCBs comply with the earlier directions of this Court. Furthermore, we direct the NGT to undertake any additional necessary steps to prevent the spread of silicosis by such industries and factories- NHRC directed to oversee the compensation process across the respective states- ESIC and the Chief Secretaries of the respective states directed to adhere to the directions of the NHRC and collaborate with them to ensure that the compensation distribution process is carried out efficiently and without delay.

Dharambeer Kumar Singh vs State Of Jharkhand 2024 INSC 583 – S 482 CrPC – Forgery Case

Code Of Criminal Procedure, 1973- Section 482- While exercising inherent jurisdiction under Section 482 of Criminal Procedure Code, 1973, the High Court is not supposed to hold a mini trial-The complicity of the accused in case of forgery will have to be addressed after a proper appreciation of evidence and such appreciation of evidence can be done only by undertaking the initial process i.e. by conducting the trial on the aspect of forgery.

Rojalini Nayak vs Ajit Sahoo 2024 INSC 584 – Motor Accident Compensation Claims

Motor Accident Compensation Claims - If the deceased was holding a permanent job, 30% addition to the actual salary is to be made when the age of the deceased is between 40 to 50 years. (Para 6)

Prem Lal Anand vs Narendra Kumar 2024 INSC 585 – Motor Accident Compensation

Motor Accident Compensation Claim- While allowing appeal and enhancing compensation, SC noted: In the attending facts and circumstances, merely because a person was attempting to overtake a vehicle, cannot be said to be an act of rashness or negligence with nothing to the contrary suggested from the record. Further, it is the claimant-appellant(s) who lost a member of their family. Not only was the claimant-appellant doing an act which is an everyday occurrence on the road that is overtaking a vehicle, but resultantly suffered extensive injuries himself. That apart, it has also been proved that the offending vehicle was driven rashly and negligently. These two factors taken together lead us to the conclusion that the finding of contributory negligence.

Sri Dattatraya vs Sharanappa 2024 INSC 586 – Cheque Bounce – S 138,139 NI Act – Concurrent Acquittal

Negotiable Instruments Act, 1881- Section 138,139- The liability of the defence in cases under Section 138 of the NI Act 1881 is not that of proving its case beyond reasonable doubt- A n accused may establish non-existence of a debt or liability either through conclusive evidence that the concerned cheque was not issued towards the presumed debt or liability, or through adduction of circumstantial evidence vide standard of preponderance of probabilities. 22. Since a presumption only enables the holder to show a *prima facie* case, it can only survive before a court of law subject to contrary not having been proved to the effect that a cheque or negotiable instrument was not issued for a consideration or for discharge of any existing or future debt or liability. (Para 20-22)

Constitution of India, 1950- Article 136- Principles underlining the exercise of power to adjudicate a challenge against acquittal bolstered by concurrent findings: i) Criminal jurisprudence emphasizes on the fundamental essence of liberty and presumption of innocence unless proven guilty. This presumption gets emboldened by virtue of concurrent findings of acquittal. Therefore, this court must be extra cautious while dealing with a challenge against acquittal as the said presumption gets reinforced by virtue of a well-reasoned favourable outcome. Consequently, the onus on the prosecution side becomes more burdensome pursuant to the said double presumption. ii) In case of concurrent findings of acquittal, this Court would ordinarily not interfere with such view considering the principle of liberty enshrined in Article 21 of the Constitution of India 1950, unless perversity is blatantly forthcoming and there are compelling reasons. iii) Where two views are possible, then this Court would not ordinarily interfere and reverse the concurrent findings of acquittal. However, where the situation is such that the only conclusion which could be arrived at from a comprehensive appraisal of evidence, shows that there has been a grave miscarriage of justice, then, notwithstanding such concurrent view, this Court would not restrict itself to adopt an oppugnant view iv) To adjudge whether the concurrent

findings of acquittal are ‘perverse’ it is to be seen whether there has been failure of justice v) In situations of concurrent findings favoring accused, interference is required where the trial court adopted an incorrect approach in framing of an issue of fact and the appellate court whilst affirming the view of the trial court, lacked in appreciating the evidence produced by the accused in rebutting a legal presumption. vi) Furthermore, such interference is necessitated to safeguard interests of justice when the acquittal is based on some irrelevant grounds or fallacies in reappreciation of any fundamental evidentiary material or a manifest error of law or in cases of nonadherence to the principles of natural justice or the decision is manifestly unjust or where an acquittal which is fundamentally based on an exaggerated adherence to the principle of granting benefit of doubt to the accused, is liable to be set aside. Say in cases where the court severed the connection between accused and criminality committed by him upon a cursory examination of evidences.

D Khosla And Company vs Union Of India 2024 INSC 587 – Interest On Interest

Practice and Procedure- Ordinarily courts are not supposed to grant interest on interest except where it has been specifically provided under the statute or where there is specific stipulation to that effect under the terms and conditions of the contract. There is no dispute as to the power of the courts to award interest on interest or compound interest in a given case subject to the power conferred under the statutes or under the terms and conditions of the contract but where no such power is conferred ordinarily, the courts do not award interest on interest. (Para 23)

Tusharbhai Rajnikantbhai Shah vs Kamal Dayani 2024 INSC 588 – Anticipatory Bail

Code Of Criminal Procedure, 1973- Section 438 [Section 482 BNS]- The practice prevalent in the State of Gujarat that the Courts while dealing with the anticipatory bail application routinely impose the restrictive condition whereby, the Investigating Officers are granted blanket permission to seek police custody remand of the accused, in whose favour the order of anticipatory bail is passed, is in direct contravention to the ratio of the Constitution Bench judgment of this Court in the case of Sushila Agarwal.

Code Of Criminal Procedure, 1973 - Section 167- Remand - Before exercising the power to grant police custody remand, the Courts must apply judicial mind to the facts of the case so as to arrive at a satisfaction as to whether the police custody remand of the accused is genuinely required. The Courts are not expected to act as 60 messengers of the investigating agencies and the remand applications should not be allowed in a routine manner. (Para 48)

Blue Dreamz Advertising Pvt. Ltd. vs Kolkata Municipal Corporation 2024 INSC 589 – Blacklisting

Blacklisting - Blacklisting has always been viewed as a drastic remedy and the orders passed have been subjected to rigorous scrutiny -Too readily invoking the debarment for ordinary cases of breach of contract where there is a bona fide dispute, is not permissible -Any decision to blacklist should be strictly within the parameters of law and has to comport with the principle of proportionality- where the case is of an ordinary breach of contract and the explanation offered by the person concerned raises a bona fide dispute, blacklisting/debarment as a penalty ought not to be resorted to. Debarring a person albeit for a certain number of years tantamounts to civil death inasmuch as the said person is commercially ostracized resulting in serious consequences for the person and those who are employed by him. (Para 22- 38)

Allarakha Habib Memon vs State Of Gujarat 2024 INSC 590 – FIR – S 26 Evidence Act

Code Of Criminal Procedure, 1973- Section 154,161,162- When the police officer does not deliberately record the FIR on receipt of information about cognizable offence and the FIR is prepared after reaching the spot after due deliberations, consultations and discussion, such a complaint cannot be treated as FIR and it would be a statement made during the investigation of a case and is hit by Section 162 CrPC- Referred to State of A.P. v. Punati Ramulu 1994 Supp (1) SCC 590. (Para 29)

Criminal Trial -Sole circumstance of recovery of bloodstained weapon cannot form the basis of conviction unless the same was connected with the murder of the deceased by the accused - Referred to Mustkeem alias Sirajudeen v. State of Rajasthan (2011) 11 SCC 724. (Para 43)

Indian Evidence Act,1872- Section 21,26,27- confessions of the accused recorded by the Medical Officer while preparing the injury reports of the accused -These so-called confessions are ex-facie inadmissible in evidence for the simple reason that the accused persons were presented at the hospital by the police officers after having been arrested in the present case. As such, the notings made by the Medical Officer,) in the injury reports would be clearly hit by Section 26 of the Indian Evidence Act, 1872- As a consequence, we are not inclined to accept the said admissions of the accused as incriminating pieces of evidence relevant under Section 21 of the Evidence Act - The circumstance regarding identification of place of incident at the instance of the accused is also inadmissible because the crime scene was already known to the police and no new fact was discovered in pursuance of the disclosure statements. (Para 40-41)

Jagdish Prasad Singh vs State Of Bihar 2024 INSC 591 – Recovery Of Excess Amount

Service Law - Any decision taken by the State Government to reduce an employee's pay scale and recover the excess amount cannot be applied retrospectively and that too after a long time gap. (Para 21)

State Of Rajasthan vs Bhupendra Singh 2024 INSC 592 – Disciplinary Proceedings

Disciplinary proceedings - If the Disciplinary Authority accepts findings recorded by the Enquiry Officer and proceeds to impose punishment basis the same, no elaborate reasons are required- Referred to Boloram Bordoloi v Lakhimi Gaolia Bank, (2021) 3 SCC 806 (Para 31) -Wherever and whenever the Disciplinary Authorities concerned impose a major punishment, it will be appropriate for their orders to better engage with the representations/submissions of the delinquent employees concerned. (Para 35)

DLF Ltd. vs KONCAR Generators And Motors Ltd. 2024 INSC 593 – Foreign Arbitral Award – Conversion Foreign Currency

Arbitration and Conciliation Act, 1996- What is the correct and appropriate date to determine the foreign exchange rate for converting the award amount expressed in foreign currency to Indian rupees? foreign arbitral award is enforceable when the objections against it are finally decided- The relevant date for determining the conversion rate of foreign award expressed in foreign currency is the date when the award becomes enforceable- What would be the date of such conversion, when the award debtor deposits some amount before the court during the pendency of proceedings challenging the award - When the award debtor deposits an amount before the court during the pendency of objections and the award holder is permitted to withdraw the same, even if against the requirement of security, this deposited amount must be converted as on the date of the

deposit- After the conversion of the deposited amount, the same must be adjusted against the remaining amount of principal and interest pending under the arbitral award. This remaining amount must be converted on the date when the arbitral award becomes enforceable, i.e., when the objections against it are finally decided.

In Re Order Of Punjab And Haryana High Court Dated 17.07.2024 And Ancillary Issues 2024 INSC 594

Summary: Suo Moto proceedings initiated against observation made by P&H HC judge Justice Rajbir Sehrawat - SC Observed ►Compliance with the orders passed by the Supreme Court is not a matter of choice, but a matter of bounden constitutional obligation, bearing in mind the structure of the Indian legal system and the authority of the Supreme Court which heads the process of judicial adjudication of the country- ► In passing its orders, this Court discharges its plain duty. Parties may be aggrieved by an order. Judges are never aggrieved by an order which is passed by a higher constitutional or appellate forum-►Whether individual judges are in agreement with the merits or otherwise of an order passed by a superior court is besides the point. Every Judge is bound by the discipline which the hierarchical nature of the judicial system imposes within the system.►Observations (made by the judge) tend to bring the entire judicial machinery into disrepute. This affects not only the dignity of this Court, but of the High Courts as well.

Practice and Procedure - In an age where there is widespread reporting of every proceeding which takes place in the Court, particularly in the context of live streaming which is intended to provide access to justice to citizens, it is all the more necessary that Judges should exercise due restraint and responsibility in the observations which are made

in the course of proceedings. (Para 9)

Manish Sisodia vs Directorate Of Enforcement 2024 INSC 595 – Bail – PMLA

PMLA,2002- Section 45 - Code Of Criminal Procedure, 1973- Section 439- Right to bail in cases of delay coupled with incarceration for a long period should be read into Section 439 Cr.P.C. and Section 45 of the PMLA. (Para 44).

Bail -The prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial. (Para 54)- - From our experience, we can say that it appears that Trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. - On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that “bail is rule and jail is exception”. (Para 53) -The objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial. (Para 55)

Summary: Bail granted to Manish Sisodia -Observations: In a matter pertaining to the life and liberty of a citizen which is one of the most sacrosanct rights guaranteed by the Constitution, a citizen cannot be made to run from pillar to post- In the present case, in the ED matter as well as the CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitized documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution.

Rajkot Municipal Corporation vs State Of Gujarat 2024 INSC 596 – Property Tax

Summary: Rajkot Municipal Corporation was directed by Gujarat HC to refund a portion of the property tax, which was paid by the Respondent No. 02 herein, namely, Avenue Supermarts Limited - Supreme Court dismissed appeal filed by the Corporation.

Yugal Sikri vs State Of UP 2024 INSC 597 – Ss 29, 34 Industiral Disputes Act- Grant Of Authority

Industrial Disputes Act, 1947- Section 34- The grant of authority under Section 34(1) is a condition precedent for filing a complaint under Section 34(2) of the ID Act. The authority granted under Section 34(1) must be in respect of a specific offence for which a complaint is intended to be filed- While exercising power under Section 34(1) of the ID Act of granting authority, there is a complete non-application of mind. If such authority is issued without any application of mind, the very object of providing a safeguard in the form of Section 34(1) will be frustrated. The object of the provision is to prevent frivolous complaints from being filed. Grant of authority is not an empty formality. (Para 10)

Industrial Disputes Act, 1947- Section 29 - Section 29 is applicable when any person commits a breach of any term of any settlement or award binding on him under the ID Act. Therefore, in the complaint alleging the commission of an offence punishable under Section 29 of the ID Act, there must be a specific averment regarding the existence of a settlement or award binding on the accused under the ID Act and how the same has been breached. (Para 6)

Code Of Criminal Procedure, 1973- Section 200- The object of recording a statement of the

complainant under Section 200 of the Cr.PC is to bring the truth on record. (Para 7)

Rahul vs National Insurance Company Ltd. 2024 INSC 598 – MACT Case

Summary: Issue raised in this appeal: Whether the High Court is right in reducing the percentage of disability suffered by the appellant from 25% as fixed by the Tribunal, to 20% while determining the compensation payable to him.? Allowing appeal, SC observed: Without assigning plausible reason, the High Court re-assessed the compensation by reducing the disability suffered by the appellant to 20%. We are of the view that the reduction of compensation was not required, particularly, when there is no basis in support thereof.

Usha Devi vs Ram Kumar Singh 2024 INSC 599 – Specific Performance – Limitation

Limitation Act, 1963- Article 54 - Specific Performance - As per agreement to sell, the sale deed was to be executed and registered within one month i.e. up to 16.01.1990- Agreement to sell also incorporated a clause stating that the said agreement would be valid for five years. Since the sale deed was not executed, a suit for specific performance of the contract was filed in September, 1993- Trial Court dismissed the suit as barred by limitation - High Court allowed appeal and decreed the suit - Allowing appeal, SC observed: The limitation under Article 54 of the Limitation Act, 1963 for instituting a suit for specific performance of a contract would be three years from the date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused- The performance was to take place within one month. The validity of the agreement is something different and does not change the date of performance. What was the reason for incorporating this clause of validating the agreement for five years is not spelled out in the agreement, but in any case, it does not change the date fixed for the performance-As such, the suit was liable to be dismissed on the ground of limitation alone. (Para 10-11)

Mahendra Kumar Sonker vs State Of Madhya Pradesh 2024 INSC 600 – S 353 IPC

Indian Penal Code, 1860- Section 353- Concurrent conviction under Section 353 IPC - Allowing appeal, SC observed: There is no evidence to indicate that the accused assaulted or used criminal force on the trap party in execution of their duties or for the purpose of preventing or deterring them in discharging their duties. In short, none of the ingredients of Section 353 are attracted. The jostling and pushing by the accused with an attempt to wriggle out, as is clear from the evidence, was not with any intention to assault or use criminal force.

James Kunjwal vs State Of Uttarakhand 2024 INSC 601 – Ss 191,193 IPC – False Statements

Indian Penal Code, 1860- Section 191, 193- (i) The Court should be of the *prima facie* opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s)- (ii) Such proceedings should be initiated when doing the same is “expedient in the interests of justice to punish the delinquent” and not merely because of inaccuracy in statements that may be innocent/ immaterial- (iii) There should be “deliberate falsehood on a matter of substance”- (iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion- (v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court. (Para 16)

Sri Sujies Benefit Funds Limited vs M Jaganathuan 2024 INSC 602 – S 138 NI Act

Negotiable Instruments Act,1881- Section 138- SC Restored Trial Court judgment convicting the accused and observed: if the parties amongst themselves, agreed to a rate which is not in conformity with the Tamil Nadu Act, it was for the respondent to raise an objection or move the appropriate forum for getting the same corrected/taken care of, so that the interest rate did not exceed 1% per month but having agreed to a rate of 1.8% per month, the subsequent amount of interest calculated @ 3% per month does not have much force for it was upon the respondent to challenge the rate of interest. The respondent also cannot be said to be a layman, and being a subscriber to a chitfund company, he is expected to be aware of the laws and also of what is beneficial for him. Having issued the pronotes, he cannot now take a plea in these collateral proceedings under the N.I. Act to contend that the rate of interest was more than what was permissible under the Tamil Nadu Act.

Doli Rani Saha vs Union Of India 2024 INSC 603 – Railway Claims

Railway Claims Tribunal - The initial burden would be on the claimant, which could be discharged by filing an affidavit of the relevant facts. Once the claimant did so, the burden would then shift to the Railways- The mere absence of a ticket would not negate the claim that the deceased was a bona fide passenger. (Para 13)

Post-mortem reports - Conclusions in post-mortem reports as to the time of death are approximations. This is also indicated by the fact that they usually provide a window of time in which the deceased may have died. A margin of error of about half a day in cases where compensation is at issue is not disproportionate, where the evidence is otherwise corroborated by the material on record. (Para 17)

Summary: Appellant claimed that her suffered a fatal fall from a moving train and died and sought compensation of Rs 4,00,000 - Railway Claims Tribuna dismissed the claim,

concluding that the deceased was not travelling on the train- High Court dismissed appeal- Allowing appeal, SC observed: The appellant had duly filed an affidavit stating the facts and adverting to the report arising from the investigation conducted by the respondent, which showed that the deceased was travelling on the train and that his death was caused by a fall during the course of his travel. The burden of proof then shifted to the Railways, which has not discharged its burden. Therefore, the presumption that the deceased was a bona fide passenger on the train in question was not rebutted- From the material on record, it can be concluded that the deceased was a bona fide passenger on the train in question and that he sustained grave injuries leading to his death, due to his fall from the train- the appellant is entitled to compensation quantified at Rs 8,00,000.

Jalaluddin Khan vs Union Of India 2024 INSC 604 – UAPA – Bail

Unlawful Activities (Prevention) Act, 1967- Section 43D(5)- Bail - When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. “Bail is the rule and jail is an exception” is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Article 21 of our Constitution. (Para 21)

In Re Patanjali Ayurved Limited 2024 INSC 605 – Contempt

Summary : Patanjali Misleading Advertisement - Contempt Proceedings against Baba Ramdev and Acharya Balkrishna- SC Closed contempt proceedings and observed: Given the attendant facts and circumstances of the case and the effort made by the proposed contemnors to absolve themselves of acts that amounted to breach of undertakings given to this Court, we are inclined to accept the apology tendered by them and close the matter. At the same time, they are cautioned to strictly abide by the terms of their undertakings. Any future intransigence on their part, whether by act, deed or speech that could tantamount to violating the orders of the Court or dishonouring the terms of the undertakings, shall be viewed strictly and the ensuing consequences could indeed be grave. In that eventuality, the sword of contempt that has now been returned to rest in its sheath, shall be flourished as swiftly as these proceedings were originally initiated.

Contempt - A party appearing before the Court can give an undertaking by filing an application or an affidavit clearly setting out the undertaking given to the Court or by giving a clear and express oral undertaking incorporated by Court in its order. An undertaking may also be given by an Advocate on behalf of a client and if duly and properly given, it has the same effect as one given by the client. An undertaking given to the Court has the same force as an order of the Court and breach thereof would amount to contempt in the same manner as a breach of an injunction. Whether a statement made by a party or its counsel could amount to an undertaking, would depend on the words used in the statement made and the facts and circumstances of a case. When an undertaking is given before the Court for any purpose, be it for payment of money or for vacating a property or for doing an act or for refraining from doing a particular act and compliances are not made, contempt proceedings can be drawn up. The bottom-line is that if a party or the advocate acts in such a manner so as to convey to the Court a firm conviction that an undertaking is being given regardless of the fact that the word "undertaking" has not been specifically mentioned, that party will be bound down and it will be no answer that he did not think that he was giving it or that he was misunderstood. (Para 50) **Conduct** - Any apology tendered by a party in contempt proceedings must be unconditional and unqualified. Such an apology must also demonstrate that it has been made with a bona fide intention and not just to wriggle out of a tight situation. Tendering a qualified apology is

akin to a game of dice. It could either have a positive outcome or a negative result. If the contemnor tenders a conditional apology and expects luck to play a role in the outcome of such an apology, then he should be ready to face the consequence of an outright rejection. (Para 43)

Virendra Kumar Chamar vs State Of Uttar Pradesh 2024 INSC 606 – Murder Case

Summary: Murder accused acquitted-Allowing appeal against concurrent conviction, SC observed: A serious doubt is created whether PW1 had seen the incident of assault by the accused-Courts have convicted the appellant only based on evidence of PW1-He has already undergone incarceration for sixteen years. This is a shocking state of affairs.

Mineral Area Development Authority vs Steel Authority of India 2024 INSC 607 – Doctrine of prospective overruling

Mineral Area Development Authority vs Steel Authority of India 2024 INSC 554 - Clarification - a. While the States may levy or renew demands of tax, if any, pertaining to Entries 49 and 50 of List II of the Seventh Schedule in terms of the law laid down in the decision in MADA (supra) the demand of tax shall not operate on transactions made prior to 1 April 2005- b. The time for payment of the demand of tax shall be staggered in instalments over a period of twelve years commencing from 1 April 2026- and c. The levy of interest and penalty on demands made for the period before 25 July 2024 shall stand waived for all the assesses. (Para 25)

Doctrine of prospective overruling- The doctrine of prospective overruling is applied when a constitutional court overrules a well-established precedent by declaring a new rule but limits its application to future situations. The underlying objective is to avert injustice or hardships- The following principles emerge on the application of the doctrine: a. The

power of this Court to mould the relief claimed to meet the justice of the case is derived from Article 142- b. It is applied by this Court while overruling its earlier decision, which was otherwise final. It has also been applied when deciding on an issue for the first time- c. The object is to validate all the actions taken before the date of declaration in the larger public interest. The doctrine does not validate an invalid law, but the declaration of invalidation takes effect from a future date- d. Cases that have attained finality are saved because doing otherwise would cause unnecessary and avoidable hardships- e. It is applied to bring about a smooth transition of the operation of law without unduly affecting the rights of the people who acted upon the overruled law- f. It is a device innovated to avoid: (i) reopening settled issues, (ii) refund of amounts collected under invalid legislation, and (iii) multiplicity of proceedings- and g. It is applied to avoid social and economic disruptions and give sufficient time to the affected entities and institutions to make appropriate changes and adjustments- The doctrine of prospective overruling has been applied by this Court in situations where the new declaration results in the invalidation of legislation, which would otherwise have been valid under the old declaration. The doctrine has also been used where this Court has declared a legislation as ultra vires. In the case of taxing statutes, such a declaration would make the State liable to refund all amounts collected under the invalid legislation. Therefore, this Court declares the new rule to apply prospectively not only to secure the revenues of the State but also to protect the rights and obligations crystallized by persons and entities under the old regime. (Para 5-14)

Read Order

Maheshkumar Chandulal Patel vs State Of Gujarat 2024 INSC 608- Gujarat Civil Services (Pay) Rules – Rule Of Stepping Up

Gujarat Civil Services (Pay) Rules, 2002- Rule 21-The Rule of stepping up shall apply only if the conditions specified therein are fulfilled. Specifically, condition no. (v) of Rule 21 stipulates that the anomaly must be the direct result of the application of this rule. (Para 31)

Hussainbhai Asgarali Lokhandwala vs State Of Gujarat 2024 INSC 609 – S 304 IPC

Indian Penal Code, 1860- Section 304 - High Court altered the conviction of the appellant from one under Section 304 Part I of the Indian Penal Code, 1860 (IPC) to one under Section 304 Part II IPC but, sentenced him to undergo rigorous imprisonment (RI) for five years while maintaining the sentence of fine - Partly allowing appeal, SC held: While maintaining the conviction of the appellant under Section 304 Part II IPC, his sentence is modified to the period already undergone by him.

Gautam Kumar Das vs NCT Of Delhi 2024 INSC 610 – Habeas Corpus – Child Custody

Constitution Of India,1950- Article 226- Maintainability of the habeas corpus petition in the matters of custody of minor child - No hard and fast rule can be laid down - Whether the writ court should exercise its jurisdiction under Article 226 of the Constitution of India or not will depend on the facts and circumstances of each case and the paramount welfare of the child - Referred to Nirmala v. Kulwant Singh 2024 INSC 370. (Para 15)

Summary: Allowing appeal of a father of child, SC observed: merely because of the unfortunate circumstances faced by the appellant as a result of which, respondents were given the temporary custody of the minor child and only because they looked after her for few years, the same cannot be a ground to deny the custody of the minor child to the appellant, who is her only natural guardian.

Ramnaresh @ Rinku Kushwaha vs State Of Madhya Pradesh 2024 INSC 611 – Reservations

Summary: Writ Petitions challenging the decision of the Department of Medical Education of not allotting MBBS Unreserved (UR) Category Government School (GS) quota seats to the meritorious reserved candidates, who had passed from the Government Schools - HC Dismissed Writ Petitions -Allowing appeal, SC observed: a candidate belonging to any of the vertical reservation categories who on the basis of his own merit is entitled to be selected in the open or general category, will be selected against the general category and his selection would not be counted against the quota reserved for such vertical reservation categories- This principle would also apply to the cases of horizontal reservation- , the meritorious candidates belonging to SC/ST/OBC, who on their own merit, were entitled to be selected against the UR-GS quota, have been denied the seats against the open seats in the GS quota- the methodology adopted by the respondents in compartmentalizing the different categories in the horizontal reservation and restricting the migration of the meritorious reserved category candidates to the unreserved seats is totally unsustainable- The respondents directed to admit the appellants in the next Academic Session i.e. 2024-25 for MBBS Course against the seats reserved for UR-GS category.

Shabna Abdulla vs Union Of India 2024 INSC 612 – Judicial Discipline – Precedent

Precedent- If the Division Bench of the High Court is of the view that the earlier decision of the Coordinate Bench of the same High Court is not correct in law, the only option available to it is to refer the matter to a larger Bench. (Para 17) - Referred to Official Liquidator vs. Dayanand (2008) 10 SCC 1 [In this case: When the Coordinate Bench of the same High Court based on same grounds of detention and on the basis of the same material, which was relied on by the detaining authority, had come to a considered conclusion that non-supply of certain documents had vitiated the right to make an effective representation of the detenus, another Coordinate Bench could not have ignored the same.]

In Re: Alleged Rape And Murder Incident Of A Trainee Doctor In R.G. Kar Medical College And Hospital, Kolkata And Related Issues 2024 INSC 613

Summary: Supreme Court constitutes a National Task Force (NTF) to formulate effective recommendations to remedy the issues of concern pertaining to safety, working conditions and well-being of medical professionals and other cognate matters - The NTF shall while doing so, consider the following aspects to prepare an action-plan. The action plan may be categorized under two heads (I) Preventing violence, including genderbased violence against medical professionals- and (II) Providing an enforceable national protocol for dignified and safe working conditions for interns, residents, senior residents, doctors, nurses and all medical professionals.

[Read Order](#)

In Re Right To Privacy Of Adolescents 2024 INSC 614 – S 19 POCSO – Judgment Writing

Judgment - The ultimate object of writing a judgment is to ensure that the parties before the Court know why the case is decided in their favour or against them. Therefore, judgment must be in a simple language. The conclusions recorded by the Court in the judgment on legal or factual issues must be supported by cogent reasons- the Court can always comment upon the conduct of the parties. However, the findings regarding the conduct of the parties must be confined only to such conduct which has a bearing on the decision-making. A judgment of the Court cannot contain the Judge's personal opinions on various subjects. Similarly, advisory jurisdiction cannot be exercised by the Court by incorporating advice to the parties or advice in general. The Judge has to decide a case and not preach. The judgment cannot contain irrelevant and unnecessary material. A judgment

must be in simple language and should not be verbose. Brevity is the hallmark of quality judgment. We must remember that judgment is neither a thesis nor a piece of literature - When a Court deals with an appeal against an order of conviction, the judgment must contain (i) a concise statement of the facts of the case, (ii) the nature of the evidence adduced by the prosecution and the defence, if any, (iii) the submissions made by the parties, (iv) the analysis based on the reappreciation of evidence, and (v) the reasons for either confirming the guilt of the accused or for acquitting the accused. The appellate court must scan through the evidence, both oral and documentary, and reappreciate it. After reappreciating the evidence, the appellate court must record reasons for either accepting the evidence of the prosecution or for disbelieving the evidence of the prosecution. The Court must record reasons for deciding whether the charges against the accused have been proved. In a given case, if the conviction is confirmed, the Court will have to deal with the legality and adequacy of the sentence. In such a case, there must be a finding recorded on the legality and adequacy of the sentence with reasons. (Para 13-14)

POCSO Act- Section 19 (6)- It is the responsibility of the State to take care of helpless victims of such heinous offences- The right to live a dignified life is an integral part of the fundamental right guaranteed under Article 21 of the Constitution of India. Article 21 encompasses the right to lead a healthy life. The minor child, who is the victim of the offences under the POCSO Act, is also deprived of the fundamental right to live a dignified and healthy life. The same is the case of the child born to the victim as a result of the offence. All the provisions of the JJ Act regarding taking care of such children and rehabilitating them are consistent with Article 21 of the Constitution of India. Therefore, immediately after the knowledge of the commission of a heinous offence under the POCSO Act, the State, its agencies and instrumentalities must step in and render all possible aid to the victim children, which will enable them to lead a dignified life. The failure to do so will amount to a violation of the fundamental rights guaranteed to the victim children under Article 21. The police must strictly implement subsection (6) of Section 19 of the POCSO Act. If that is not done, the victim children are deprived of the benefits of the welfare measures under the JJ Act. Compliance with Section 19(6) is of vital importance. Non-compliance thereof will lead to a violation of Article 21.

Code Of Criminal Procedure, 1973- Section 482- Even if the (rape/POCSO) accused and the victim (who has now attained majority) were to come out with a settlement, the High Court could not have quashed the prosecution. [In this case, HC quashed the conviction on these grounds: (a)There was a “non-exploitative” consensual sexual relationship between the two consenting adolescents- (b)The ground reality was that after the birth of the child, the accused is taking care of the victim and the infant/small child- (c)The victim has no support from her parents, and (d)A humane view is required to be taken to do complete justice.] (Para 20-23)

Rekha Sharma vs Rajasthan High Court 2024 INSC 615 – Reservation – Vertical & Horizontal – Overall & Compartmentalised

Constitution of India, 1950- Article 16- Reservation - The concept of “Vertical Reservations” and “Horizontal Reservations” explained - Referred to Indra Sawhney vs. Union of India 1992 Supp. (3) SCC 217. (Para 12) -The reservation for persons with disabilities would be relatable to Clause (1) of Article 16 and the persons selected against this quota will be placed in appropriate category i.e. if he/she belongs to Scheduled Category, he/she will be placed in that category by making necessary adjustments, and if he/she belongs to open category, necessary adjustments will be made in the open category

Reservation- Concept of Overall Reservations and Compartmentalised Reservations explained - Referred to Anil Kumar Gupta vs. State of U.P (1995) 5 SCC 173 - Where the seats reserved for the Horizontal Reservations are proportionately divided amongst the Vertical (Social) Reservations and are not intertransferable, it would be a case of Compartmentalised reservations, whereas in the Overall Reservation, while allocating the special reservation candidates to their respective social reservation category, the Overall Reservation in favour of special reservation categories has to be honoured. Meaning thereby the special reservations cannot be proportionately divided among the Vertical (Social) reservation categories, and the candidates eligible for special reservation

categories have to be provided overall seats reserved for them, either by adjusting them against any of the Social/Vertical reservations or otherwise, and thus they are intertransferable. (Para 14)

Public Employment - The candidates who consciously took part in the process of selection cannot be permitted to question the advertisement or the methodology adopted for making selection, on their having been declared as unsuccessful in the Preliminary Examinations. (Para 16)

Summary: High Court had issued an advertisement for the direct recruitment of 120 posts of Civil Judge and Judicial Magistrate under the Civil Judge Cadre - It declared the cut off marks for the persons falling under Compartmentalised Horizontal Reservation and not for the Overall Horizontal Reservation under which the appellants fall- Dismissing appeal, SC held: Such action could neither be said to be arbitrary nor violative of Article 14, 16 and 21 of the Constitution of India.

Maitreyee Chakraborty vs Tripura University 2024 INSC 616 – Service Law

University - University, being a statutory body, any such conduct would tantamount to an arbitrary and unreasonable exercise of power, apart from being unfair. The discretion vested in the Executive Council should be exercised in a fair and non- arbitrary manner. It cannot be based on the whim and caprice of the decision-making authority. If asked to justify, the Executive Council must have good reasons to defend the exercise of power.

Girish Gandhi vs State Of Uttar Pradesh 2024 INSC 617 – Bail – Surety

Bail - Excessive bail is no bail. To grant bail and thereafter to impose excessive and

onerous conditions, is to take away with the left hand, what is given with the right. As to what is excessive will depend on the facts and circumstances of each case. (Para 23)

Surety - The Oxford Dictionary defines ‘surety’ as “a person who takes responsibility for another’s obligation”. Advanced Law Lexicon by P. Ramanatha Aiyar, 3 rd Edition 2005 defines ‘surety’ to mean “the bail that undertakes for another man in a criminal case- Sureties are essential to ensure the presence of the accused, released on bail. At the same time, where the court is faced with the situation where the accused enlarged on bail is unable to find sureties, as ordered, in multiple cases, there is also a need to balance the requirement of furnishing the sureties with his or her fundamental rights under Article 21 of the Constitution of India. An order which would protect the person’s fundamental right under Article 21 and at the same time guarantee the presence, would be reasonable and proportionate. As to what such an order should be, will again depend on the facts and circumstances of each case- Whether it is to get individuals, to stand as a guarantor for a loan transaction or as a Surety in a criminal proceeding, the choice for a person is very limited. It will very often be a close relative or a longtime friend. In a criminal proceeding, the circle may get even more narrowed as the normal tendency is to not disclose about the said criminal proceeding to relatives and friends, to protect one’s reputation. These are hard realities of life in our country and as a court of law we cannot shut our eyes to them. A solution, however, has to be found strictly within the framework of the law. (Para 21-23)

CBI BS And FC Mumbai vs Manojdev Gokulchand Seksaria 2024 INSC 618

Summary: Supreme Court set aside the impugned judgment and remand the Writ Petitions to be heard a Division Bench of the High Court.

Ajay Kumar Gupta vs Union Of India 2024 INSC 619 – S 67 NDPS Act

NDPS Act, 1986- Section 67 -Accused's statement recorded under Section 67 of the NDPS Act is not admissible in evidence and cannot be read in evidence - Referred to Tofan Singh v. State of Tamil Nadu (2021) 4 SCC 1. (Para 9) [Conviction set aside]

Swati Priyadarshini vs State Of Madhya Pradesh 2024 INSC 620 – Service Law

Summary: High Court single bench allowed appellant's writ petition against the order refusing to renew/extend her services- Writ appeal allowed and HC Division Bench set aside the Single Bench order - Allowing appeal, SC restored the Single bench order with a modification to the extent that the appellant shall be entitled to all consequential benefits including notional continuation in service at par with other similarlysituated employees, but with the back wages restricted to 50%.

Rajkaran Singh vs Union Of India 2024 INSC 621 – Service Law – Pensionary Benefits – Article 12 Constitution

Summary: Whether the appellants herein, despite being classified as temporary employees of a scheme managed by contributory pooling of funds, can claim entitlement to pensionary benefits in accordance with the 6th CPC? SC Held: The denial of pensionary benefits solely on the basis of their temporary status, without due consideration of these factors, appears to be an oversimplification of their employment relationship with the government. This approach runs the risk of creating a class of employees who, despite serving the government for decades in a manner indistinguishable from regular employees, are deprived of the benefits and protections typically accorded to government servants -the denial of pensionary benefits to the appellants is not tenable or justifiable in the eyes of law as the same is arbitrary and violates the fundamental rights as guaranteed by Articles 14 and 16 of the Constitution of India- Respondents directed to extend the benefits of the 6th

Central Pay Commission including the pensionary benefits under the Revised Pay Scale Rules, 2008 to the appellants herein.

Constitution Of India, 1950- Article 12- Whether an entity can be considered an instrumentality or agency of the Government, and thus an "authority" under Article 12 of the Constitution of India. These tests include but are not limited to - 1. Extent of financial support from the government- 2. Deep and pervasive control of the government- 3. Functions performed are of public importance and closely related to governmental functions- 4. Entity enjoys monopoly status conferred or protected by the State- 5. The government department has been transferred to the entity - Neither all the tests are required to be answered in positive nor a positive answer to one or two tests would suffice. It will depend upon a combination of one or more of the relevant factors depending upon the essentiality and overwhelming nature of such factors in identifying the real source of governing power, if need be by removing the mask or piercing the veil disguising the entity concerned- Referred to Ajay Hasia v. Khalid Mujib Sehravardi (1981) 1 SCC 722 and Pradeep Kumar Biswas v. Indian Institute of Chemical Biology (2002) 5 SCC 111. (Para 24-26)

Employment - The essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time- Referred to Vinod Kumar and Others v. Union of India 2024 SCC OnLine SC 1533. (Para 31)

Indian Council Of Agricultural Research vs Rajinder Singh 2024 INSC 622 – Service Law

Service Law -In any institution incentives may be given to a particular category of employees to get higher qualifications during service, considering their job requirements. Merely because different set of employees, who may be working in aid but governed by

different set of rules and having different duties to discharge also obtain that qualification, will not entitle them to the benefits which were extended to different set of employees by the competent authority. (Para 10.1)

Summary: The Tribunal had allowed the application filed by the respondents, extending them the benefit of the scheme dated 27.02.1999 in terms of which a scientist was eligible for two advance increments as and when he acquires a Ph.D. degree in his service career - High Court upheld this order -Allowing appeal, SC observed: Merely because Study Leave Regulations, 1991 were extended to technical personnel, this would not entitle them to other benefits which are available to the scientists. The idea of grant of study leave for pursuing Ph.D. to the technical personnel was only to enable them to improve their qualifications. Merely after having Ph.D. qualification, the technical personnel will not become eligible for grant of two advance increments when the same has not been recommended for them.

Karnataka Emta Coal Mines Limited vs Central Bureau Of Investigation 2024 INSC 623 – Art.136,149 Constitution- S 482,227 CrPC

Constitution of India,1950- Article 136- Article 136 can be invoked by a party in a petition for special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by a Court or Tribunal within the territory of India. The reach of the extraordinary powers vested in this Court under Article 136 of the Constitution of India is boundless. Such unbridled powers have been vested in Court, not just to prevent the abuse of the process of any court or to secure the ends of justice as contemplated in Section 482, Cr.P.C, but to ensure dispensation of justice, correct errors of law, safeguard fundamental rights, exercise judicial review, resolve conflicting decisions, inject consistency in the legal system by settling precedents and for myriad other to undo injustice, wherever noticed and promote the cause of justice at every level. The fetters on this power are self imposed and carefully tampered with sound judicial discretion. (Para 19.6)

Code Of Criminal Procedure,1973- Section 482- Section 482 Cr.P.C recognizes the inherent powers of the High Court to quash initiation of prosecution against the accused to pass such orders as may be considered necessary to give effect to any order under the Cr.P.C or to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is a statutory power vested in the High Court to quash such criminal proceedings that would dislodge the charges levelled against the accused and based on the material produced, lead to a firm opinion that the assertions contained in the charges levelled by the prosecution deserve to be overruled. 18.8 While exercising the powers vested in the High Court under Section 482, Cr.P.C, whether at the stage of issuing process or at the stage of committal or even at the stage of framing of charges, which are all stages that are prior to commencement of the actual trial, the test to be applied is that the Court must be fully satisfied that the material produced by the accused would lead to a conclusion that their defence is based on sound, reasonable and indubitable facts. The material relied on by the accused should also be such that would persuade a reasonable person to dismiss the accusations levelled against them as false. (Para 18.7-18.8)

Code Of Criminal Procedure,1973- Section 227- The expression “not sufficient ground for proceeding against the accused” clearly shows that the Judge is not a mere post office to frame the charge at the behest of the prosecution. The Judge must exercise the judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. The principles governing the scope of Section 227, Cr.P.C. - Referred to Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4. (Para 20.2)

Constitution of India,1950- Article 149- CAG Report is subject to scrutiny by the Parliament and the Government can always offer its views on the said report. Merely because the CAG is an independent constitutional functionary does not mean that after receiving a report from it and on the PAC scrutinizing the same and submitting its report, the Parliament will automatically accept the said report. The Parliament may agree or disagree with the Report. It may accept it as it is or in part. [In this case, the Audit Report of the CAG has not been tabled before the Parliament for soliciting any comments from the PAC or the respective Ministries. Therefore, the views taken by the CAG to the effect that

tremendous loss had been caused to the public exchequer on account of the coal rejects being disposed of by the KPCL and KECML remains a view point but cannot be accepted as decisive.] (Para 11.2-11.5)

Ushaben Joshi vs Union Of India 2024 INSC 624 – Service Law

Summary: Central Administrative Tribunal, Ahmedabad rejected application preferred by the appellant with a prayer that the respondents be directed to regularise her services in the Group 'D' post - High Court upheld this order - Allowing appeal, SC observed: Keeping in view the fact that an employee similarly placed but inducted in service after nearly six years from the date of employment of the appellant with the respondent-Department has been conferred the benefits of confirmation in service by way of appointment to the post of MTS, the appellant is entitled to claim the same benefits.

Shajan Skaria vs State Of Kerala 2024 INSC 625 – SC-ST (Prevention Of Atrocities) Act-Anticipatory Bail

SC-ST (Prevention Of Atrocities) Act,1989- Section 3(1)(r) - Mere knowledge of the fact that the victim is a member of the Scheduled Caste or Scheduled Tribe is not sufficient to attract Section 3(1)(r) of the Act, 1989. The offence must have been committed against the person on the ground or for the reason that such person is a member of Scheduled Caste or Scheduled Tribe. (Para 8o) -all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or

Scheduled Tribe. (Para 58) - The words “with intent to humiliate” as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the “upper castes” over the “lower castes/untouchables”, the notions of ‘purity’ and ‘pollution’, etc. that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989.(Para 61) - The term ‘humiliation’ as it appears in Section 3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members. (Para 70)

SC-ST (Prevention Of Atrocities) Act,1989- Section 3(1)(u)- The offence under Section 3(1)(u) will come into play only when any person is trying to promote ill feeling or enmity against the members of the scheduled castes or scheduled tribes as a group and not as individuals. (Para 77)

SC-ST (Prevention Of Atrocities) Act,1989- Section 18,18A- Code Of Criminal Procedure,1973- Section 438 -If the complaint does not make out a *prima facie* case for applicability of the provisions of the Act, 1989 then the bar created by Sections 18 and 18-A(i) shall not apply and thus the court would not be precluded from granting pre-arrest bail to the accused persons .(Para 35)- Section 18 bars the remedy of anticipatory bail only in those cases where a valid arrest of the accused person can be made as per Section 41 read with Section 60A of CrPC - The bar under Section 18 of the Act, 1989 would apply only to those cases where *prima facie* materials exist pointing towards the commission of an offence under the Act, 1989. We say so because it is only when a *prima facie* case is made out that the pre-arrest requirements as stipulated under Section 41 of CrPC could be said to be satisfied. (Para 41- 46) - when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist *prima facie*. As a sequitur, if the necessary ingredients to constitute the offence

under the Act, 1989 are not disclosed on the *prima facie* reading of the allegations levelled in the complaint or FIR, then in such circumstances, as per the consistent exposition by various decisions of this Court, the bar of Section 18 would not apply and the courts would not be absolutely precluded from granting pre-arrest bail to the accused persons. (Para 47-48) -The duty to determine *prima facie* existence of the case is cast upon the courts with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary inquiry to determine if the narration of facts in the complaint/FIR in fact discloses the essential ingredients required to constitute an offence under the Act, 1989. It is expected of the courts to apply their judicial mind to determine whether the allegations levelled in the complaint, on a plain reading, satisfy the ingredients constituting the alleged offence. Such application of judicial mind should be independent and without being influenced by the provisions figuring in the complaint/FIR. The aforesaid role of the courts assumes even more importance when a *prima facie* finding on the case has the effect of precluding the accused person from seeking anticipatory bail, which is an important concomitant of personal liberty of the individual. (Para 50)

Interpretation Of Statutes -A penal statute must receive strict construction. A principle of statutory interpretation embodies the policy of the law, which is in turn based on public policy. The court presumes, unless the contrary intention appears, that the legislator intended to conform to this legal policy. A principle of statutory interpretation can, therefore, be described as a principle of legal policy formulated as a guide to the legislative intention. (Para 82)

Delhi Race Club (1940) Ltd. vs State of Uttar Pradesh 2024 INSC 626 -S 406,415,420 IPC – S 202 CrPC – Breach Of Trust & Cheating

Indian Penal Code,1860- Section 406, 415, 420-The offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients. In order to

constitute a criminal breach of trust (Section 406 IPC): - 1) There must be entrustment with person for property or dominion over the property, and 2) The person entrusted: - a) dishonestly misappropriated or converted property to his own use, or b) dishonestly used or disposed of the property or willfully suffers any other person so to do in violation of: i. any direction of law prescribing the method in which the trust is discharged- or ii. legal contract touching the discharge of trust (see: S.W.P. Palanitkar (*supra*)). Similarly, in respect of an offence under Section 420 IPC, the essential ingredients are: - 1) deception of any person, either by making a false or misleading representation or by other action or by omission- 2) fraudulently or dishonestly inducing any person to deliver any property, or 3) the consent that any persons shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see: Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) Cr.L.J. 3462 (SC))-In both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception. (Para 25-26) - If it is a case of the complainant that offence of criminal breach of trust as defined under Section 405 of IPC, punishable under Section 406 of IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined and explained in Section 415 of the IPC, punishable under Section 420 of the IPC. (Para 27)- The case of cheating and dishonest intention starts with the very inception of the transaction. But in the case of criminal breach of trust, a person who comes into possession of the movable property and receives it legally, but illegally retains it or converts it to his own use against the terms of the contract, then the question is, in a case like this, whether the retention is with dishonest intention or not, whether the retention involves criminal breach of trust or only a civil liability would depend upon the facts of each case. (Para 29) - The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed. Therefore, it is this intention, which is the gist of the offence. Whereas, for the criminal

breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership' of it must be of some other person. The accused must hold that property on trust of such other person. Although the offence, i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept. There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e., since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously. (Para 30)

Code Of Criminal Procedure, 1973- Section 204 -Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is *prima facie* committed by all or any of the accused. [Referred to Pepsi Foods Ltd. v. Special Judicial Magistrate : (1998) 5 SCC 749] (Para 13)

Code Of Criminal Procedure, 1973- Section 482- A petition filed under Section 482, CrPC, for quashing an order summoning the accused is maintainable. There cannot be any doubt

that once it is held that sine qua non for exercise of the power to issue summons is the subjective satisfaction “on the ground for proceeding further” while exercising the power to consider the legality of a summons issued by a Magistrate, certainly it is the duty of the Court to look into the question as to whether the learned Magistrate had applied his mind to form an opinion as to the existence of sufficient ground for proceeding further and in that regard to issue summons to face the trial for the offence concerned. (Para 22)

Indian Penal Code,1860- Section 406 - In case of sale of goods, the property passes to the purchaser from the seller when the goods are delivered. Once the property in the goods passes to the purchaser, it cannot be said that the purchaser was entrusted with the property of the seller. Without entrustment of property, there cannot be any criminal breach of trust. Thus, prosecution of cases on charge of criminal breach of trust, for failure to pay the consideration amount in case of sale of goods is flawed to the core. There can be civil remedy for the non-payment of the consideration amount, but no criminal case will be maintainable for it. (Para 36)

Dr. Vijay Dixit vs Pagadal Krishna Mohan 2024 INSC 627 – Consumer Protection Act- Condonation Of Delay

Consumer Protection Act,1986 -The application(s) seeking condonation of delay preferred before the consumer fora prior to 04.03.2020 i.e., the date of pronouncement of New India Assurance Co. Ltd. v. Hilli Multipurpose Cold Storage (P) Ltd., (2020) 5 SCC 757 , must be decided on merits- and ought not to be summarily dismissed - Referred to Diamond Exports v. United India Insurance Co. Ltd., (2022) 4 SCC 169. (Para 4)

PAM Developments Private Limited vs State Of West Bengal 2024 INSC 628 – S 31 Arbitration Act

Arbitration & Conciliation Act,1996- Section 31- The wording of Section 31(7)(a) marks a departure from Arbitration Act, 1940 in two ways: first, it does not make an explicit distinction between pre-reference and pendente lite interest as both of them are provided for under this subsection- second, it sanctifies party autonomy and restricts the power to grant pre-reference and pendente lite interest the moment the agreement bars payment of interest, even if it is not a specific bar against the Arbitrator. The power of the Arbitrator to award pre-reference and pendente lite interest is not restricted when the agreement is silent on whether interest can be awarded or does not contain a specific term that prohibits the same. VI. While pendente lite interest is a matter of procedural law, pre reference interest is governed by substantive law. Therefore, the grant of pre-reference interest cannot be sourced solely in Section 31(7)(a) (which is a procedural law), but must be based on an agreement between the parties (express or implied), statutory provision (such as Section 3 of the Interest Act, 1978), or proof of mercantile usage. (Para 9)

Omkar Realtors & Developers Pvt. Ltd. vs Kushalraj Land Developers Pvt. Ltd. 2024 INSC 629 – Consumer Protection Act – Commercial Purpose

Consumer Protection Act,1986- Section 2 (7) -Consumer means any person who buys any goods for a consideration but does not include a person who obtains such goods for resale or for any commercial purpose. Therefore, purchase and sale of goods for resale or for commercial purpose is excluded from the purview of the definition of "consumer"- To determine whether the goods purchased by a person (which would include a legal entity like a company) were for commercial purpose or not within the meaning of the Act would depend upon the facts and circumstances of each case. However, ordinarily "commercial purpose" is understood to include manufacturing/industrial activity or business-to-

business transactions between commercial entities. The purchase of the goods should have a close and direct nexus with a profit generating activity. If it is found that the dominant purpose behind purchasing the goods was for the personal use and consumption of the purchaser and/or the beneficiary, or was otherwise not linked with other commercial activities, the question whether such a purchase was for the purpose of "generating livelihood by means of self employment" need not be looked into. In short, the dominant intention or the dominant purpose of the transaction is to be looked into to find out if it had any nexus with some kind of profit generation as part of the commercial activities - Referred to M/s Daimler Chrysler India Pvt. Ltd. vs. M/s Controls & Switchgear Company Ltd. (Para 14-15)

K Arumugam vs Union Of India 2024 INSC 630 – Finance Act – Lottery Tickets Sale

Finance Act, 1994 - Constitutionality of the Explanation added to Section 65 (19) (ii) of the Finance Act, 1994- The Explanation was omitted with effect from 01.07.2010. However, these cases pertain to the period prior to 01.07.2010- The mere insertion of an explanation cannot make an activity a taxable service when it is not covered under the main provision- This is because sale of lottery tickets is not a service in relation to promotion or marketing of service provided by a client, i.e., the State - Conducting a lottery which is a game of chance is ex facie a privilege and an activity conducted by the State and not a service being rendered by the State. The said activity would have a profit motive and is for the purpose of earning additional revenue to the State exchequer. The activity is carried out by sale of lottery tickets to persons, such as the assessees herein, on an outright basis and once the lottery tickets are sold and the amount collected, there is no further relationship between the assessees herein and the State in respect of the lottery tickets sold. The burden is on the assessees herein to further sell the lottery tickets to the divisional / regional stockists for a profit as their business activity. This activity is not a promotion or a marketing service rendered by the assessees herein to the State within the meaning of sub-clause (ii) of Clause 19 of Section 65 of the Finance Act, 1994-Lottery tickets are actionable claims -The sale of lottery tickets by the State is a privileged activity by itself and not rendering of a

service .

Bangalore Electricity Supply Company Limited vs Hirehalli Solar Power Project LLP 2024 INSC 631 – S 125 Electricity Act – Force Majeure

Electricity Act, 2003- Section 125 - The restrictive scope of appellate jurisdiction is a product not only of the statutory preconditions, but also a necessary measure to enable freedom to statutory regulator and Tribunal to develop sectorial laws through a principled and consistent approach- the requirement under Section 125 is not merely a ‘question of a law’ but a ‘substantial question of law’. (Para 1,7)

Indian Contract Act, 1872- Sections 32 and 56 - Law on force majeure- When the contract contains an express or implied force majeure clause, it is governed under Chapter III of the Contract Act, specifically Section 32. In such cases, the ‘doctrine of frustration’ in Section 56 does not apply and the court must interpret the force majeure clause contained in the contract -A force majeure clause must be narrowly construed- Referred to Energy Watchdog v. Central Electricity Regulatory Commission (Para 10.1)

Kalvakuntla Kavitha vs Directorate Of Enforcement 2024 INSC 632 – S 45 PMLA

PMLA 2002- Section 45(1)- In a given case the accused even if a woman may not be automatically entitled to benefit of the said proviso and it would all depend upon the facts and circumstances of each case- When a statute specifically provides a special treatment for a certain category of accused, while denying such a benefit, the Court will be required to give specific reasons as to why such a benefit is to be denied- Referred to Saumya Chaurasia v. Directorate of Enforcement (2024) 6 SCC 401 : 2023 INSC 1073 - This Court used the phrase “persons of tender age and woman who are likely to be more vulnerable, may sometimes be misused by the unscrupulous elements”. This is vastly different from

saying that the proviso to Section 45(1) of the PMLA applies only to “vulnerable woman”. Further, this Court in the case of Saumya Chaurasia (supra) does not say that merely because a woman is highly educated or sophisticated or a Member of Parliament or a Member of Legislative Assembly, she is not entitled to the benefit of the proviso to Section 45(1) of the PMLA. (Para 27) [Granting bail to appellant, SC observed that erroneously observed that the proviso to Section 45(1) of the PMLA is applicable only to a “vulnerable woman”]

PMLA 2002- Section 45 - Prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial- “Bail is the rule and refusal is an exception”- The fundamental right of liberty provided under Article 21 of the Constitution is superior to the statutory restrictions - Referrred to

Manish Sisodia v. Directorate of Enforcement 2024 INSC 595. (Para 12-13)

Raju vs State of Uttarakhand 2024 INSC 633 – S 307 IPC – Criminal Trial – Appeal Against Acquittal

Indian Penal Code,1860- Section 307 - A conviction under Section 307 of the IPC may be justified only if the accused in question possessed intent coupled with some overt act in aid of its execution. Ascertaining the intention to kill or having the knowledge that death may be caused as a result of the overt act, is a question of fact and hinges on the unique circumstances that each case may present. (Para 17)

Criminal Trial - Usually in matters involving criminality, discrepancies are bound to be there in the account given by a witness, especially when there is conspicuous disparity between the date of the incident and the time of deposition. However, if the discrepancies are such that they create serious doubt on the veracity of a witness, then the Court may deduce and decline to rely on such evidence. This is especially true when there are variations in the evidence tendered by prosecution witnesses regarding the sequence of

events as they have occurred. Courts must exercise all the more care and conscientiousness when such oral evidence may lean towards falsely implicating innocent persons. (Para 13) -Circumstantial Evidence - The chain of evidence proffered by the prosecution has to be as complete as is humanly possible and it does not leave any reasonable ground for a conclusion consistent with the innocence of the accused and must instead, indicate that the act had indeed been singularly committed by the accused only. (Para 15)

Code Of Criminal Procedure,1973- Section 378 - When the Trial Court has acquitted the accused based on a plausible understanding of the evidence, and such finding is not marred by perversity or due to overlooking or misreading of the evidence presented by the prosecution, the High Court ought not to overturn such an order of acquittal. (Para 16)

K Nirmala vs Canara Bank 2024 INSC 634 – Article 341,342 Constitution – Bank Employees- Caste Certificate

Constitution of India,1950- Article 341,342- Any inclusion or exclusion in or from the list of Scheduled Castes can only be made through an Act of Parliament under Articles 341 and 342 of the Constitution of India. As a corollary thereto, neither the State Government nor the Courts have the authority to modify the list of Scheduled Castes as promulgated by the Presidential order under the above Articles- Referred to State of Maharashtra v. Milind (2001) 1 SCC 4. (Para 26)

Summary: Whether a person who joined the services of a Nationalized Bank/Government of India undertaking based on a certificate that identified him/her as belonging to a Scheduled Caste('SC')/Scheduled Tribe('ST') in the State of Karnataka, pursuant to the State Government's notifications, would be entitled to retain the position after the caste/tribe has been de-schedu? SC held: Appellants are entitled to protection of their services by virtue of the Government circular dated 29th March, 2003 issued by the Government of

Karnataka as ratified by communication dated 17th August, 2005 issued by the Ministry of Finance. The circular dated 29th March, 2003 issued by the Government of Karnataka specifically extended protection to various castes, including those which were excluded in the earlier Government circular dated 11th March, 2002. This subsequent circular covered the castes such as Kotegara, Kotekshathriya, Koteyava, Koteyar, Ramakshathriya, Sherugara,²² and Sarvegara, thus, ensuring that individuals of these castes, holding Scheduled Castes Certificates issued prior to de-scheduling, would be entitled to claim protection of their services albeit as unreserved candidates for all future purposes. Additionally, the communication issued by the Ministry of Finance dated 17th August, 2005 reinforced the protective umbrella to the concerned bank employees and also saved them from departmental and criminal action.

New Delhi Municipal Council vs Manju Tomar 2024 INSC 635 – Delhi Education Rules

Delhi Education Rules - Rule 46-No recognised school or an existing class in the school, except an unaided minority school, shall be closed without offering full justification and without the prior approval of the Director. (Para 18)

Manik Madhukar Sarve vs Vitthal Damuji Meher 2024 INSC 636 – S 439 CrPC – Bail

Code Of Criminal Procedure,1973- Section 439- Courts while granting bail are required to consider relevant factors such as nature of the accusation, role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk et al. (Para 19) -. In cases where the allegations coupled with the materials brought on record by the investigation and in the nature of economic offence affecting a large number of people reveal the active role of the accused seeking anticipatory

or regular bail, it would be fit for the Court granting such bail to impose appropriately strict and additional conditions. (Para 25)- At the end of the day, the interests of the victims of the scam have also to be factored in.

Prem Prakash vs Union Of India 2024 INSC 637- Ss 45, 50 PMLA – Bail

PMLA 2002- Section 50- When a person is in judicial custody/custody in another case investigated by the same Investigating Agency, whether the statements recorded for a new case in which his arrest is not yet shown, and which are claimed to contain incriminating material against the maker, would be admissible under Section 50? When an accused is in custody under PMLA irrespective of the case for which he is under custody, any statement under Section 50 PMLA to the same Investigating Agency is inadmissible against the maker. The reason being that the person in custody pursuant to the proceeding investigated by the same Investigating Agency is not a person who can be considered as one operating with a free mind. It will be extremely unsafe to render such statements admissible against the maker, as such a course of action would be contrary to all canons of fair play and justice. (Para

PMLA 2002- Section 45- Even under PMLA the governing principle is that “Bail is the Rule and Jail is the Exception”- All that Section 45 of PMLA mentions is that certain conditions are to be satisfied. The principle that, “bail is the rule and jail is the exception” is only a paraphrasing of Article 21 of the Constitution of India, which states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Liberty of the individual is always a Rule and deprivation is the exception. Deprivation can only be by the procedure established by law, which has to be a valid and reasonable procedure. Section 45 of PMLA by imposing twin conditions does not re-write this principle to mean that deprivation is the norm and liberty is the exception. -All that is required is that in cases where bail is subject to the satisfaction of twin conditions, those conditions must be satisfied- Article 21 being a higher constitutional 12

right, statutory provisions should align themselves to the said higher constitutional edict. (Para 11-12) - Court while dealing with the application for grant of bail in PMLA need not delve deep into the merits of the case and only a view of the Court based on the available material available on record is required. It held that the Court is only required to place its view based on probability on the basis of reasonable material collected during investigation. The words used in Section 45 are “reasonable grounds for believing” which means that the Court has to see only if there is a genuine case against the accused and the prosecution is not required to prove the charge beyond reasonable doubt. (Para 13) In view of the importance of the three basic foundational facts that the prosecution needs to establish, the counter/response to the bail application in the original Court is very significant in PMLA bail matters. In cases where the Public Prosecutor takes a considered decision to oppose the bail application, the counter affidavit of the Investigating Agency should make out a cogent case as to how the three foundational facts set out hereinabove are *prima facie* established in the given case to help the Court at the bail application stage to arrive at a conclusion within the framework laid down in Vijay Madanlal Choudhary. It is only thereafter the presumption under Section 24 would arise and the burden would shift on the accused. The counter to the bail application should specifically crystallize albeit briefly the material sought to be relied upon to establish *prima facie* the three foundational facts. It is after the foundational facts are set out that the accused will assume the burden to convince the court within the parameters of the enquiry at the Section 45 stage that for the reasons adduced by him there are reasonable grounds to believing that he is not guilty of such offence. (Para 15)

UP State Road Transport Corporation vs Brijesh Kumar 2024 INSC 638 – Compassionate Appointment – Contractual Appointment – Service Law

Compassionate Appointment- Any appointment made on compassionate basis is in the nature of a permanent appointment and is not liable to be treated as temporary or

contractual- But The mere fact that a person was appointed on contract basis pursuant to the application for compassionate appointment would not make his appointment to be one under Dying in Harness Rules. (Para 12-16)

Service Law -The order of termination of his services, even if on contractual basis, has been passed on account of alleged misconduct without following the Principles of Natural Justice. The termination order is apparently stigmatic in nature which could not have been passed without following the Principles of Natural Justice. (Para 19)

Mulakala Malleshwara Rao vs State Of Telangana 2024 INSC 639 – Stridhan – Dowry Prohibition Act- S 406 IPC

Stridhan -Wife or woman being the sole authority in respect of ‘stridhan’ - A husband has no right, and it has to then be necessarily concluded that a father too, has no right when the daughter is alive, well, and entirely capable of making decisions such as pursuing the cause of the recovery of her ‘stridhan’. (Para 5-10)

Dowry Prohibition Act, 1961- Section 6 -Giving dowry and traditional presents at the time of the wedding does not raise a presumption that such articles are thereby entrusted to the parents in-law so as to attract the ingredients of Section 6 of the Dowry Prohibition Act, 1961. (Para 15)

Indian Penal Code,1860- Section 406- A person should have been entrusted with property, or entrusted with dominion over property- That person should dishonestly misappropriate or convert to their own use that property, or dishonestly use or dispose of that property or wilfully suffer any other person to do so- That such misappropriation, conversion, use or

disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract which the person has made, touching the discharge of such trust- Referred to Prof. R.K. Vijayasarathy & Anr. v. Sudha Seetharam (2019) 16 SCC 739. (Para 13)

Criminal Proceedings - The object of criminal proceedings is to bring a wrongdoer to justice, and it is not a means to get revenge or seek a vendetta against persons with whom the complainant may have a grudge. (Para 17)

AB Govardhan vs P Ragothaman 2024 INSC 640 – Pleadings

Pleadings-For every fact which is pleaded, there has to be evidence, either oral or documentary, to substantiate the same. A bald averment or mere statement bereft of evidentiary material to back up such averment/statement takes such case nowhere. (Para 24)

Mhabemo Ovung vss M Moanungba 2024 INSC 641 – Service Law

Service Law- Final seniority list of Junior Engineers set aside by High Court - Allowing appeal, SC upheld the list and observed: The blatant error committed by the Division Bench of the High Court is that upgraded Sectional Officer, Grade-I, are directed to be given seniority in the cadre of Junior Engineers from a date on which they were not even born in the cadre as it was only after 11.10.2007 upgradation order that they became Junior Engineers, which was much after the direct recruitment made on 01.05.2003.

K Ravi vs State Of Tamil Nadu 2024 INSC 642 – Ss 216,227,397 CrPC – Discharge – Altering Of Charge – Revision

Code Of Criminal Procedure, 1973- Section 216,227- Section 216 is an enabling provision which enables the court to alter or add to any charge at any time before judgment is pronounced, and if any alteration or addition to a charge is made, the court has to follow the procedure as contained therein. Section 216 does not give any right to the accused to file a fresh application seeking his discharge after the charge is framed by the court, more particularly when his application seeking discharge under Section 227 has already been dismissed. Unfortunately, such applications are being filed in the trial courts sometimes in ignorance of law and sometimes deliberately to delay the proceedings. Once such applications though untenable are filed, the trial courts have no alternative but to decide them, and then again such orders would be challenged before the higher courts, and the whole criminal trial would get derailed- Such practice is highly deplorable, and if followed, should be dealt with sternly by the courts. (Para 11)

Code Of Criminal Procedure, 1973- Section 216,397- The order dismissing application seeking modification of charge would be an interlocutory order and in view of the express bar contained in sub-section (2) of Section 397 Cr.P.C., the Revision Application itself is not maintainable. (Para 8)

Code Of Criminal Procedure, 1973- Section 397-The Court exercising Revisional Jurisdiction under Section 397 should be extremely circumspect in interfering with the order framing the charge, and could not have interfered with the order passed by the Trial Court dismissing the application for modification of the charge under Section 216 Cr.P.C., which order otherwise would fall in the category of an interlocutory order - scope of interference and exercise of jurisdiction under Section 397 Cr.P.C. is extremely limited. Apart from the fact that subsection 2 of Section 397 prohibits the Court from exercising the powers of Revision, even the powers under sub-section 1 thereof should be exercised very sparingly and only where the decision under challenge is grossly erroneous, or there is non-compliance of the provisions of law, or the finding recorded by the trial court is based on no evidence, or material evidence is ignored or judicial discretion is exercised arbitrarily

or perversely by framing the charge. (Para 10)

Modern Builders vs State of Madhya Pradesh 2024 INSC 643 – Arbitration

Arbitration and Conciliation Act, 1996 -Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983 - In this case, the award has been set aside only on the ground that the appellant ought to have invoked the provisions of the 1983 Act - Allowing appeal, SC observed: this is a fit case to exercise jurisdiction under Article 142 of the Constitution of India to ensure that complete justice is done. Therefore, by setting aside the impugned judgment, the appeal under Section 37 of the Arbitration Act will have to be restored with a request to the High Court to decide the same on merits- it will be unjust to set aside the award only on the ground of the failure of the appellant to take recourse to the 1983 Act. In fact, the appellant had taken recourse to the 1983 Act before seeking the appointment of an Arbitrator.

Rama Kt Barman (D) vs Md Mahim Ali 2024 INSC 644 – CPC – Second Appeal

Code of Civil Procedure,1908- Section 100 & Order XLI- A Court cannot create any new case at the appellate stage for either of the parties, and the appellate court is supposed to decide the issues involved in the suit based on the pleadings of the parties. (Para 14)

Javed Gulam Nabi Shaikh vs State of Maharashtra 2024 INSC 645 – UAPA – Bail – Speedy Trial

Constitution of India, 1950- Article 21- Speedy Trial - Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India- If the

State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime- The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be. (Para 8-20)

Criminals - Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect- may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations. (Para 18)

Union Of India vs Bahareh Bakshi 2024 INSC 646 – Citizenship Act – OCI Card Application

Citizenship Act, 1955- Section 7A- Iranian citizen (Wife) and is married to Indian Citizen (Husband) - She applied for Overseas Citizen of India(OCI) Card - Official insisted on the physical/virtual presence of her estranged spouse, who is admittedly an Indian citizen, for the purpose of processing her OCI card application - Allowing her writ petition, Delhi HC directed the Union of India to accept her Overseas Citizen of India(OCI) Card without the presence of her spouse as it is not mandatory u/Clause 21.2.5(vi) of Chapter 21 of the Visa Manual for personal interview to be conducted for the spouse by the Indian Mission/Post/ FRRO- Issue in appeal before the Supreme Court was whether the presence of the estranged husband is mandatory to process an application for Overseas Citizen of India

(OCI) Card, under Section 7-A of the Citizenship Act, 1955? SC held as follows: The Central Government is empowered to register the foreign spouse of a citizen of India as an OCI holder “subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf”- Section 7A(1) specifically notes that the registration of OCI Card by the Central Government is ‘subject to such conditions, restrictions and manner as may be prescribed’. Therefore, the Act clearly allows for supplementary procedures, such as an interview as specified in the Visa Manual as well as the Checklist - The presence of the spouse of the applicant either physically or through the virtual mode is mandatory for effective consideration of the application for an OCI Card - In a case of estrangement, the applicant would fall under the category of a ‘special circumstance’ as the rules are silent for such a category - The present order will not come in the way of the Central Government to consider if any special circumstances exists for consideration of the respondent’s application.

Salam Samarjeet Singh vs High Court Of Manipur 2024 INSC 647 – Full Court Resolution – Judicial Service Exam

Constitution of India,1950- Article 234,309 -Can executive instructions in the form of a resolution of the Full Court override statutory rules made under Article 234/309? Executive instructions cannot override statutory Rules where the method of final selection by combining the cumulative grade value obtained in the written and the viva voce examinations is specified categorically. (Para 26)

Legitimate Expectation - An individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish : (i) the legitimacy of the expectation- and (ii) that the denial of the legitimate expectation led to a violation of Article 14. (Para 28)

Ravi Agrawal vs Union Of India 2024 INSC 648 – S 8oDD Income Tax Act

Income Tax Act,1961- Section 8oDD – Finance Act, 2022 – Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability.– On attaining the age of 60 years or more by an individual subscriber or a member of an HUF, the payment or deposit to the scheme envisaged under Section 8oDD can be discontinued and the monetary benefit which would have accumulated can be made use of -We do not think that the plea for retrospective operation of the amendment is in the interest of the disabled persons nor can this Court give a retrospective operation to the amendment. This is particularly having regard to the fact that an insurance contract is in a sense, a commercial contract, having certain terms and conditions and the sub-stratum of the contract cannot be removed by giving a retrospective operation to the amendment. (Para 8)

NM Theerthegowda vs YM Ashok Kumar 2024 INSC 649 & Seetharama Shetty vs Monappa Shetty 2024 INSC 650 -Karnataka Stamp Act

Karnataka Stamp Act, 1957 - Sections 33, 34, 37, and 39- The person who intends to rely on an insufficiently/improperly stamped instrument has option to submit to the scope of Section 34 of the Act, pay duty and penalty. The party also has the option to directly move an application under Section 39 of the Act before the District Registrar and have the deficit stamp duty and the penalty as may be imposed collected. In either of the cases, after the deficit stamp duty and the penalty are paid, the impounding effected under Section 35 of the Act is released and the instrument available to the party for relying as evidence. In the event, a party prefers to have the document sent to the deputy commissioner for collecting the deficit stamp duty and penalty, the Court/Every Person has no option except to send the document to the District Registrar. The caveat to the above is that, before the Court/Every Person exercises the jurisdiction under Section 34 of

the Act, the option must be exercised by a party-. Section 34 of the Act is titled instruments not duly stamped inadmissible in evidence. This provision bars the admission of an instrument in evidence unless adequate stamp duty and the penalty are paid. Every person so authorised to collect deficit stamp duty and penalty has no discretion except to levy and collect ten times the penalty of deficit stamp duty - Section 35 of the Act is titled admission of instrument where not to be questioned. Section 35 prohibits questioning the admission of an insufficiently stamped instrument in evidence.-. Section 37 of the Act is titled instruments impounded, how dealt with. This Section arises when the party pays the deficit duty and penalty, the Court is to impound the instrument under Section 33 of the Act and has to forward the instrument to the Deputy Commissioner/District Registrar. Subsection (2) of Section 37 of the Act deals with cases not falling under Section 34 and 36, and the person impounding an instrument shall send it in original to the Deputy Commissioner. -Being a regulatory and remedial statute, a party who follows the regulation, and pays the stamp duty and penalty, as per Sections 34 or 39 of the Act, the legal objection emanating from Section 33 of the Act alone is effaced and the document is admitted in evidence. In other words, the objection under the Stamp Act is no more available to a contesting party. - Section 39 of the Act is titled deputy commissioner's power to stamp instruments impounded. This Section provides the procedure to be followed by the Deputy Commissioner/District Registrar while stamping instruments that are impounded under Section 33 of the Act. As per Section 39(1)(b) of the Act, the penalty may extend to ten times the stamp duty payable- however, ten times is the farthest limit which is meant only for very extreme situations. Therefore, the Deputy Commissioner/ District Registrar has discretion to levy and collect commensurate penalty.- The above steps followed and completed by paying/depositing the deficit duty and penalty would result in the instrument becoming compliant with the checklist of the Act. The finality is subject to the just exceptions envisaged by the Act addressing different contingencies. - The scheme does not prohibit a party to a document to first invoke directly the jurisdiction of the District Registrar and present the instrument before Court/Every Person after complying with the requirement of duty and penalty. In such an event, the available objection under Sections 33 or 34 of the Act is erased beforehand. The quantum of penalty is primarily between the authority/court and the opposing party has little role to discharge.

(Para 21)

Ishwar (D) vs Bhim Singh 2024 INSC 651 – S 28 Specific Relief Act – Execution Court

Specific Relief Act, 1963- Section 28- An application under Section 28 of the 1963 Act, either for rescission of contract or for extension of time, can be entertained and decided by the Execution Court provided it is the Court which passed the decree in terms of Section 37 of the CPC- An application seeking rescission of contract, or extension of time, under Section 28 (1) of the 1963 Act, must be decided as an application in the original suit wherein the decree was passed even though the suit has been disposed of -Even if the Execution Court is the Court of first instance with reference to the suit wherein the decree under execution was passed, it must transfer the application filed under Section 28 to the file of the suit before dealing with it. (Para 18-22) The power to rescind the contract under Section 28 of the 1963 Act is discretionary in nature and is to do complete justice to the parties. The Court does not cease to have the power to extend the time even though the decree may have directed that payment of balance price is to be made by a certain date. While exercising discretion in this regard, the Court is required to take into account facts of the case so as to ascertain whether the default was intentional or not. If there is a bona fide reason for the delay/ default, such as where there appears no fault on the part of the decree holder, the Court may refuse to rescind the contract and may extend the time for deposit of the defaulted amount. (Para 25)

Constitution of India, 1950- Article 136- The jurisdiction of the Supreme Court under Article 136 of the Constitution is a discretionary jurisdiction to advance the cause of justice. The Court does not exercise its jurisdiction under Article 136 only because it is lawful to do so . For the purpose of doing complete justice to the parties, the Court may not interfere with the order even if it suffers from some legal error. Not only that, the Court may deny relief to a party having regard to its conduct and may, in a given situation, mould the relief to do complete justice to the parties. (Para 24)

Vaibhav Jain vs Hindustan Motors Pvt Ltd. 2024 INSC 652 – Motor Vehicles Act

Motor Vehicles Act,1988- Section 2(30)-‘Owner’ of a vehicle is not limited to the categories specified in Section 2(30) of the M.V. Act. If the context so requires, even a person at whose command or control the vehicle is could be treated as its owner for the purposes of fixing tortious liability for payment of compensation. (Para 19) [In this case, two employees of M/s. Hindustan Motors took the vehicle from M/s Vaibhav Motors (the dealer) for a test drive. None of the employees of the dealer was present in the vehicle. Rather, at the time of accident, the driver and the copassenger of that vehicle were employees of M/s. Hindustan Motors. There is nothing on record to suggest that the dealer had the authority to deny those two persons permission to take the vehicle for a test drive. More so, when they were representatives of the owner of the vehicle. In these circumstances, we can safely conclude that at the time of accident the vehicle was not only under the ownership of M/s. Hindustan Motors but also under its control and command through its employees. Therefore the appellant, being just a dealer of M/s Hindustan Motors, was not liable for compensation as an owner of the vehicle.]

Code Of Civil Procedure,1908- Order 41 Rule 33 -For exercise of the power under Rule 33 of Order 41 CPC the overriding consideration is achieving the ends of justice- and one of the limitations on exercise of the power is that that part of the decree which essentially ought to have been appealed against, or objected to, by a party and which that party has permitted to achieve a finality cannot be reversed to the advantage of such party - Referred to Banarasi & Ors. V. Ram Phal (2003) 9 SCC 606. (Para 29-32)

Steve Kanika vs New Okhla Industrial Development Authority (NOIDA) 2024 INSC 653 – Allotment – Plots

Summary: After an open lottery held on 01.10.2009, the father of the appellant was allotted a plot on 26.10.2009, for which an allotment letter of even date was issued in favour of the appellant's father- NOIDA on 21.09.2011 cancelled the allotment on the ground that it was made in favour of a dead person on the day such draw of lots was held - HC dismissed writ petitions challenging this - Allowing appeal, SC observed: The fact remained that the father of the appellant had properly applied and was satisfying all the prerequisite conditions for allotment which was followed by actual draw of lots and issuance of allotment letter- undoubtedly though after his passing away. In our view, the demise of the appellant's father would not negate the right which stood vested in the appellant. The appellant is the Legal Representative and heir of his father - Distinguished Greater Mohali Area Development Authority v Manju Jain, (2010) 9 SCC 157 in which (i) The respondent therein took a 'vague' plea that the allotment letter was never communicated to her- (ii) The amounts sought for were never deposited by her, and- (iii) The ratio laid down was that 'if an order is passed but not communicated to the party concerned, it does not create any legal right which can be enforced through the court of law, as it does not become effective till it is communicated.

PIC Departmentals Pvt. Ltd. vs Sreeleathers Pvt. Ltd. 2024 INSC 654 – Written Statement

Rules of The High Court at Calcutta (Original Side), 1914: Chapter XXXVIII

Rule 463 - The power to extend time for filing Written Statement should not be employed as a matter of course, but with great caution so that the purpose of the procedural statute is not defeated and unscrupulous litigants do not abuse the process of the Court by adopting dilatory tactics. However, the same cannot be examined in a strait-jacket/sealed compartment for the peculiar facts and circumstances of every case have to be carefully and individually appreciated. Thereafter, the Court concerned has to take a call as to whether the request made is genuine or, more importantly, whether refusal to accede to

such request may lead to an eventual miscarriage of justice. It must not be lost sight of that ultimately, procedural technicalities have to give way to substantive justice. Procedure, well and truly, is only the handmaiden of justice. The discretion granted to Courts has to be exercised on a case-specific basis. Undisputedly, 'procedural laws are primarily intended to achieve the ends of justice and, normally, not to shut the doors of justice for the parties at the very threshold.

Nitya Nand vs State Of U.P 2024 INSC 655 – S 149 IPC – Unlawful Assembly

Indian Penal Code,1860- Section 149- [BNSS,2023- Section 190] -Section 149 IPC does not create a separate offence but only declares vicarious liability of all members of the unlawful assembly for acts done in common object - Section 149 IPC creates a constructive or vicarious liability of the members of the unlawful assembly for the unlawful acts committed pursuant to the common object by any other member of that assembly. By application of this principle, every member of an unlawful assembly is roped in to be held guilty of the offence committed by any member of that assembly in prosecution of the common object of that assembly. The factum of causing injury or not causing injury would not be relevant when an accused is roped in with the aid of Section 149 IPC. The question which is relevant and which is required to be answered by the court is whether the accused was a member of an unlawful assembly and not whether he actually took part in the crime or not -No overt act is required to be imputed to a particular person when the charge is under Section 149 IPC- the presence of the accused as part of the unlawful assembly is sufficient for conviction. (Para 30-32)

Navin Kumar vs Union Of India 2024 INSC 656 – B.Ed. – Primary School Teachers Appointment

Summary: Chhattisgarh HC declared all candidates, having B.Ed. qualification to be

ineligible and disqualified for selection to the post of primary school teachers relying on Devesh Sharma v. Union of India 2023 INSC 704 - Dismissing SLPs, SC observed: The judgement in Devesh Sharma (supra) was communicated to Chief Secretaries of all State Governments for further appropriate action. In spite of this, appointments were given to B.Ed. candidates which was illegal and has now rightly been quashed.

Akshay vs Aditya 2024 INSC 657 – NCDRC – Power Of Attorney

Summary: Dismissing appeal against NCDRC order, SC observed: I clearly transpires that undisputedly an irrevocable power of attorney dated 6-7-2013 was executed by the appellants in favour of the Respondent No.2 along the JAV of the same date, pursuant to which the Respondent No.2 had undertaken to develop the land in question. It further appears that though allegedly the said power of attorney was revoked by the appellants vide the letter dated 12-8-2014, the JAV has not been revoked so far and the same still continues to be in force-In the letter daeted 12-8-2014, the appellants had stated to be not liable “Henceforth”, i.e. after the said letter was sent. The appellants therefore were bound by the acts/deeds of the Respondent No.2 carried out pursuant to the irrevocable Power of Attorney till it was terminated, in accordance with law. It is also not denied that the appellants have not taken any action whatsoever against the respondent No.2 with regard 8 to the alleged non-compliance of the terms and conditions of JAV by the said Respondent. Under the circumstances, it does not lie in the mouth of the appellants to say that the appellants are not liable for the acts of Respondent No.2.

Kerala Agricultural University vs TP Murali @ Murali Thavara Panen 2024 INSC 658 – Kerala Civil Services (Classification, Control and Appeal) Rules

Kerala Civil Services (Classification, Control and Appeal) Rules, 1960- Rule 15- A plain reading of Rule 15(2)(a) which is applicable for imposing major penalties

specifically lays down that the disciplinary authority or the appointing authority or any other authority, empowered by Government in this behalf before holding a regular disciplinary inquiry, must record its satisfaction that there is a *prima facie* case for taking action against the delinquent employee so as to hold a formal inquiry against him- The aforesaid rule in explicit terms provides for recording a *prima facie* satisfaction for holding a disciplinary inquiry against any delinquent employee. (Para 13)

Interpretation of Statutes - if a statute provides for doing a thing in a particular manner than it should be done in that fashion only and not otherwise. (Para 14)

VS Palanivel vs P Sriram 2024 INSC 659 – IBBI Regulations

Interpretation of Statutes - When the law prescribes that a certain act has to be done in a particular manner for a party to acquire a right, then it ought to be treated as mandatory in character more so, when the Statute prescribes a consequence for failure to comply with the requirements laid down. (Para 35.8)-A judgment can neither be read like a Statute nor can the expressions used in a judgment be assigned a narrow meaning or curtailed. (Para 32.6)

IBBI Regulation, 2016- Schedule 1 -Rule 12 would have to be treated as mandatory in character for the reason that it contemplates a consequence in the event of non-payment of the balance sale consideration by the highest bidder within the stipulated timeline of 90 days, which is cancellation of the sale by the Liquidator. - Rule 12 is not interlinked with Rule 13. Both the Rules cover different situations. The first proviso to Rule 12 gives a leeway to the successful bidder to make payment of the balance sale consideration after thirty days subject to paying interest at the rate of 12%. However, the second proviso to Rule 12 is unequivocal and declares that the sale itself will be treated as cancelled if the payment is not received within the outer limit of 90 days. It is only on completion of the steps contemplated in Rule 12 that Rule 13 can come in. Reference to Rule 13 that starts

with the expression “on payment of the full amount” would naturally be understood to mean on payment of the full amount within the period prescribed in Rule 12. We have already held Rule 12 to be mandatory in character because non-payment within the timeline has consequences attached to it. However, in contrast thereto, there are no adverse consequences spelt out in Rule 13 for it to be treated as mandatory. The said Rule lays down the procedure for completion of the sale and would have to be treated as directory since some procedural steps have been set out for purposes of completion of the sale process, but nothing beyond that. (Para 36.9)

Auction -Once an auction is confirmed, it ought to be interfered with on fairly limited grounds. (Refer: Valji Khimji and Co. v. Hindustan Nitro Product (Gujarat) Ltd. (Official Liquidator) and Celir LLP v. Bafna Motors (Mumbai) Private Limited and others). Repeated interferences in public auction also results in causing uncertainty and frustrates the very purpose of holding auctions. (Refer : K. Kumara Gupta v. Sri Markendaya and Sri Omkareswara Swamy Temple and others). Unless there are some serious flaws in the conduct of the auction as for example perpetration of a fraud/collusion, grave irregularities that go to the root of such an auction, courts must ordinarily refrain from setting them aside keeping in mind the domino effect such an order would have.

IBBI Regulations, 2016- Supreme Court Orders Extending Limitation due to Covid -The spirit of the order passed in the Suo Moto Writ Petition was to overcome the challenges thrown by the lockdown clamped down on account of the Covid-19 pandemic. In our opinion, such an order would also extend to any action required to be taken in respect of a liquidation process, as contemplated in Regulation 47A of the IBBI Regulations, 2016. (Para 32.9)

Chirag Bhanu Singh vs High Court Of Himachal Pradesh 2024 INSC 660 - Collegium - Appointment Of Judges

Judiciary - Collegium System - Whether elevation for judgeship in the High Court has to be considered collectively by the Collegium of the High Court or whether the Chief Justice acting individually can reconsider the same? The process of judicial appointments to a superior court is not the prerogative of a single individual. Instead, it is a collaborative and participatory process involving all Collegium members. The underlying principle is that the process of appointment of judges must reflect the collective wisdom that draws from diverse perspectives. Such a process ensures that principles of transparency and accountability are maintained (Para 18)-The Chief Justice of a High Court cannot individually reconsider a recommendation and it can only be done by the High Court Collegium acting collectively (Para 31) -The Supreme Court Collegium does not sit in appeal over the High Court Collegium. It is a participatory process where each of the Constitutional functionaries have a role to play. In our opinion, the language therein by itself cannot be understood as permitting the Chief Justice of the High Court to act on his own, in matters of recommendation or even reconsideration, for elevation to the High Court bench. The recommendation by the Supreme Court Collegium for reconsideration, is not expected to be addressed individually to all the members of the High Court Collegium. Such communications are naturally addressed to the Chief Justice of the concerned High Court but as noted earlier, the letter addressed to the Chief Justice will not enable the Chief Justice to act without participation by the other two Collegium members. (Para 25)There is also a need to protect certain sensitive information in matters involving appointment of judges. While transparency is necessary to ensure fairness and accountability, it must be carefully balanced with the need to maintain confidentiality. Disclosing sensitive information would compromise not only the privacy of the individual but also the integrity of the process. (Para 29)

Constitution of India,1950; Article 32,226- The absence of consultation amongst the members of the Collegium would be within the limited purview of judicial review- ‘Lack of effective consultation’ and ‘eligibility’ falls within the scope of judicial review. ii)

‘Suitability’ is non-justiciable and resultingly, the ‘content of consultation’ falls beyond the scope of judicial review. (Para 15-17)

Suraj Singh Gujar vs State Of Madhya Pradesh 2024 INSC 661 – Article 142 – Compounding

Constitution of India, 1950- Article 142 - Code Of Criminal Procedure, 1973- Section 320, 482- Courts cannot grant permission to compound the non compoundable offences, on the basis of any sort of compromise between the parties, as it would be contrary to what has been provided by legislation, except the High Court under Section 482 of Cr.PC and the Apex Court in exercise of its powers under Article 142 of the Constitution of India. [In this case, the court invoked Article 142 as the appellants and complainant side are close relatives and after settling their disputes, both sides have agreed to maintain peace and harmony in the society.]. - Referred to Ramgopal & Anr. v. State of M.P (2022) 14 SCC 531 (Para 6-7)

Baccarose Perfumes And Beauty Products Pvt. Ltd. vs Central Bureau Of Investigation 2024 INSC 662 – FIR – Initiation

Code Of Criminal Procedure,1973- Section 154-176 -Mere registration of FIR cannot be interpreted to mean that it constitutes the initiation of such proceedings. A registration of FIR necessitates an investigation by a competent officer as per the detailed process outlined in Sections 155 to 176. It is only after a Final Report (or as referred in the common parlance, a Challan or a Chargesheet) is submitted as per the compliance of Section 173(2) of CrPC 1973, cognizance for the offence(s) concerned is taken. However, undoubtedly, the Court is not bound by the said report. The cardinal principle that investigation and taking of cognizance operate in parallel channels, without an

intermingling, and in different areas - Referred to H.N. Rishbud v. State (Delhi Admn.) (1954) 2 SCC 934 , Abhinandan Jha v. Dinesh Mishra 1967 SCC OnLine SC 107 and State of Orissa v. Habibullah Khan 2003 SCC OnLine SC 1411. (Para 19)

**Andhra Pradesh State Road Transport Corporation vs VV Brahma Reddy
2024 INSC 663 -Andhra Pradesh Reorganisation Act**

Andhra Pradesh Reorganisation Act, 2014- Section 77,82 -Section 77 applies to state government employees. Section 82 clearly states that the Corporations shall determine the modalities for distributing their employees between the successor states.

Somprabha Rana vs State of Madhya Pradesh 2024 INSC 664

Constitution of India, 1950- Article 226 - Writ of Habeas Corpus - a. Writ of Habeas corpus is a prerogative writ. It is an extraordinary remedy. It is a discretionary remedy- b. The High Court always has the discretion not to exercise the writ jurisdiction depending upon the facts of the case. It all depends on the facts of individual cases- c. Even if the High Court, in a petition of Habeas Corpus, finds that custody of the child by the respondents was illegal, in a given case, the High Court can decline to exercise jurisdiction under Article 226 of the Constitution of India if the High Court is of the view that at the stage at which the Habeas Corpus was sought, it will not be in the welfare and interests of the minor to disturb his/her custody- and d. As far as the decision regarding custody of the minor children is concerned, the only paramount consideration is the welfare of the minor. The parties' rights cannot be allowed to override the child's welfare. This principle also applies to a petition seeking Habeas Corpus concerning a minor -When the Court deals with the issue of Habeas Corpus regarding a minor, the Court cannot treat the child as a movable property and transfer custody without even considering the impact of the disturbance of the custody on the child. Such issues cannot be decided mechanically. The Court has to act

based on humanitarian considerations. After all, the Court cannot ignore the doctrine of parens patriae.

Child Custody -Only in substantive proceedings under the GW Act can the appropriate Court decide the issue of the child custody and guardianship. Regular Civil/Family Court dealing with child custody cases is in an advantageous position. The Court can frequently interact with the child. Practically, all Family Courts have a child centre/play area. A child can be brought to the play centre, where the judicial officer can interact with the child. Access can be given to the parties to meet the child at the same place. Moreover, the Court dealing with custody matters can record evidence. The Court can appoint experts to make the psychological assessment of the child. If an access is required to be given to one of the parties to meet the child, the Civil Court or Family Court is in a better position to monitor the same

Chabi Karmakar vs State Of West Bengal 2024 INSC 665 – S 304B IPC – Dowry Death

Indian Penal Code, 1860- Section 304B - The ingredients of the offence : (a) death of a woman must have been caused by any burns or bodily injury or her death must have occurred otherwise than under normal circumstances- (b) such death must have occurred within seven years of her marriage- (c) soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband- and (d) such cruelty or harassment must be in connection with the demand for dowry. [In this case, the Court noted that the fourth ingredient i.e. cruelty or harassment in connection with the demand for dowry is missing and therefore set aside conviction under Section 304B] - Referred to Rajinder Singh vs. State of Punjab (2015) 6 SCC 477. (Para 8,9)

Mandakini Diwan vs High Court Of Chhattisgarh 2024 INSC 666 – CBI Investigation

Constitution of India, 1950- Article 226 - Power to direct CBI to conduct investigation is to be exercised sparingly and such orders should not be passed in routine manner- In this case, SC directed cbi to probe a case of suspicious death of senior judicial officer's wife - The aggrieved party has raised allegations of bias and undue influence on the police machinery of the State of Chhattisgarh. Coupled with the fact that the thorough, fair and independent investigation needs to be carried out to find out the truth about the whole incident and in particular about the ante mortem injuries. (Para 14)

Dharmendra Sharma vs Agra Development Authority 2024 INSC 667 – Builder – Consumer Protection

Consumer Protection Act -Possession offered without the requisite completion certificate is illegal, and a purchaser cannot be compelled to take possession in such circumstances - Referred to Debashis Sinha v. R.N.R. Enterprise (2023) 3 SCC 195 - the absence of these certificates would constitute a deficiency in service. [In this case, the court held that ADA's failure to provide the required certificates justifies the appellant's refusal to take possession. This strengthens the appellant's claim for additional compensation to compensate for the delay caused by ADA's breach of its statutory obligations]

Abhishek Banerjee vs Directorate Of Enforcement 2024 INSC 668 – PMLA – CrPC

Prevention of Money Laundering Act,2002 -Code Of Criminal Procedure,1973- Chapter XII- The provisions of Chapter XII of the Code (under which Section 160 falls) do not apply in all respects to deal with information derived relating to the commission of

money laundering offence much less investigation thereof - The dispensation regarding Prevention of Money Laundering, Attachment of Proceeds of Crime, and Inquiry/Investigation of offence of Money Laundering including issuing summons, recording of statements, calling upon persons for production of documents etc. upto filing of the Complaint in respect of offence under Section 3 of PMLA is fully governed by the provisions of the said Act itself. The jurisdictional police who is governed by the regime of Chapter XII of the Code, can not register the offence of money laundering, nor can investigate into it, in view of the special procedure prescribed under the PMLA with regard to the registration of offence and inquiry/investigation thereof, and that the special procedure must prevail in terms of Section 71 of the PMLA- Specific procedure prescribed under the Statutory Rules of 2005 for summoning the person under sub-sections (2) and (3) of Section 50 of the Act, the same would prevail over any other procedure prescribed under the Code, particularly the procedure contemplated in Section 160/161, as also the procedure for production of documents contemplated in Section 91 of the Code, in view of the overriding effect given to the PMLA over the other Acts including the Cr.P.C. under Section 71 r/w Section 65 of the PMLA.

Constitution of India, 1950- Article 20(3)- Prevention of Money Laundering Act, 2002 - Section 50-Section 50 enables the authorized Authority to issue summon to any person whose attendance he considers necessary for giving evidence or to produce any records during the course of the proceedings under the Act, and that the persons so summoned is bound to attend in person or through authorized agent, and to state truth upon the subject concerning which he is being examined or is expected to make statement and produce documents as may be required by virtue of subsection (3) of Section 50. At the stage of issue of summons, the person cannot claim protection under Article 20(3) of the Constitution, the same being not "testimonial compulsion". At the stage of recording of statement of a person for the purpose of inquiring into the relevant facts in connection with the property being proceeds of crime, is not an investigation for prosecution as such. The summons can be issued even to witnesses in the inquiry so conducted by the authorized officers. The consequences of Article 20(3) of the Constitution or Section 25 of the Evidence Act may come into play only if the involvement of such person (noticee) is revealed and his or her statements is recorded after a formal arrest by the ED official. (Para

19) - Referred to Vijay Madanlal Choudhary vs. Union of India [2022] 6 S.C.R. 382 :: 2022 INSC 757.

Dhanraj Aswani vs Amar S. Mulchandani 2024 INSC 669 – Anticipatory Bail

Code Of Criminal Procedure, 1973- Section 438 - [BNSS,2023- Section 482]- An accused is entitled to seek anticipatory bail in connection with an offence so long as he is not arrested in relation to that offence. Once he is arrested, the only remedy available to him is to apply for regular bail either under Section 437 or Section 439 of the CrPC, as the case may be- There is no express or implied restriction in the CrPC or in any other statute that prohibits the Court of Session or the High Court from entertaining and deciding an anticipatory bail application in relation to an offence, while the applicant is in custody in relation to a different offence. No restriction can be read into Section 438 of the CrPC to preclude an accused from applying for anticipatory bail in relation to an offence while he is in custody in a different offence, as that would be against the purport of the provision and the intent of the legislature. The only restriction on the power of the court to grant anticipatory bail under Section 438 of the CrPC is the one prescribed under sub-section (4) of Section 438 of the CrPC, and in other statutes like the Act, 1989, etc- While a person already in custody in connection with a particular offence apprehends arrest in a different offence, then, the subsequent offence is a separate offence for all practical purposes. This would necessarily imply that all rights conferred by the statute on the accused as well as the investigating agency in relation to the subsequent offence are independently protected - The investigating agency, if it deems necessary for the purpose of interrogation/ investigation in an offence, can seek remand of the accused whilst he is in custody in connection with a previous offence so long as no order granting anticipatory bail has been passed in relation to the subsequent offence. However, if an order granting anticipatory bail in relation to the subsequent offence is obtained by the accused, it shall no longer be open to the investigating agency to seek remand of the accused in relation to the

subsequent offence. Similarly, if an order of police remand is passed before the accused is able to obtain anticipatory bail, it would thereafter not be open to the accused to seek anticipatory bail and the only option available to him would be to seek regular bail- The right of an accused to protect his personal liberty within the contours of Article 21 of the Constitution of India with the aid of the provision of anticipatory bail as enshrined under Section 438 of the CrPC cannot be defeated or thwarted without a valid procedure established by law- Such procedure should also pass the test of fairness, reasonableness and manifest non-arbitrariness on the anvil of Article 14 of the Constitution of India - Under Section 438 of the CrPC, the pre-condition for a person to apply for pre-arrest bail is a “reason to believe that he may be arrested on an accusation of having committed a non-bailable offence”. Therefore, the only pre-condition for exercising the said right is the apprehension of the accused that he is likely to be arrested- custody in one case does not have the effect of taking away the apprehension of arrest in a different case -(Para 60) -Distinguished Narinderjit Singh Sahni v. Union of India, [2001] Supp. 4 SCR 114, (2002) 2 SCC 210 :

Code Of Criminal Procedure, 1973- Section 46- Arrest involves actual touch or confinement of the body of the person sought to be arrested. However, arrest can also be effected without actual touch if the person sought to be arrested submits to the custody by words or action-The actual seizing or touching of the body of the person to be arrested is not necessary in a case where the arrester by word brings to the notice of the accused that he is under compulsion and thereafter the accused submits to that compulsion. This is in conformity with the modality of the arrest contemplated under Section 46 of the CrPC wherein also it is provided that the submission of a person to be arrested to the custody of the arrester by word or action can amount to an arrest. The essence is: There must be an actual seizing or touching, and in the absence of that, it must be brought to the notice of the person to be arrested that he is under compulsion, and as a result of such notice, the said person should submit to that compulsion, and then only the arrest is consummated. (Para 46-51)

Code Of Criminal Procedure, 1973- Section 267-Although Section 267 of the CrPC cannot be invoked to enable production of the accused before the investigating agency, yet it can undoubtedly be invoked to require production of the accused before the jurisdictional Magistrate, who can thereafter remand him to the custody of the investigating agency. (Para 52)

Code Of Criminal Procedure, 1973- Section 438 - [BNSS,2023- Section 482]- Principles of law as regards the grant of anticipatory bail summarized - Gurbaksh Singh Sibia v. State of Punjab, [1980] 3 SCR 383, (1980) 2 SCC 565: i. The applicant must genuinely show the “reason to believe” that he may be arrested for a non-bailable offence. Mere fear is not belief and the grounds on which the belief of the applicant is based must be capable of being examined by the Court objectively. Specific events and facts must be disclosed to enable the Court to judge the reasonableness of belief or likelihood of arrest, the existence of which is the sine qua non in the exercise of the power to grant anticipatory bail. ii. The High Court or the Court of Session must apply its mind to the question of anticipatory bail and should not leave it to the discretion of the Magistrate under Section 437 CrPC. iii. Filing of the FIR is not a condition precedent. However, imminence of a likely arrest founded on the reasonable belief must be shown. iv. Anticipatory bail can be granted so long as the applicant is not arrested in connection with that case/offence. v. Section 438 of the CrPC cannot be invoked by the accused in respect of the offence(s)/case in which he has been arrested. The remedy lies under Section 437 or 439 of the CrPC, as the case may be, for the offence for which he is arrested. vi. The normal rule is to not limit the operation of the order in relation to a period of time. (Para 32) -Sushila Aggarwal v. State (NCT of Delhi), [2020] 2 SCR 1, (2020) 5 SCC 1: i. An application for anticipatory bail should be based on concrete facts (and not vague or general allegations). It is not essential that an application should be moved only after an FIR is filed. ii. It is advisable to issue a notice on the anticipatory bail application to the Public Prosecutor. iii. Nothing in Section 438 of the CrPC compels or obliges courts to impose conditions limiting relief in terms of time. The courts would be justified – and ought to impose conditions spelt out in Section 437(3) of the CrPC [by virtue of Section 438(2)]. The need to impose other restrictive conditions would have to be judged on a case-to-case basis. iv. Courts ought to be generally

guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail or not. v. Once granted, Anticipatory bail can, depending on the conduct and behaviour of the accused, continue after filing of the chargesheet till the end of trial. vi. An order of anticipatory bail should not be a “blanket” order and should be confined to a specific incident. vii. An order of anticipatory bail does not limit the rights of the police to conduct investigation. viii. The observations in Gurbaksh Singh Sibia (supra) regarding “limited custody” or “deemed custody” would be sufficient for the purpose of fulfilling the provisions of Section 27 of the Indian Evidence Act, 1872. ix. The police can seek cancellation of anticipatory bail under Section 439(2) of the CrPC. x. The correctness of an order granting bail can be considered by the appellate or superior court. - The court, on its own, should not try to read any other restriction as regards the exercise of its power to consider the plea for grant of anticipatory bail. Wherever parliament intends or desires to exclude or restrict the power of courts, it does so in categorical terms. This is very much evident from the plain reading of sub-section (4) of Section 438 of the CrPC itself. The dictum as laid is that the court should not read any blanket restriction nor should it insist for some inflexible guidelines as that would amount to judicial legislation. (Para 35-36)

Cox & Kings Ltd. v. SAP India Pvt. Ltd. 2024 INSC 670 – Non -Signatory – Arbitration

Arbitration & Conciliation Act, 1996- Section 11(6) - At the referral stage, the referral court should leave it for the Arbitral Tribunal to decide whether the non-signatory is bound by the arbitration agreement- Referred to Cox and Kings Ltd. v. SAP India Pvt. Ltd. 2023 INSC 1051 - [In this case, SC held: In view of the complexity involved in the determination of the question as to whether the respondent is a party to the arbitration agreement or not, we are of the view that it would be appropriate for the arbitral tribunal to take a call on the question after taking into consideration the evidence adduced before it

by the parties and the application of the legal doctrine as elaborated in the decision in Cox and Kings] (Para 31-34)

Chalasani Udaya Shankar vs Lexus Technologies Pvt. Ltd. 2024 INSC 671 – Companies Act – Rectification

Companies Act,2013- Section 59 -National Company Law Tribunal exercising jurisdiction under Section 59 of the Act of 2013 has to examine the factual issues to ascertain the substance of the issue before it after removing the cloak of the form of the application. The expression ‘rectification’ connotes something that ought to have been done but, by error, was not done, or what ought not to have been done but was done, requiring correction. The phrase ‘sufficient cause’ in Section 59 of the Act of 2013 is to be tested in relation to the statutory mandate thereof, i.e., anything done or omitted to be done in contravention of the Act of 2013 or the Rules framed thereunder. (Para 32) -Exercise of power under Section 59 of the Act of 2013 is to be undertaken in right earnest by examining the material, evidence, and the facts on record. The facts, material, and evidence had to be examined in the context of the underlying facts, which would have included the receipt of monies, the signatures on the transfer deeds, etc. Needless to state, questions of fact must be decided on the principle of preponderance of probabilities, giving due weight to the specific facts, as found, so as to draw the conclusion that a reasonable person, acquainted with the relevant field, would draw on the basis of the same facts. (Para 34) - If, on facts, an open-and-shut case of fraud is made out in favour of the person seeking rectification, the National Company Law Tribunal would be entitled to exercise such power under Section 59 of the Act. (Para 35)

Companies Act,2013 - The jurisdiction of the civil court or for that matter, any other forum, would be barred only when the subject matter of the dispute squarely falls within the domain and jurisdiction of the court/forum constituted under the provisions of the Act of 1956/Act of 2013. When and where the Act of 1956/Act of 2013 does not confer such exclusive jurisdiction on the court/forum constituted thereunder or the dispute falls

outside the realm of that particular provision of the Act of 1956/Act of 2013, the jurisdiction of the civil court would not be completely barred. (Para 33)

Union Of India vs Lt. Col. Rahul Arora 2024 INSC 672 -Army Rules – Court Martial – Judge Advocate

Army Rules, 1954-Rules 39, 40(2) 102 & 103 - Court Martial proceedings -Non recording of reasons of appointment of an officer junior in rank as a Judge Advocate in the convening order invalidates the Court Martial proceedings - Protection under Army Rule 103 is available only where a fit person has been appointed as a Judge Advocate. If the person so appointed is not fit to act and perform the duties of the Judge Advocate, Rule 103 would not come to his rescue. (Para 10-11) - Referred to Union of India vs Charanjit Singh Gill 2000 (5) SCC 742

Anantdeep Singh vs High Court Of Punjab & Haryana 2024 INSC 673 – Service Law

Service Law - Miscellaneous application, the applicant- appellant prayed that he should be reinstated into service as Civil Judge with all consequential benefits in view of the SC order dated 20.04.2024- SC held: Once the termination order is set aside and judgment of the High Court dismissing the writ petition challenging the said termination order has also been set aside, the natural consequence is that the employee should be taken back in service and thereafter proceeded with as per the directions. Once the termination order is set aside then the employee is deemed to be in service. We find no justification in the inaction of the High Court and also the State in not taking back the appellant into service after the order dated 20.04.2022. No decision was taken either by the High Court or by the State of taking back the appellant into service and no decision was made regarding the back wages from the date the termination order had been passed till the date of

reinstatement which should be the date of the judgment of this Court. In any case, the appellant was entitled to salary from the date of judgment dated 20.04.2022 till fresh termination order was passed on 02.04.2024. The appellant would thus be entitled to full salary for the above period to be calculated with all benefits admissible treating the appellant to be in continuous service.

Ashok Kumar Sharma vs Union of India 2024 INSC 674 – Israel – Foreign Policy – International Law

Constitution of India,1950- Article 32- Writ petition seeking to cancel existing licences and halt the issuance of new licences for the export of arms and military equipments to Israel- Dismissing WP, SC observed: The sovereign nation of Israel is not and cannot be made amenable to the jurisdiction of this Court. Hence, for this Court to consider the grant of the reliefs as sought, it would inevitably become necessary to enter a finding in regard to the allegations which have been leveled by the petitioners against the State of Israel. Absent jurisdiction over a sovereign State, It would be impermissible for this Court to entertain the grant of reliefs of this nature - Some of these licenses may be governed by contracts with international entities, including within the State of Israel. The grant of injunctive relief by this Court would necessarily implicate a judicial direction for breach of international contracts and agreements. The fall out of such breaches cannot be appropriately assessed by this Court and would lay open Indian companies which have firm commitments to proceedings for damages which may affect their own financial viability- Whether in a given case, any such action is warranted is a matter which has to be decided by the Union Government bearing in mind economic, geo-political and other interests of the nation in the conduct of international relations. In taking an appropriate decision, the Government bears into account all relevant considerations including the commitments of the nation at the international level- The danger in the Court taking over this function is precisely that it would be led into issuing injunctive reliefs without a full and comprehensive analysis or backdrop of the likely consequences of any such action- The

self-imposed restraint on Courts entering into areas of foreign policy is, thus, grounded in sound rationale which has been applied across time.

International Law - International law is a part and parcel of the law of the nation unless the application of a principle of international law is excluded expressly or by necessary implication by the competent legislature. (Para 6)

Manilal vs State Of Rajasthan 2024 INSC 675 – Service Law

Summary: Allowing appeal filed by a candidate to teacher post, SC held: We direct the respondent-authorities to treat the appointment given to the appellant, pursuant to the interim order of the Division Bench dated 23.10.2021, as a regular appointment and after reinstating the appellant grant consequential benefits. We direct that except for the period the appellant actually worked, he shall not be entitled to any back wages. However, fitment of pay shall be granted.

Sk Golam Lalchand vs Nandu Lal Shaw @ Nandu Lal Keshri @ Nandu Lal Bayes 2024 INSC 676 – Specific Relief Act

Specific Relief Act, 1963- Section 31- Section 31 uses the word ‘may’ for getting declared the instrument as void which is not imperative in every case, more particularly when the person is not a party to such an instrument. (Para 23)

Property Law- One Coowner of a property alone cannot execute a sale of the entire property that too without its partition by metes and bounds. (Para 20)

**State Project Director, UP Education For All Project Board vs Saroj Maurya
2024 INSC 677**

Summary: Appeal against the Judgment of the Division Bench of the High Court of Judicature at Allahabad in an intra court appeal- Allowing appeal, SC observed: We find that except for placing on record the case of the writ petitioners and the respondents followed by the findings returned by the learned Single Judge and the conclusions arrived at, on its own the Division Bench has not expressed its view on the issues raised before it. The judgment simply concludes with an observation that the Division Bench is in agreement with the approach and view of the learned Single Judge without furnishing any reasons therefor- In the absence of any reasoning in the impugned judgment, the same cannot be sustained - Referred to CCT v. Shukla & Bros (2010) 4 SCC 785-The matter is remanded back to the Division Bench for the parties to appear and address arguments afresh.

Lakshmesh M. vs P Rajalakshmi (D) 2024 INSC 678

Summary: Allowing appeal against HC Judgment, SC observed: Given the lack of pleadings, evidence on record, and submissions made at the time of hearing before the High Court, the judgment passed by it granting 30 per cent of the amount payable by way of compensation in respect of the ten sites in possession of the private Defendants, deserves to be set aside- The Appellant/Plaintiff is entitled to receive the full amount payable in respect of acquisition of the suit property for the Metro Rail Project.

Devendra Kumar Pal vs State Of UP 2024 INSC 679 – S 319 CrPC

Code Of Criminal Procedure, 1973- Section 319- The order of conviction in the case of some of the accused and the order of acquittal in the case of the other accused was

passed in the first half of the day. In the second half, the Court first passed an order for sentencing of the persons who were convicted and only thereafter passed an order under Section 319 of Cr.P.C. for summoning the present appellant- if such a summoning order is passed, either after the order of acquittal or imposing of sentence in the conviction, the same may not be sustainable- Followed Sukhpal Singh Khaira vs. State of Punjab [2022] 10 S.C.R. 156:: 2022 INSC 1252

Beena vs Charan Das (D) 2024 INSC 680

Summary: Tenancy Dispute' - Allowing appeal, SC observed: High Court had patently erred in interpreting the consent order and in reversing the well-considered judgments and orders of the court of first instance and the First Appellate Court, dismissing the suit of the tenant.

Raghuveer Sharan vs District Sahakari Krishi Gramin Vikas Bank 2024 INSC 681 – S 132 Evidence Act

Indian Evidence Act, 1872- Section 132 [BNSS,2023- Section 137]- The qualified privilege under the proviso to Section 132 of the Act does not grant complete immunity from prosecution to a person who has deposed as a witness (and made statements incriminating himself)- The only protection available is, a witness cannot be subjected to prosecution on the basis of his own statement. It nowhere provides that there is complete and unfettered immunity to a person even if there is other substantial evidence or material against him proving his *prima facie* involvement. If this complete immunity is read under the proviso to Section 132 of the Act, an influential person with the help of a dishonest Investigating Officer will provide a legal shield to him by examining him as a witness even though his complicity in the offence is writ large on the basis of the material available in the case. (Para 20-25) -No prosecution can be launched against the maker of a statement

falling within the sweep of Section 132 of the Act on the basis of the “answer” given by a person while deposing as a “witness” before a Court - Referred to R. Dinesh Kumar alias Deena v. State (2015) 7 SCC 497 (Para 16) -Section 132 of the Act is a necessary corollary to the principle enshrined under Article 20(3) of the Constitution of India which confers a fundamental right that “no person accused of any offence shall be compelled to be a witness against himself”-The purpose for granting such a statutory immunity was to enable the court to reach a just conclusion (and thus assisting the process of law). (Para 14-15)

Code Of Criminal Procedure, 1973- Section 319- What is the course available to a Court, which in the course of trial is confronted with evidence, other than the statement of the witness (against whom incriminating material is available)? Whether the Court can rely upon the statement of the witness for invoking the provisions of Section 319 Cr.P.C? Whether reference to any statement tendered by the witness would vitiate the order under Section 319 Cr.P.C? There cannot be an absolute embargo on the Trial Court to initiate process under Section 319 Cr.P.C., merely because a person, who though appears to be complicit has deposed as a witness. The finding to invoke Section 319 Cr.P.C., must be based on the evidence that has come up during the course of Trial. There must be additional, cogent material before the Trial Court apart from the statement of the witness. An order for initiation of process under Section 319 Cr.P.C against a witness, who has deposed in the trial and has tendered evidence incriminating himself, would be tested on the anvil that whether only such incriminating statement has formed the basis of the order under Section 319 Cr.P.C. At the same time, mere reference to such statement would not vitiate the order. The test would be as to whether, even if the statement of witness is removed from consideration, whether on the basis of other incriminating material, the Court could have proceeded under Section 319 Cr.P.C. (Para 21-22)

Pune Municipal Corporation vs Sus Road Baner Vikas Manch 2024 INSC 682 – NGT – Garbage Processing Plant

Summary: NGT directed the Pune Municipal Corporation to close the Garbage

Processing Plant operated by Noble Exchange Environment Solution Pune LLP, at Baner, Pune and to shift the same to an alternate location in terms of the guidelines issued by the Central Pollution Control Board- Allowing appeal, SC observed: Tribunal has erred in allowing the OA of the respondent No. 1 and directing closure of the GPP. Apart from that, we find that the closure of the GPP in question rather than subserving the public interest, would be detrimental to public interest. If the GPP in question is closed, the organic waste generated in the western part of Pune city would be required to be taken all the way throughout the city to Hadapsar which is in the eastern part of the city. This will undoubtedly lead to foul odour and nuisance to the public-The appellant-Corporation as well as the respondent-Concessionaire that they should take necessary steps so that the residents residing in the nearby buildings do not have to suffer on account of foul odour.

Words and Phrases -Things done -The term “things done” comprehensive enough to take in not only the things done but also the effect of the legal consequences flowing therefrom- Referred to State of Punjab v. Harnek Singh (2002) 3 SCC 481 : 2002 INSC 84 (Para 32)

Jaseela Shaji vs Union Of India 2024 INSC 683 – Article 22(5) Constitution – Detention

Constitution of India,1950- Article 22(5)- It is not necessary to furnish copies of each and every document to which a casual or passing reference may be made in the narration of facts and which are not relied upon by the Detaining Authority in making the order of detention. However, failure to furnish copies of such document/documents as is/are relied on by the Detaining Authority which would deprive the detenu to make an effective representation would certainly amount to violation of the fundamental right guaranteed under Article 22(5) of the Constitution of India.(Para 25) [In this case, the court held that non-supply of the statements affected the right of the detenu to make an effective

representation under Article 22(5) of the Constitution of India and as such, the detention is vitiates on the said ground (Para 44)]

Constitution of India, 1950- Article 22(5)-The Prison Authorities should ensure that the representations by the detenu are sent to the Competent Authorities immediately after the receipt thereof. In the present era of technological development, the said representation can be sent through email within a day. It is further needless to reiterate that the Competent Authority should decide such representation with utmost expedition so that the valuable right guaranteed to the detenu under Article 22(5) of the Constitution is not denied. In the matters pertaining to personal liberty of the citizens, the Authorities are enjoined with a constitutional obligation to decide the representation with utmost expedition. Each day's delay matters in such a case. (Para 70)

Ravinder Kumar vs State Of Haryana 2024 INSC 684 – PCPNDT Act – Reason To Believe – Search

Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994- Section 30: The expression “reason to believe” cannot be construed in a manner which would create a procedural roadblock. The reason is that once there is any material placed before the Appropriate Authority based on which action of search is required to be undertaken, if the action is delayed, the very object of passing orders of search would be frustrated. Therefore, what is needed is that the complaint or other material received by the appropriate authority or its members should be immediately made available to all its members. After examining the same, the Appropriate authority must expeditiously decide whether there is a reason to believe that an offence under the 1994 Act has been or is being committed. The Appropriate Authority is not required to record reasons for concluding that it has reason to believe that an offence under the 1994 Act has been or is being committed. But, there has to be a rational basis to form that belief. (Para 12)- Only the Chairman or any other member acting alone cannot authorise search under subsection (1) of Section 30. It must be a decision of the Appropriate Authority. If a

single member of the Appropriate Authority authorises a search, it will be completely illegal being contrary to sub-section (1) of Section 30. If the law requires a particular thing to be done in a particular manner, the same shall be done in that manner only. (Para 13) [In this case, there is no decision of the Appropriate Authority, and the decision to carry out the search is an individual decision of the Civil Surgeon, who was the Chairman of the concerned Appropriate Authority. Therefore, the action of search is itself vitiated. (Para 15)

Sitaram Enterprises vs Prithviraj Vardhichand Jain 2024 INSC 685 – Contempt

Contempt -"Disregarding a Court's order may seem bold, but the shadows of its consequences are long and cold."- Contempt of court is a serious legal infraction that strikes at the very soul of justice and the sanctity of legal proceedings. It goes beyond from mere defiance of a Court's authority, but also denotes a profound challenge to the principles that underpin the rule of law. At its core, it is a profound disavowal of the respect and adherence to the judicial process, posing a concerning threat to integrity of judicial system. When a party engages in contempt, it does more than simply refusing to comply with a Court's order. By failing to adhere to judicial directives, a contemnor not only disrespects the specific order, but also directly questions the Court's ability to uphold the rule of law. It erodes the public confidence in the judicial system and its ability to deliver justice impartially and effectively. Therefore, power to punish for Contempt of Court's order is vital to safeguard the authority and efficiency of the judicial system. By addressing and penalizing contemptuous conduct, the legal system reinforces its own legitimacy and ensures that judicial orders and proceedings are taken seriously. This deterrent effect helps to maintain the rule of law and reinforces public's faith in the judicial process, ensuring that Courts can function effectively without undue interference or disrespect. Contempt powers are integral to maintaining the sanctity of judicial proceedings. The ability to address contempt ensures that the authority of the court is respected and that the administration of justice is not hampered by willful disobedience. In the said context, the power of this Court to punish for contempt is a cornerstone of its

authority, integral to the administration of justice and the maintenance of its own dignity. Enshrined in Article 129 of the Constitution of India, this power is essential for upholding the rule of law and ensuring due compliance by addressing actions that undermine its authority, obstruct its proceedings, or diminish the public trust and confidence in the judicial system. The Courts ordinarily take lenient approach in a case of some delay in compliance of the orders, unless the same is deliberate and willful, on confronting the conduct of the contemnor that strikes the very heart of judicial authority. (Para 1-3)

Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Limited 2024 INSC 686 – S 29A Arbitration Act

Arbitration and Conciliation Act,1996- Section 29A - An application for extension of the time period for passing an arbitral award under Section 29A(4) read with Section 29A(5) is maintainable even after the expiry of the twelve-month or the extended six-month period, as the case may be.- The court while adjudicating such extension applications will be guided by the principle of sufficient cause (Para 19) -Under Section 29A(5), the power of the court to extend the time is to be exercised only in cases where there is sufficient cause for such extension. Such extension is not granted mechanically on filing of the application. The judicial discretion of the court in terms of the enactment acts as a deterrent against any party abusing the process of law or espousing a frivolous or vexatious application. Further, the court can impose terms and conditions while granting an extension. Delay, even on the part of the arbitral tribunal, is not countenanced. The first proviso to Section 29A(4) permits a fee reduction of up to five percent for each month of delay attributable to the arbitral tribunal. (Para 15) - The arbitral tribunal may not pronounce the award till an application under Section 29A(5) of the A & C Act is sub-judice before the court. In a given case, where an award is pronounced during the pendency of an application for extension of period of the arbitral tribunal, the court must still decide the application under sub-section (5), and may even, where an award has been pronounced, invoke, when required and justified, sub-sections (6) to (8), or the first and third proviso to Section 29A(4) of the A & C Act. (Para 17)

Interpretation of Statutes- While interpreting a statute, we must strive to give meaningful life to an enactment or rule and avoid cadaveric consequences that result in unworkable or impracticable scenarios. An interpretation which produces an unreasonable result is not to be imputed to a statute if there is some other equally possible construction which is acceptable, practical and pragmatic. (Para 18)

Limitation -Courts should be wary of prescribing a specific period of limitation in cases where the legislature has refrained from doing so. (Para 13)

Arvind Kejriwal vs Central Bureau of Investigation 2024 INSC 687 – Bail

Summary: Bail granted to Arvind Kejriwal in CBI Case - Conditions imposed including: He shall not make any public comments on the merits of the CBI case, it being sub judice before the Trial Court. This condition is necessitated to dissuade a recent tendency of building a self-serving narrative on public platforms- Justice Surya Kant held that the arrest of by CBI does not suffer with any procedural infirmity and therefore dismissed the appeal challenging the legality of arrest- But Justice Ujjal Bhuyan clearly held that belated arrest by CBI is unjustified and therefore clarified the impugned judgment to that extent- However, the operative order signed by both judges says that the Criminal Appeal challenging the legality of arrest is dismissed.

Rashmi Kant Vijay Chandra vs Baijnath Choubey & Company – 2024 INSC 688- S 100 CPC – Second Appeal

Code of Civil Procedure,1908- Section 100 - Second Appeal -High Courts are required to hear second appeals under Section 100 of the CPC only on the satisfaction that there exists a substantial question of law and the appeal has to be heard on the question so

formulated -[In this case, while allowing appeal against judgment of HC in second appeal, SC observed:There is no question framed about lack of evidence, sub-letting or incorrect appreciation of facts by the learned First Appellate Court, on which the final finding of the High Court is returned. Furthermore, there is no discussion by the High Court, as to the reasons required for the departure from the substantial questions of law framed at the stage of admission or in the impugned order. The impugned judgment overturns the finding of fact of the First Appellate Court qua sub-letting without framing a substantial question of law in this regard at any stage. Therefore, in view of the above exposition of law and the foregoing discussion, the impugned order is liable to be set aside on this ground.]

Kimneo Haokip Hangshing vs Kenn Raikhan 2024 INSC 689 – RP Act – Rejection Of Election Petition

Representation of the People Act, 1951- Section 83 - Code Of Civil Procedure,1908- Order VII Rule 11- Election Petition should not be rejected at the very threshold where there is a “substantial compliance” of the provisions- if substantial compliance in terms of furnishing all that is required under the law has been given, the petition cannot be summarily dismissed. (Para 7-11)

A.S. Pharma Pvt. Ltd. vs Nayati Medical Pvt. Ltd. 2024 INSC 690 – Ss 138,147 NI Act – S 482 CrPC – Compounding Of Cheque Bounce Cases

Negotiable Instruments Act,1881- Section 138,147 -An offence under Section 138, N.I. Act could be compounded under Section 147 thereof, only with the consent of the complainant concerned’ . (Para 17)

Code of Criminal Procedure,1973- Section 482 - Merely because, in Raj Reddy Kalle v. The State of Haryana & Anr. 2024 INSC 347, SC ‘quashed’ the proceedings by

invocation of the power under Article 142 of the Constitution of India, cannot be a reason for ‘compounding’ an offence under Section 138, N.I. Act, invoking the power under Section 482, Cr.P.C. and the power under Section 147, N.I. Act, in the absence of consent of the complainant concerned. (Para 18)

Choudappa vs Choudappa (D) 2024 INSC 691 -Order XX Rule 12 CPC – Mesne Profits

Code Of Civil Procedure,1908-Order XX Rule 12 - Analogy with regard to the preparation of the final decree pursuant to the preliminary decree for partition can very well be applied to the cases where a decree is passed with a direction to hold an inquiry with regard to determination of mesne profits- Such an inquiry is nothing but a continuation of the suit and is in the nature of preparation of the final decree and as such, it cannot be said that any application moved as a reminder for completing the inquiry is barred by limitation or is liable to be dismissed on the ground of delay or laches.

Limitation -In a situation where no limitation stands provided either by specific applicability of the Limitation Act or by the special statute governing the dispute, the Trial Court must undertake a holistic assessment of the facts and circumstances of the case to examine the possibility of delay. When no limitation stands prescribed, it would be inappropriate for a Court to supplement the legislature’s wisdom by its own and provide a limitation.

Kukreja Construction Company vs State Of Maharashtra 2024 INSC 692 – Development Control Regulations for Greater Bombay

Summary: Disposing appeal, SC held: Bombay High Court was not right in dismissing the writ petitions on the ground of delay and laches -Question of delay and laches would

not arise in matters such as the present cases. When relief in the nature of compensation is sought, as in the instant case, once the compensation is determined in the form of FSI/TDR, the same is payable even in the absence of there being any representation or request being made. In fact, a duty is cast on the State to pay compensation to the land losers as otherwise there would be a breach of Article 300-A of the Constitution- Directions issued.

SD Manohara vs Konkan Railway Corporation Limited 2024 INSC 693 – Service Law -Withdrawal Of Resignation

Service Law- Resignation can be withdrawn before its acceptance - In this case, the SC found that resignation of employee was in fact withdrawn before its acceptance and therefore directed reinstatement of the appellant. (Para 3)

Talluri Srikar vs Director, National Testing Agency 2024 INSC 694 – NEET 2024

Constitution of India,1950- Article 226- Courts must be circumspect in entertaining an individual grievance relating to a Public Examination as it delays finalization of result thereby seriously prejudicing larger public interest. (Para 7)

Summary: Writ petition seeking a direction to the first respondent to conduct re-examination of NEET(UG)-2024 for the petitioner who claimed that he suffers from a medical condition called ‘Hyperhidrosis’ of palms and soles due to which, his palms sweat profusely - Therefore, to keep them dry, he needs a piece of cloth, such as a handkerchief, to wipe off the sweat. According to the petitioner, though he was allowed to appear in the NEET-2024 examination, he was not permitted to take his handkerchief inside the examination hall. As a result, he was extremely inconvenienced and could not gainfully utilize the allotted time for the examination - HC dismissed writ petition- Dismissing

appeal, SC observed: The view taken by the High Court that denial of permission to take a handkerchief inside the examination hall would not have materially affected petitioner's performance, as he could have rubbed his palms on his clothes, is a plausible view-There is no case that allotted time for giving the examination was not provided to the petitioner at the examination center. Thus, the case of the petitioner is distinguishable from those 1563 candidates for whom re-examination was conducted because of loss of examination time on account of delay in distribution of correct question paper.

Sri Siddaraja Manicka Prabhu Temple Vs Idol Of Arulmighu Kamakala Kameshwaram Temple 2024 INSC 695

Summary: HC, by decreeing suit filed by the plaintiff directed defendant to handover the possession of the suit property to the Respondent-Plaintiff- Dismising appeal filed by defendant, SC observed: head of the Guru Manicka Prabhu Temple (Appellant-Defendant herein) could hold the property in Schedule 'A' which is the suit property as a trustee only, and not in any other capacity.

Delight Grih Nirman Pvt. Ltd Vs Bharat Petroleum Corporation Ltd. & Ors. 2024 INSC 696

Summary: Writ Petition filed by the petitioner in the High Court seeking direction to the respondents to vacate and hand over the peaceful possession of the aforesaid property- HC dismissed it - Disposing SLP, SC issued some directions.

Sikha Ghosh vs Indian Oil Corporation 2024 INSC 697

Summary: High Court dismissed Writ Petition seeking direction to the respondents to vacate and hand over vacant possession of the aforesaid property - SC disposed SLP on account of consensus of the parties.

Rabina Ghale vs Union Of India 2024 INSC 698 – FIRs -AFSPA – Sanction

Summary: Writ petitions challenging FIRs against Indian Army officers allowed: In view of the specific bar contained in Section 6 of the AFSP Act, 1958 which provides that no prosecution, suit, or other legal proceedings can be instituted except with the previous sanction of the Central Government with respect to the exercise of any power conferred under the said Act, the proceedings based on the impugned FIRs cannot continue any further - However, in case sanction is granted at any stage under Section 6 of the AFSP Act, 1958, the proceedings pursuant to the impugned FIRs may continue and may proceed in accordance with law and be brought to a logical conclusion.

Sahil Bhargava vs State of Uttarakhand 2024 INSC 699 – MBBS – Fees

Summary: HC directed that subject to the deposit of the fee, the original documents submitted by the petitioners to the university at the time of admission, would be returned - Disposing SLP, SC directed: conditional on the petitioners depositing an amount of Rs 7.50 lakhs each with the second and third respondents over and above the amounts which have already been deposited, they shall be entitled to a return of their original documents submitted at the time of obtaining admission. This is subject to the condition that the petitioners shall file an undertaking to pay the balance amount in the event that they are called upon to do so at the final disposal of the pending writ petitions.

Saheb Maroti Bhumre vs State of Maharashtra 2024 INSC 700 – Falsus In Uno, Falsus In Omnibus

Legal Maxim - ‘Falsus in uno, falsus in omnibus’ - Though this is only a rule of caution and has not assumed the status of a rule of law in the Indian context, an attempt must be made to separate truth from falsehood and where such separation is impossible, there cannot be a conviction, (Para 12) [In this case, SC acquitted murder accused noticing the lacunae in the prosecution’s case and the shaky evidence adduced in support thereof.]

Ramesh vs State Of Karnataka 2024 INSC 701 – CrPC – Appeal Against Acquittal

Code Of Criminal Procedure, 1973- Section 378,386 [BNSS, 2013- Sections 419,427]- The power of the appellate Court while dealing with an appeal against a judgment of acquittal -(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded. (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law. (3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasize the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion. (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved

guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court - It would be essential for the High Court, in an appeal against acquittal, to clearly indicate firm and weighty grounds from the record for discarding the reasons of the Trial Court in order to be able to reach a contrary conclusion of guilt of the accused- It would not be legally sufficient for the High Court to take a contrary view about the credibility of witnesses and it is absolutely imperative that the High Court convincingly finds it well-nigh impossible for the Trial Court to reject their testimony.

Lav Kumar @ Kanhiya vs State Of Uttar Pradesh 2024 INSC 702 – Murder Accused Acquitted

Summary: Appeal by accused convicted in murder case - Allowing appeal, SC observed: the prosecution version leaves significant chinks and cracks in the chain of circumstances- Prosecution evidence does not establish a case beyond doubt against the appellant.

Secretary, Public Works Department vs Tukaram Pandurang Saraf 2024 INSC 703 – Labour Law

Summary: The Industrial Court allowed the complaint filed by the employees upholding their claim for entitlement of holidays on 2nd and 4th Saturdays and for payment of salary equal to one and a half times salary for the work done by them on 2nd and 4th Saturdays as per the Kalelkar Award - High Court upheld it -SC Dismissed appeal.

Bidyut Sarkar vs Kanchilal Pal (D) 2024 INSC 704- Indian Stamp Act – Insufficiently Stamped Document

Indian Stamp Act, 1899- Section 35-42- An insufficiently stamped document can only be admitted into evidence after the deficiency in stamp duty and any applicable penalty has been duly paid and cleared. (Para 17) -Plaintiff's contention that he would be entitled to get benefit of section 36 of the Stamp Act as the document had been exhibited and admitted in evidence, holds no ground in as much as the document was found to be insufficiently stamped and was marked as exhibit with objection and that objection having not been removed or cured, no benefit of section 36 of the Stamp Act- The plaintiff cannot claim relief on the basis of a document that has not satisfied the legal requirements for admissibility. (Para 27-30)

PN Gupta vs Rajinder Singh Dogra 2024 INSC 705 – Medical Negligence

Summary: Dismissing appeal against NCDRC order, SC observed: the finding of the National Commission that the appellant's conduct did not meet the required standard of 'reasonable care' and that he was negligent cannot be interfered with. The National Commission considered the relevant material before itself, and correctly relied on this Court's decision in Jacob Mathew (supra) to conclude that medical negligence was proved in the facts of the case- Referred to Jacob Mathew v State of Punjab (2005) 6 SCC 1.

Sushma vs Nitin Ganpati Rangole 2024 INSC 706 – MACT – Contributory Negligence

Motor Accident Compensation Claims - Contributory negligence on the part of a driver of the vehicle involved in the accident cannot be vicariously attached to the passengers so as to reduce the compensation awarded to the passengers or their legal heirs as the case may be. (Para 19) In order to establish contributory negligence, some act or omission which materially contributed to the accident or damage should be attributed to the person against whom it is alleged. (Para 35)

Constitution of India, 1950- Article 136- The scope of interference concurrent finding while exercising jurisdiction under Article 136 - Referred to Sukhbiri Devi v. Union of India - This Court in exercise of its jurisdiction under Article 136 of the Constitution of India has the power to interfere, even if the Courts below have concurrently reached to a common conclusion with respect to a certain factual aspect, subject to the condition that such a conclusion is so perverse that no reasonable person could arrive at such a conclusion even if the evidence was taken at its face value. (Para 114-15)

Kamal Kishore Sehgal (D) vs Murti Devi (D) 2024 INSC 707 – Interpretation Of Instruments

Interpretation of instruments/documents -Where the language employed in the instrument is clear and unambiguous, the common literary meaning ought to be assigned in interpreting the same and one should not fall back on any other inference. Only the expression in clear words contained in the instrument/document must be considered and not the surrounding circumstances. In short, literal construction must be considered first, rather than going into the intention behind what is said in the instrument/document if the language of the instrument is clear and unambiguous.

Bhagwan Singh vs State Of UP 2024 INSC 708 – Supreme Court AoRs – Practice & Procedure

Practice and Procedure -Supreme Court- Advocates on-Record may mark the appearances of only those Advocates who are authorized to appear and argue the case on the particular day of hearing. Such names shall be given by the Advocate on Record on each day of hearing of the case as instructed in the Notice. If there is any change in the name of the arguing Advocate, it shall be duty of the concerned Advocate-on-Record to inform the concerned Court Master in advance or at the time of hearing of the case. The concerned Officers/Court Masters shall act accordingly. (Para 42)

Bar Council of India Rules- Chapter II Part VI-Standard of Professional misconduct and Etiquettes - An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity, may still be improper for an advocate. Though an Advocate is expected to fearlessly uphold the interests of his client, his conduct must conform to the Rules of Conduct and Etiquettes laid down in the said Chapter, both in letter and in spirit- The legal profession is perceived to be essentially a service oriented, noble profession and the lawyers are perceived to be very responsible officers of the court and an important adjunct of the administration of justice. In the process of overall depletion and erosion of ethical values and degradation of the professional ethics, the instances of professional misconduct are also on rise- Every Advocate putting his signatures on the Vakalatnamas and on the documents to be filed in the Courts, and every Advocate appearing for a party in the courts, particularly in the Supreme Court, the highest court of the country is presumed to have filed the proceedings and put his/her appearance with all sense of responsibility and seriousness. No professional much less legal professional, is immuned from being prosecuted for his/her criminal misdeeds. (Para 31)

Witness Protection Scheme, 2018- The condition of witnesses in the Indian Legal System is very pathetic. The witnesses are threatened, coerced by using force and lured by

monetary considerations, at the instances of those who are in power, their henchmen and hirelings, with a view to smother and stifle truth, and to make mockery of justice. Though the “Witness Protection Scheme, 2018” has been framed by the Central Government and approved by this Court in Mahendra Chawla vs. Union of India³ there is hardly any effective implementation of the same. (Para 28)

Notaries Act, 1952-Regulates the profession of Notaries - The functions and duties of Notaries are enumerated in Section 8 thereof. The transaction of business by a Notary is contained in Rule 11 of the Notaries Rules 1956. Any acts or omissions thereof, on the part of the Notary would tantamount to misconduct, and the person complained against would be unfit to be a Notary- Registry is directed to send a copy of the order to the Bar Council of India and to the Government of India for necessary perusal and action as may be deemed necessary. (Para 37)

Summary: Appeals was filed in the name of Bhagwan Singh - Bhagwan Singh wrote to Registry and stated that he had not filed any SLP and the same was falsely filed in his name- Noticing this, the Court ordered inquiry in the matter and observed thus: The matter assumes serious concern when the Advocates who are the officers of the Court are involved and when they actively participate in the ill-motivated litigations of the unscrupulous litigants, and assist them in misusing and abusing the process of law to achieve their ulterior purposes- High Court and Supreme Court were sought to be taken for a ride and when the entire justice delivery system was sought to be put to stake, by the respondent no. 3 Mr. Sukhpal, the respondent no. 4 Ms. Rinki, and their concerned associates and the Advocates, who helped them in forging and fabricating the documents to be filed in the High Court and Supreme Court, and to pursue the false proceedings filed in the name of Bhagwan Singh without his knowledge, consent or authority, we deem it appropriate to hand over the investigation of the case to the CBI. The CBI shall register the regular case, after holding preliminary inquiry if necessary to do so, against all the persons found involved and responsible, and shall investigate all the links leading to the commission of the alleged crimes and fraud on court. The Director, CBI is directed to do the needful in this regard and to submit the report to this court within two months.

Ultra Tech Cement Ltd. vs Mast Ram 2024 INSC 709 – Land Acquisition – RFCTLARR

RFCTLARR, 2013- Section 101 - Beneficial provision for the landowners whose lands were usurped but remained unutilized or were not used in accordance with the purpose stated in the notifications under Section 4. However, the application of the Section is warranted only in the circumstances where the return of the land would benefit the landowners. The party which has failed to utilize the land cannot plead for the return of the land and consequent refund of the compensation paid, as that would tantamount to taking advantage of its own wrong or default.

Constitution of India, 1950- Article 300A - The Right to Property in our country is a net of intersecting rights - A fair and reasonable compensation is the sine qua non for any acquisition process-The right to property is now considered to be not only a constitutional or statutory right, but also a human right. In a welfare State, the statutory authorities are legally bound to pay adequate compensation and rehabilitate the persons whose lands are being acquired. The non-fulfilment of such obligations under the garb of industrial development, is not permissible for any welfare State as that would tantamount to uprooting a person and depriving them of their constitutional/human rightTime is of the essence in determination and payment of compensation. (Para 43-47)

RFCTLARR, 2013- Section 38- The payment of full and final compensation to the land owners is a precursor to taking possession of the land sought to be acquired from such persons.

Land Acquisition Act,1894- Section 41- Section 41 necessitates an agreement between the appropriate government and the company for whose purpose the land is being acquired. One of the purposes of such an agreement is to ensure that payment towards the cost of acquisition is made by the company to the appropriate government and it is only upon such payment that the land is transferred to the company. (Para 54)

Ajay Madhusudan Patel vs Jyotrindra S Patel 2024 INSC 710 – Arbitration – Non-Signatory

Arbitration and Conciliation Act,1996- Section 2,7,11- The definition of “parties” under Section 2(1)(h) read with Section 7 includes both the signatory as well as non-signatory parties. Persons or entities who have not formally signed the arbitration agreement or the underlying contract containing the arbitration agreement may also intend to be bound by the terms of the agreement. Further, the requirement of a written agreement under Section 7 does not exclude the possibility of binding non-signatory parties if there is a defined legal relationship between the signatory and non-signatory parties. Therefore, the issue as to who is a “party” to an arbitration agreement is primarily an issue of consent. Actions or conduct could be an indicator of the consent of a party to be bound by the arbitration agreement.- The fact that a non-signatory did not put pen to paper may be an indicator of its intention to not assume any rights, responsibilities or obligations under the arbitration agreement. However, the courts and tribunals should not adopt a conservative approach to exclude all persons or entities who intended to be bound by the underlying contract containing the arbitration agreement through their conduct and their relationship with the signatory parties. The mutual intent of the parties, relationship of a non-signatory with a signatory, commonality of the subject matter, composite nature of the transactions and performance of the contract are all factors that signify the intention of the non-signatory to be bound by the arbitration agreement -An important factor to be considered by the Courts and Tribunals is the participation of the non-signatory in the performance of the underlying contract.- the intention of the parties to be bound by an arbitration agreement can be gauged from the circumstances that surround the participation of the non-signatory party in the negotiation, performance, and termination of the underlying contract containing such an agreement. Further, when the conduct of the non-signatory is in harmony with the conduct of the others, it might lead the other party or parties to legitimately believe that the non-signatory was a veritable party to the contract containing the arbitration agreement. However, in order to infer consent of the non-

signatory party, their involvement in the negotiation or performance of the contract must be positive, direct and substantial and not be merely incidental. Thus, the conduct of the non-signatory party along with the other attending circumstances may lead the referral court to draw a legitimate inference that it is a veritable party to the arbitration agreement- (Para 68-71)- But under Section 11(6) of the Act, 1996 , Court should not conduct a mini trial and delve into contested or disputed questions of fact -Where complexity is involved in the determination of the question whether a party is a veritable party to the arbitration agreement or not, it would be appropriate for the arbitral tribunal to take a call on the question after taking into consideration the evidence that may be adduced by the parties before it and the application of the legal doctrine as elaborated in the decision in Cox and Kings- Referred to Cox and Kings Ltd. v. SAP India Pvt. Ltd. (2024) 4 SCC 1. (Para 79-80)

OPG Power Generation Private Limited vs Enexio Power Cooling Solutions India Private Limited 2024 INSC 711- S 34 Arbitration Act – Limitation

Arbitration and Conciliation Act,1996- Section 34- While exercising power under Section 34 of the 1996 Act the Court does not sit in appeal over the arbitral award. Interference with an arbitral award is only on limited grounds as set out in Section 34 of the 1996 Act. A possible view by the arbitrator on facts is to be respected as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon. It is only when an arbitral award could be categorized as perverse, that on an error of fact an arbitral award may be set aside. Further, a mere erroneous application of the law or wrong appreciation of evidence by itself is not a ground to set aside an award- An application to set aside an arbitral award on the ground of improper or inadequate reasons, or lack of reasons, -Awards can broadly be placed in three categories: (1) where no reasons are recorded, or the reasons recorded are unintelligible- (2) where reasons are improper, that is, they reveal a flaw in the decision- making process- and (3) where reasons appear inadequate. Awards falling in category (1) are vulnerable as they would be in conflict with the provisions of Section 31(3)-Therefore, such awards are liable to be set aside under

Section 34, unless (a) the parties have agreed that no reasons are to be given, or (b) the award is an arbitral award on agreed terms under Section 30. Awards falling in category (2) are amenable to a challenge on ground of impropriety or perversity, strictly in accordance with the grounds set out in Section 34 - Awards falling in category (3) require to be dealt with care. In a challenge to such award, before taking a decision the Court must take into consideration the nature of the issues arising between the parties in the arbitral proceedings and the degree of reasoning required to address them. The Court must thereafter carefully peruse the award, and the documents referred to therein. If reasons are intelligible and adequate on a fair-reading of the award and, in appropriate cases, implicit in the documents referred to therein, the award is not to be set aside for inadequacy of reasons. However, if gaps are such that they render the reasoning in support of the award unintelligible, or lacking, the Court exercising power under Section 34 may set aside the award (Para 71)- In a case where reasons appear insufficient or inadequate, if, on a careful reading of the entire award, coupled with documents recited/ relied therein, the underlying reason, factual or legal, that forms the basis of the award, is discernible/ intelligible, and the same exhibits no perversity, the Court need not set aside the award while exercising powers under Section 34 or Section 37 , rather it may explain the existence of that underlying reason while dealing with a challenge laid to the award. In doing so, the Court does not supplant the reasons of the arbitral tribunal but only explains it for a better and clearer understanding of the award. (Para 148)- Scope of interference with the interpretation / construction of a contract accorded in an arbitral award. An arbitral tribunal must decide in accordance with the terms of the contract. In a case where an arbitral tribunal passes an award against the terms of the contract, the award would be patently illegal. However, an arbitral tribunal has jurisdiction to interpret a contract having regard to terms and conditions of the contract, conduct of the parties including correspondences exchanged, circumstances of the case and pleadings of the parties. If the conclusion of the arbitrator is based on a possible view of the matter, the Court should not interfere. But where, on a full reading of the contract, the view of the arbitral tribunal on the terms of a contract is not a possible view, the award would be considered perverse and as such amenable to interference. (Para 72)

Arbitration and Conciliation Act,1996- Explanation 1 to Section 34 -The term

'legal justice' is not used in Explanation 1, therefore simple conformity or nonconformity with the law is not the test to determine whether an award is in conflict with the public policy of India in terms of Explanation 1. The test is that it must conflict with the most basic notions of justice. For lack of any objective criteria, it is difficult to enumerate the 'most basic notions of justice'. More so, justice to one may be injustice to another- Considering that the concept of justice is opentextured, and notions of justice could evolve with changing needs of the society, it would not be prudent to cull out "the most basic notions of justice". Suffice it to observe, they ought to be such elementary principles of justice that their violation could be figured out by a prudent member of the public who may, or may not, be judicially trained, which means, that their violation would shock the conscience of a legally trained mind. In other words, this ground would be available to set aside an arbitral award, if the award conflicts with such elementary/ fundamental principles of justice that it shocks the conscience of the Court. (Para 58)

Arbitration and Conciliation Act,1996- Section 34- "Patent illegality appearing on the face of the award" refers to such illegality as goes to the root of matter, but which does not amount to mere erroneous application of law- What is not subsumed within "the fundamental policy of Indian law", namely, the contravention of a statute not linked to 'public policy' or 'public interest', cannot be brought in by the backdoor when it comes to setting aside an award on the ground of patent illegality- reappreciation of evidence is not permissible under this category of challenge to an arbitral award- (Para 62) -"Perversity"- A decision which is perverse, while no longer being a ground for challenge under "public policy of India", would certainly amount to a patent illegality appearing on the face of the award- An award based on no evidence, or which ignores vital evidence, would be perverse and thus patently illegal- Test to determine whether a decision of an arbitral tribunal could be considered perverse. In this context, it was observed that where: (i) a finding is based on no evidence- or (ii) an arbitral tribunal takes into account something irrelevant to the decision which it arrives at- or (iii) ignores vital evidence in arriving at its decision, such decision would necessarily be perverse- However, when a court applies these tests it does not act as a court of appeal and, consequently, errors of fact cannot be corrected. Though, a possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon-An award

based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to be invalid on that score. (Para 63-67)

Contract law - Interpretation - Business Efficacy Doctrine - Ordinarily, terms of the contract are to be understood in the way the parties wanted and intended them to be. In agreements of arbitration, where party autonomy is the grund norm, how the parties worked out the agreement, is one of the indicators to decipher the intention, apart from the plain or grammatical meaning of the expressions used-. However, reading an unexpressed term in an agreement would be justified on the basis that such a term was always and obviously intended by the parties thereto. An unexpressed term can be implied if, and only if, the court finds that the parties must have intended that term to form part of their contract. It is not enough for the court to find that such a term would have been adopted by the parties as reasonable men if it had been suggested to them. Rather, it must have been a term that went without saying, a term necessary to give business efficacy to the contract, a term which, although tacit, forms part of the contract- But before an implied condition, not expressly found in the contract, is read into a contract, by invoking the business efficacy doctrine, it must satisfy following five conditions: a. it must be reasonable and equitable- b. it must be necessary to give business efficacy to the contract, that is, a term will not be implied if the contract is effective without it- c. it must be obvious that "it goes without saying"- d. it must be capable of clear expression- e. it must not contradict any terms of the contract. (Para 73-75)

Arbitration and Conciliation Act,1996- Section 21 - Limitation Act,1963- if on the date of commencement of the arbitral proceeding, as referred to in Section 21 of the 1996 Act, the claim(s) is/are barred by limitation, as per the provisions of the 1963 Act, the Arbitral Tribunal will have to reject such claim(s) as barred by limitation. (Para 83)

Limitation Act,1963- Article 55- For the applicability of Article 55, four requirements should be satisfied, namely, (1) the suit should be based on a contract- (2) there must be breach of the contract- (3) the suit should be for compensation- and (4) the suit should not be covered by any other Article specially providing for it- The phrase 'compensation for

'breach of contract', as occurring in Article 55 of the Schedule to the 1963 Act, would comprehend also a claim for money due under a contract. 'Compensation' is a general term comprising any payment which a party would be entitled to claim on account of any loss or damage arising from a breach of a contract, and the expression has not been limited only to a claim for unliquidated damages. The expression is wide enough to include a claim for payment of a certain sum. (Para 92-95) - Even a suit for recovery of a specified amount, based on a contract, is a suit for compensation, and if the suit is a consequence of defendant breaching the contract or not fulfilling its obligation(s) thereunder, the limitation for institution of such a suit would be covered by Article 55 of the Schedule to the 1963 Act, provided the suit is not covered by any other Article specially providing for it.

Counter claim - A counterclaim is a claim made by a defendant in a suit against the plaintiff. It is a claim, independent of and separable from the plaintiff's claim, which can be enforced by a cross action. Counterclaim preferred by the defendant in a suit is a cross suit and even if the suit is dismissed, counterclaim shall remain alive for adjudication. The purpose of the scheme relating to counterclaim is to avoid multiplicity of proceedings. (Para 120)- A counterclaim is like a cross suit, or a separate suit, and the limitation of a counterclaim is to be counted from the date of accrual of the cause of action which it seeks to espouse. As a logical corollary thereof, it is quite possible that even though a suit or a claim is within the period of limitation, the counterclaim may well be barred by limitation, if the cause of action espoused therein accrued beyond the prescribed period of limitation. (Para 124)

Limitation Act,1963- Section 18- To extend the period of limitation with the aid of Section 18, the acknowledgment must involve an admission of a subsisting jural relationship between the parties and a conscious affirmation of an intention of continuing such relationship regarding an existing liability. Such intention can be gathered from the nature of the admission. In other words, the admission in question need not be express, or regarding a precise amount, but must be made in circumstances and in words from which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as on the date of the statement. However, where an acknowledgement is in respect of a specified sum of money or a specific right only, and not in general terms, it

would extend the period of limitation only in respect thereof, and not of other claims which, though may have arisen out of same jural relationship, are not specified therein. In other words, where an acknowledgement of liability is made only with reference to a portion of the claim put forward by the plaintiff/ claimant, it would extend limitation only in respect of such portion, and not of the entire claim of the plaintiff. (Para 37)

Code of Civil Procedure, 1908- Order II Rule 3 -Limitation Act- The plaintiff may unite in the same suit several causes of action against the same defendant- Therefore, when CPC, in certain circumstances, permits combining in one action two or more distinct and independent claims, it is quite possible that one of the claims may be barred by limitation and the other may be within time. (Para 39)

Words and Phrases - Justice is the virtue by which the society/ court / tribunal gives a man his due, opposed to injury or wrong. Justice is an act of rendering what is right and equitable towards one who has suffered a wrong. Therefore, while tempering justice with mercy, the court must be very conscious, that it has to do justice in exact conformity with some obligatory law, for the reason that human actions are found to be just or unjust on the basis of whether the same are in conformity with, or in opposition to, the law. Therefore, in 'judicial sense', justice is nothing more nor less than exact conformity to some obligatory law- and all human actions are either just or unjust as they are in conformity with, or in opposition to, the law- when we talk about justice being done, it is about rendering, in accord with law, what is right and equitable to one who has suffered a wrong. Justice is the virtue by which the society/ court / tribunal gives a man his due, opposed to injury or wrong. Dispensation of justice in its quality may vary, dependent on person who dispenses it. A trained judicial mind may dispense justice in a manner different from what a person of ordinary prudence would do. This is so, because a trained judicial mind is likely to figure out even minor infractions of law/ norms which may escape the attention of a person with ordinary prudence. (Para 54-58)

Central Bureau Of Investigation vs Dilip Mulani 2024 INSC 712 – Corruption Case – Discharge

Summary: -Accused - respondent was sought to be prosecuted for the offences punishable under Section 120 B of the Indian Penal Code (for short, ‘the IPC’) and Sections 7,12 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988- High Court proceeded to discharge the respondent by setting aside the order of the learned Special Judge - Dismissing appeal by CBI, SC observed: Except for the bald allegation of participation in the alleged conspiracy without giving any details of the conspiracy, the respondent has been roped in the charge sheet. His name did not appear in the First Information Report. Taking the material forming part of the charge sheet as true, it cannot be said that a prima facie case of involvement of the respondent was made out

Shoor Singh vs State Of Uttarakhand 2024 INSC 713 – S 304B IPC – Dowry Death – S 113B Evidence Act

Indian Penal Code,1860- Section 304B [BNSS,2023- Section 8o] -To constitute a ‘dowry death’, punishable under Section 304- B7 IPC, following ingredients must be satisfied: i. death of a woman must have been caused by any burns or bodily injury or it must have occurred otherwise than under normal circumstances- ii. such death must have occurred within seven years of her marriage- iii. soon before such death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband- and iv. such cruelty or harassment must be in connection with any demand for dowry- The phrase ‘otherwise than under normal circumstances’ is wide enough to encompass a suicidal death. (Para 12)

Indian Evidence Act,1872- Section 113B [BSA,2023- Section 118]- When all the above ingredients of ‘dowry death’ are proved, the presumption under Section 113-B8 of the Evidence Act is to be raised against the accused that he has committed the offence of ‘dowry death’. What is important is that the presumption under Section 113-B is not in

respect of commission of an act of cruelty, or harassment, in connection with any demand for dowry, which is one of the essential ingredients of the offence of 'dowry death'. The presumption, however, is in respect of commission of the offence of 'dowry death' by the accused when all the essential ingredients of 'dowry death' are proved beyond reasonable doubt by ordinary rule of evidence, which means that to prove the essential ingredients of an offence of 'dowry death' the burden is on the prosecution (Para 13)

Indian Evidence Act,1872- Merely because a piece of evidence is admissible does not mean that it must be accepted. Before accepting the evidence to hold that the fact in issue stands proved beyond reasonable doubt, the Court must evaluate the same against the weight of surrounding circumstances and other facts proven on record. (Para 16)

Shivangi Shankar vs Reshma Estates Pvt. Ltd. 2024 INSC 714- Civil Suit

Summary: A suit for declaration was allowed by the City Civil Court - High Court partly allowed appeal and judgment and decree of the Trial Court was modified to some extent - In appeal, SC noted that disputes between the parties have been settled amicably in the process of mediation and held: The impugned judgment and decree by the High Court shall stand modified in terms of the Articles of Agreement. The parties shall be bound by the conditions laid down therein. Final decree be drawn in terms of settlement arrived between the parties.

Ricardo Constructions Pvt. Ltd. vs Ravi Kuckian 2024 INSC 715 – Consumer Protection Act

Consumer Protection Act,1986 - District Forum has no power to extend the time for filing the response to the complaint beyond the period of 15 days in addition to 30 days as is envisaged under Section 13 of the Consumer Protection Act- and the answer to the

second question is that the commencing point of limitation of 30 days under Section 13 of the Consumer Protection Act would be from the date of receipt of the notice accompanied with the complaint by the opposite party, and not mere receipt of the notice of the complaint-Referred to New India Assurance Company Limited v. dd Cold Storage Private Limited (2020) 5 SCC 757 : 2020 INSC 274 : [2020] 5 S.C.R. 429- The provisions of the Consumer Protection Act, 2019 are in the line with the Consumer Protection Act, 1986 - [In this case, SC noted that it is not a case where along with the notice, copy of the complaint was accompanied. Therefore, it may be too harsh to foreclose anyone's right to file written statement merely on conjectures and surmises, it held]

Just Rights For Children Alliance vs S Harish 2024 INSC 716 – POCSO – IT Act – Child Pornography

POCSO Act, 2012- Section 15- Wherever a person indulges in any activity such as viewing, distributing or displaying etc. pertaining to any child pornographic material without actually possessing or storing it in any device or in any form or manner, such act would still tantamount to 'possession' in terms of Section 15 of the POCSO, if he exercised an invariable degree of control over such material, applying the aforesaid doctrine of constructive possession. If 'A' routinely watches child pornography over the internet, but never downloads or stores the same in his mobile. Here 'A' would still be said to be in possession of such material, as while watching he exercises a considerable degree of control over such material including but not limited to sharing, deleting, enlarging such material, changing the volume etc. Furthermore, since he himself on his own volition is viewing such material, he is said to have knowledge of having control over such material. But if 'A' is sent an unknown link by 'B', which upon clicking opened a child pornographic video on the phone of 'A'. Here although 'A' at the time of opening the link had control over

the said link, yet he cannot be said to have a knowledge of that control over such material as he at that relevant point of time was unaware as to what would open from the said link- thus 'A' cannot be said to be in possession. This is because, 'A' had no information as to what the link pertained to, in order to have knowledge of control over such material, a person requires reasonable information such as what is involved in the material in question, what is the purpose of such material, etc. Without such information no person can decide whether he wants to view it, or delete it or further forward it i.e., he cannot effectively exercise the control that he has, without a certain degree of knowledge. However, if 'A' rather than closing the link in a reasonable time, continues to view such material he would be deemed to be in possession of such material. This is because, after a reasonable window of time, he would be said to have sufficient information about such material to have knowledge for the effective exercise of his control over such material. (Para 118-121)

POCSO Act, 2012- Section 15- Section 15 of the POCSO provides for three distinct offences that penalize either the storage or the possession of any child pornographic material when done with any particular intention specified under subsection(s) (1), (2) or (3) respectively. It is in the nature and form of an inchoate offence which penalizes the mere storage or possession of any pornographic material involving a child when done with a specific intent prescribed thereunder, without requiring any actual transmission, dissemination etc. (II) Sub-section (1) of Section 15 penalizes the failure to delete, destroy or report any child pornographic material that has been found to be stored or in possession of any person with an intention to share or transmit the same. The mens-reas or the intention required under this provision is to be gathered from the actus reus itself i.e., it must be determined from the manner in which such material is stored or possessed and the circumstances in which the same was not deleted, destroyed or reported. To constitute an offence under this provision the circumstances must sufficiently indicate the intention on the part of the accused to share or transmit such material. (III) Section 15 sub-section (2) penalizes both the actual transmission, propagation, display or distribution of any child pornography as-well as the facilitation of any of the abovementioned acts. To constitute an offence under Section 15 sub-section (2) apart from the storage or possession of such pornographic material, there must be something more to show i.e., either (I) the actual

transmission, propagation, display or distribution of such material OR (II) the facilitation of any transmission, propagation, display or distribution of such material, such as any form of preparation or setup done that would enable that person to transmit it or to display it. The mens rea is to be gathered from the manner in which the pornographic material was found to be stored or in possession and any other material apart from such possession or storage that is indicative of any facilitation or actual transmission, propagation, display or distribution of such material. (IV) Section 15 sub-section (3) penalizes the storage or possession of any child pornographic material when done for any commercial purpose. To establish an offence under Section 15 sub-section (3), besides the storage or possession of the pornographic material involving a child, there must be some additional material or attending circumstances that may sufficiently indicate that the said storage or possession was done with the intent to derive any gain or benefit. To constitute an offence under sub-section (3) there is no requirement to establish that such gain or benefit had been actually realized- Sub-section(s) (1), (2) and (3) respectively of Section 15 constitute independent and distinct offences. The three offences cannot coexist simultaneously in the same set of facts. They are distinct from each other and are not intertwined. This is because, the underlying distinction between the three sub-sections of Section 15 lies in the varying degree of culpable mens rea that is required under each of the three provisions. (Para 223-I-V)

POCSO Act, 2012- Section 30- The statutory presumption of culpable mental state on the part of the accused as envisaged under Section 30 of the POCSO can be made applicable provided the prosecution is able to establish the foundational facts necessary to constitute a particular offence under the POCSO that may have been alleged against the accused. Such presumption can be rebutted by the accused either by discrediting the prosecution's case or by leading evidence to prove the contrary, beyond a reasonable doubt.(Para 222) The foundational facts necessary for the purpose of invoking the statutory presumption of culpable mental state for an offence under Section 15 of POCSO are as follows: - (a) For the purpose of sub-section (1), the necessary foundational facts that the prosecution may have to first establish is the storage or possession of any child pornographic material and that the person accused had failed to delete, destroy or report the same. (b) In order to invoke the statutory presumption of culpable mental state for an

offence under sub-section (2) the prosecution would be required to first establish the storage or possession of any child pornographic material, and also any other fact to indicate either the actual transmission, propagation, display or distribution of any such material or any form of an overt act such as preparation or setup done for the facilitation of the transmission, propagation, display or distribution of such material, whereafter it shall be presumed by the court that the said act was done with the intent of transmitting, displaying, propagating or distributing such material and that the said act(s) had not been done for the purpose of either reporting or for use as evidence. (c) For the purpose of sub-section (3) the prosecution must establish the storage or possession of such material and further prove any fact that might indicate that the same had been done to derive some form of gain or benefit or the expectation of some gain or benefit. (Para 223-X,XI)

Code Of Criminal Procedure,1973- Section 482 - POCSO Act, 2012- Section 30 - The statutory presumption of culpable mental under Section 30 of POCSO can be made applicable in a quashing proceeding pertaining to any offence under the POCSO.(Para 222)

Information Technology Act,2000- Section 67B- Comprehensive provision designed to address and penalize the various electronic forms of exploitation and abuse of children online. It not only punishes the electronic dissemination of child pornographic material, but also the creation, possession, propagation and consumption of such material as-well as the different types of direct and indirect acts of online sexual denigration and exploitation of the vulnerable age of children. Section(s) 67, 67A and 67B respectively of the IT Act being a complete code, ought to be interpreted in a purposive manner that suppresses the mischief and advances the remedy and ensures that the legislative intent of penalizing the various forms of cyber-offences relating to children and the use of obscene / pornographic material through electronic means is not defeated by a narrow construction of these provisions. (Para 223-IX)

Suggestions: (i) The Parliament should seriously consider to bring about an amendment to the POCSO for the purpose of substituting the term “child pornography” that with “child sexual exploitative and abuse material” (CSEAM) with a view to reflect more accurately on the reality of such offences. The Union of India, in the meantime may consider to bring

about the suggested amendment to the POCSO by way of an ordinance. (ii) We put the courts to notice that the term “child pornography” shall not be used in any judicial order or judgment, and instead the term “child sexual exploitative and abuse material” (CSEAM) should be endorsed. (iii) Implementing comprehensive sex education programs that include information about the legal and ethical ramifications of child pornography can help deter potential offenders. These programs should address common misconceptions and provide young people with a clear understanding of consent and the impact of exploitation. (iv) Providing support services to the victims and rehabilitation programs for the offenders is essential. These services should include psychological counselling, therapeutic interventions, and educational support to address the underlying issues and promote healthy development. For those already involved in viewing or distributing child pornography, CBT has proven effective in addressing the cognitive distortions that fuel such behaviour. Therapy programs should focus on developing empathy, understanding the harm caused to victims, and altering problematic thought patterns. (v) Raising awareness about the realities of child sexual exploitative material and its consequences through public campaigns can help reduce its prevalence. These campaigns should aim to destigmatize reporting and encourage community vigilance. (vi) Identifying at-risk individuals early and implementing intervention strategies for youth with problematic sexual behaviours (PSB) involves several steps and requires a coordinated effort among various stakeholders, including educators, healthcare providers, law enforcement, and child welfare services. Educators, healthcare professionals, and law enforcement officers should be imparted training to identify signs of PSB. Awareness programs can help these professionals recognize early warning signs and understand how to respond appropriately. (vii) Schools can also play a crucial role in early identification and intervention. Implementing school-based programs that educate students about healthy relationships, consent, and appropriate behaviour can help prevent PSB. (viii) To give meaningful effect to the above suggestions and work out the necessary modalities, the Union of India may consider constituting an Expert Committee tasked with devising a comprehensive program or mechanism for health and sex education, as well as raising awareness about the POCSO among children across the country from an early age, for ensuring a robust and well-informed approach to child protection, education, and sexual well-being. (Para 260)

Code Of Criminal Procedure, 1973- Section 482 - High Court in exercise of its inherent powers under Section(s) 482 of the Cr.P.C. or 530 of the BNSS as the case must not conduct a mini trial or go into the truthfulness of the allegations while dealing with a quashing petition. The High Court may be justified in quashing the chargesheet if it appears to it that continuance of criminal proceedings would be nothing but gross abuse of the process of law. (Para 197) When dealing with a quashing petition, there lies a duty on the High Court to properly apply its mind to all the material on record. The least which is expected of High Court in such situation is to carefully go through the allegations contained in the FIR and the charge-sheet, and to ascertain (i) whether, the offences alleged therein could be said to have been prima facie established from the material on record? or (ii) whether, apart from the offences alleged in the FIR or the charge-sheet, there is possibility of any other offence prima facie being made out? The High Court in exercise of its inherent powers, may be justified in quashing the criminal proceedings only where, neither any offence as alleged in the FIR or charge-sheet is disclosed nor any other offence is prima facie made out, and the continuance of the proceedings may be found to amount to abuse of process of law. (Para 202)

Inchoate crimes- Inchoate crimes, are often referred to and described as an incomplete or preliminary offence, that capture the essence of criminal intent and the preparatory actions that precede the commission of a criminal act. The principle is that the law does not merely respond to offences already committed but also intervenes when a crime is in the process of being committed, thus thereby protecting public order and safety- Doctrine of constructive possession - For establishing constructive possession both the power to control the material in question and the knowledge of exercise of such control are required. The doctrine of constructive possession, is a crucial development in the criminal jurisprudence, especially pertaining to inchoate crimes where possession is sought to be punished, as it ensures that no person can evade liability by simply distancing themselves from the physical possession of contraband while retaining the ability to control it. (Para 117)

Criminal Trial -Four-prong test wherein for a valid defence, there must exist (1) an ignorance or unawareness of any law and (2) such ignorance or unawareness must give rise to a corresponding reasonable and legitimate right or claim (3) the existence of such right or claim must be believed bonafide and (4) the purported act sought to be punished must take place on the strength of such right or claim. It is only when all the four of the above conditions are fulfilled, that the person would be entitled to take a plea of ignorance of law as a defence from incurring any liability -Such a plea is not a statutory defence with any legal backing, but rather a by-product of the doctrine of equity. Whether such a defence is to be accepted or not, largely depends upon the extant of equity in the peculiar facts and circumstances of each individual cases- Equity cannot supplant the law, equity has to follow the law if the law is clear and unambiguous. (Para 211,215)

Parveen Kumar vs State Of Himachal Pradesh 2024 INSC 717 – S 113A Evidence Act – Presumption

Indian Evidence Act,1872- Section 113A [BSA 2023- Section 117]- Section 113A of the Evidence Act permits the Court to raise a presumption as to abetment of suicide, if the Suicide was committed within seven years of the marriage and if it is proved that she was subjected to the “Cruelty” as explained in Section 498A by her husband or the relative of the husband. However, for the purpose of raising the presumption by the Court under Section 113A of the Evidence Act, the basic facts as contemplated in the said provision, need to be proved by the Prosecution -Unlike Section 113B of the Evidence Act, a statutory presumption does not arise in Section 113A by operation of law merely on the proof of the circumstances enumerated in the said provision, and that Section 113A gives a discretion to the Court to raise a presumption. (Para 8-11)

Fuleshwar Gope vs Union Of India 2024 INSC 718- UAPA- Sanction

UAPA,1967- Section 45 - Unlawful Activities (Prevention) (Recommendation & Sanction of Prosecution) Rules, 2008- Rules 3 & 4-The validity of sanction should be challenged at the earliest instance available, before the Trial Court. If such a challenge is raised at an appellate stage it would be for the person raising the challenge to justify the reasons for bringing the same at a belated stage. Such reasons would have to be considered independently so as to ensure that there is no misuse of the right of challenge with the aim to stall or delay proceedings- The rules provide a seven day period within which the concerned authority is to make its recommendation on the basis of materials gathered by the investigating officer and a further seven days period for the government to grant sanction for prosecution, having considered the report of the authority- These timelines are couched in mandatory language and, therefore, have to be strictly followed. This is keeping in view that UAPA being a penal legislation, strict construction must be accorded to it. Timelines imposed by way of statutory Rules are a way to keep a check on executive power which is a necessary position to protect the rights of accused persons. Independent review by both the authority recommending sanction and the authority granting sanction, are necessary aspects of compliance with Section 45 of the UAPA. (Para 51)

UAPA,1967- Section 22A - For Section 22A to apply :- (a) offence has to committed by a company- (b) all persons who at the time of the offence were in control of, or responsible for, the company's affairs shall be deemed guilty- (c) such person would be saved from guilt as under (b) if they can demonstrate that such act was (i) not in their knowledge- (ii) they had taken reasonable care to prevent such offence from taking place. The section further provides that if it can be proved that the offence committed by the company was (1) with consent- (2) in connivance of- (3) attributable to neglect on the part of any promoter, director, manager, secretary or any other officer of the company, then they shall be held guilty- Whether or not the exemption under Section 22A applies is a matter to be established by the way of evidence for the person claiming such exemption has to demonstrate that either he was not in charge of the affairs of the company which has allegedly committed the offence, or that he had made reasonable efforts to prevent the commission of the offence. This, once again, is a matter for the Trial Court to consider and

not for this Court to decide at this stage, keeping in view that the trial is underway and proceeded substantially. (Para 52)

Code Of Criminal Procedure,1973- Section 223- As the provision itself mandates that no finding, sanction or order by a court of competent jurisdiction becomes invalid unless it is so that a failure of justice has in fact been occasioned because of any error, omission or irregularity in the charge including in misjoinder of charge, obviously, the burden is on the accused to show that in fact a failure of justice has been occasioned.- State of U.P. v. Paras Nath Singh 6 (2009) 6 SCC 372 (Para 46,52)

Administrative Law -An order passed by an administrative authority is not to be tested by way of judicial review on the same anvil as a judicial or quasi-judicial order. While it is imperative for the latter to record reasons for arriving at a particular decision, for the former it is sufficient to show that the authority passing such order applied its mind to the relevant facts and materials. (Para 41)

Rajesh Mitra @ Rajesh Kumar Mitra vs Karnani Properties Ltd. 2024 INSC 719- Order XII Rule 6 CPC – West Bengal Tenancy Premises Act

Code Of Civil Procedure,1908- Order XII Rule 6 -Order XII Rule 6 is an enabling provision conferring wide discretionary powers on the courts which cannot be claimed by any party as a matter of right- unless there is a clear, unambiguous, unequivocal and unconditional admission, courts should not exercise their discretion under the Rule because judgment on admissions is without a trial which may even preclude a party to challenge the matter on merits in the court of appeal. The provision of law, which is meant for the expeditious disposal of appropriate cases, should therefore be cautiously exercised and it should never come in the way of any defendant denying him the valuable right of contesting the claim -There cannot be an admission against law. Whether a particular statement amounts to an “admission” will depend on the fact of each case. (Para 4-6)

Interpretation of Statutes - The enforcement of a new statute ipso facto will not take away the rights already accrued under a repealed statute, unless this intention is reflected in the new statute (Para 17)- Courts can, and must, differ from the literal meaning of words if the reading of any provision provides absurd results. (Para 18) Statutory laws operate from the date of their enforcement i.e., prospectively. In case the legislature intends to make a law retrospective then such an intention of the legislature must be shown clearly and unambiguously in the statute itself. (Para 21)

Doctrine of Merger -The dismissal of an SLP at the admission stage before issuance of notice, with a non-speaking order, does not mean that this Court has affirmed the law laid down by impugned order. (Para 14)

West Bengal Tenancy Premises Act, 1997 -West Bengal Premises Tenancy Act, 1956-There is no clarity in the 1997 Act to suggest that it extinguishes the rights of all tenants (who inherited tenancy rights under Old Act) retrospectively [In this case, the Court held that appellants' tenancy did not expire in the year 2006, by the 30 introduction of 1997 Act, in the absence of a clear and unequivocal intention in the 1997 Act to have a retrospective operation]

Rabbu @ Sarvesh vs State Of Madhya Pradesh 2024 INSC 720 – Rape – Death Penalty Commuted

Criminal Trial -Sentencing - Death Penalty - The age of the accused at the time of commission of crime along with other factors can certainly be taken into consideration as to whether the death penalty needs to be commuted or not- In this case, Appellant convicted for offences punishable under Sections 450, 376(2)(i), 376D, 376A and 302 read with 34 of the IPC and Section 5(g)/6 of the POCSO - Conviction upheld- Appellant comes from a socio-economic backward stratum of the society, he lost his mother and brother at the tender age. The appellant and his family members do not have any criminal

background. The appellant was of a tender age of 22 years when the incident occurred-It cannot be said that the appellant is a hardened criminal, who cannot be reformed. The possibility of the appellant, if given the chance of being reformed, cannot be ruled out-Death penalty commuted to fixed imprisonment without remission for a period of 20 years.

Yogarani vs State 2024 INSC 721 -Passports Act

Passports Act, 1967- Section 12(2) - Burden is cast on the prosecution to prove that the accused had knowingly furnished false information or suppressing known material information with the intent of securing a passport or travel document to a person and thereby had abetted in the commission of offence punishable under Section 12(1) and thereby punishable under Section 12(2) of the Passports Act. (Para 14-15)

Criminal Trial -The Court cannot convict one accused and acquit the other when there is similar or identical evidence pitted against two accused persons (Para 10) -Without independent and reliable corroboration, the opinion of the handwriting experts cannot be solely relied upon to base the conviction. (Para 13)

Gagan Banga vs State of West Bengal 2024 INSC 722 – Miscellaneous Applications

Supreme Court Rules, 2013- Ordinarily and in the usual course, this Court would be averse and opposed to entertaining miscellaneous applications in disposed of cases -When the individual facts of a particular case so warrant, there can be no bar to entertaining a clarification/modification petition in a disposed of case. This would necessarily depend on the facts and circumstances of that individual case. Notably, Rule 6 of Order LV of the Supreme Court Rules, 2013, states that nothing in the said Rules shall be deemed to limit

or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. Therefore, if any such abuse of process is noticed after the disposal of the case or if a modification is found essential to meet the ends of justice, this Court would be justified in entertaining an application in a disposed of case and exercising such power. (Para 12) Our legal system acknowledges the fallibility of Judges. Though this observation was made in the context of Judges of the District Judiciary, it would be equally applicable to those in higher echelons of the judicial hierarchy - As Courts of record, it is necessary that Constitutional Courts recognize errors that may have crept into their judicial orders and rectify the same when called upon to do so- The Court always has the power to rectify any mistake committed by it. Being the Court of the last resort, this Court would not shy away from acknowledging any mistakes in its orders and would be ready to set right such wrongs- the power of recall is different from the power of altering/ reviewing a judgment. It was held therein that if an order is pronounced without giving an opportunity of hearing to a party affected by it, inherent powers of the Court can be exercised to recall such an order. (Para 10-14)

Natural Justice- No adverse order should be passed against a party without hearing it. This is the fundamental principle of natural justice and it is a basic canon of jurisprudence. (Para 14)

Santosh @ Rajesh @ Gopal vs State Of Madhya Pradesh 2024 INSC 723 – S 27 Evidence Act

Indian Evidence Act,1872- Section 27 [BSA,2023- Section 23(2)]- The word, “distinctly” used in Section 27 relates to the discovered fact. Only that much which relates to the discovery of a physical object is admissible. The rest of the testimony is to be excluded. The facts proved by the prosecution, particularly the admissible portion of the statement of the accused, would give rise to two alternative hypotheses, namely, (i) that the accused had himself deposited the physical items that were recovered- or (ii) only the accused knew that the physical items were lying at that place. The second hypothesis is

wholly compatible with the innocence of the accused, whereas the first would be a factor to show the involvement of the accused in the offence. The court has to analyse which of the hypotheses should be accepted in a particular case. Further, a fact already known to the police is not admissible under Section 27 of the Evidence Act. (Para 13)

Criminal Trial - Circumstantial Evidence- Referred to Sharad Birdhichand Sharda v. State of Maharashtra- Five essential principles, often referred to as the “golden rules”, which must be satisfied for circumstantial evidence to conclusively establish the guilt of the accused: “(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. xxx xxx xxx (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty, (3) the circumstances should be of a conclusive nature and tendency, (4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

Ranjit Singh vs State Of Uttarakhand 2024 INSC 724 – CPC – Non-Filing Of Written Statement- Consequences

Code of Civil Procedure,1908 - Order VIII- Even if a defendant does not file a written statement and the suit is ordered to proceed ex parte against him, the limited defence available to the defendant is not foreclosed. A defendant can always cross-examine the witnesses examined by the plaintiff to prove the falsity of the plaintiff's case. A defendant can always urge, based on the plaint and the evidence of the plaintiff, that the suit was barred by a statute such as the law of limitation. Therefore, notwithstanding an order passed earlier to proceed ex parte, while deciding an application for striking out the defence, it is the duty of the Court to give an opportunity of being heard to the defendants.

Meera Devi (D) vs Dinesh Chandra Joshi (D) 2024 INSC 725- UP Urban Buildings (Regulation of Letting, Rent and Eviction) Act

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972- In any rent proceeding, the Courts can always take the subsequent facts into consideration, which may be relevant. -In any proceeding of eviction of tenant on the ground of non-payment of rent, he is not only bound to offer the arrears of rent on account of non-payment of which eviction is sought for but also to pay the future rent regularly, either at the amount agreed between the parties or as fixed by the Court. Even on failure to pay the rent during the pendency of the litigation also the tenant is bound to be evicted

Dinesh Goyal @ Pappu vs Suman Agarwal (Bindal) 2024 INSC 726 -Order VI Rule 17 CPC- Amendment Of Pleadings

Code Of Civil Procedure,1908- Order VI Rule 17 - (a) amendment of pleadings can be allowed at any stage- (b) amendment must be necessary to determine the “real question of controversy” “inter se parties”- (c) if such amendment is sought to be brought after commencement of trial the Court must, in allowing the same come to a conclusion that in spite of best efforts on the part of the party to the suit, the same could not have been brought before the point of time, when it was actually brought - Courts should adopt a liberal approach in granting leave to amend pleadings, however, the same cannot be in contravention of the statutory boundaries placed on such power.- (i) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order VI Rule 17 of the CPC. (ii) In the following scenario such applications should be ordinarily allowed if the amendment is for effective and proper adjudication of the controversy between the parties

to avoid multiplicity of proceedings, provided it does not result in injustice to the other side. (iii) Amendments, while generally should be allowed, the same should be disallowed if – (a) By the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side. (b) The amendment does not raise a time-barred claim, resulting in the divesting of the other side of a valuable accrued right (in certain situations) (c) The amendment completely changes the nature of the suit- (d) The prayer for amendment is malafide, (e) By the amendment, the other side should not lose a valid defence. (iv) Some general principles to be kept in mind are – (I) The court should avoid a hyper-technical approach- ordinarily be liberal, especially when the opposite party can be compensated by costs. (II) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint or introduce an additional or a new approach. (III) The amendment should not change the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint.

Will - If there is a Will, it has to be honoured. If one of the parties, who will be affected by the Will coming into effect, challenges it on one ground or the other, the process of succession cannot go forward without determination of the dispute regarding the Will. (Para 16)

Sunil @ Sonu vs State NCT Of Delhi 2024 INSC 727 – Murder Conviction Altered To S 304 IPC

Summary: Appeal against concurrent conviction in murder case - Partly allowing appeal, SC noted: the possibility of the offence being committed by the appellants without pre-meditation in a sudden fight in the heat of passion upon a sudden quarrel cannot be ruled out. There is nothing on record to show that the appellants have taken undue advantage or acted in a cruel or unusual manner- The conviction of the appellants under Section 302 of IPC altered to Part-I of Section 304 of IPC- The appellants sentenced to the period already undergone and are directed to be released forthwith if not required in any other case.

HMT Ltd. vs Rukmini 2024 INSC 728 – Writ Petitions – Delay & Latches

Constitution Of India,1950- Article 226 - Writ Jurisdiction -The petitioner approaching the Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition should be dismissed at the threshold without considering the merits of the claim.-Delay and Laches- A writ petition should be preferred within reasonable time, the reasonableness of which would depend on the facts and circumstances of the case and the relief prayed for. Notably, delay by the authorities, at times, may constitute a cause of action in itself. This would be especially true in a case of a live and continuing cause of action or in the event of failure to perform a mandatory statutory duty. It is, however, equally true that there can be cases where delay and laches would be fatal and can result in the dismissal of the writ petition. For example, when there is an implied acceptance or the issue/dispute becomes stale/dead or there is a change/ alteration in position or if third-party rights have been created. The above instances are illustrative and are, by no means, exhaustive. A plea of delay and laches would not be merely technical when facts are in dispute as, over time, evidence may dissipate and materials, including Government files, may become increasingly difficult to trace. Further, individuals with knowledge of the case may move on or become unavailable. The situation is exacerbated for Government servants, as they face transfers and superannuation. Further, such deserving dismissals on delay and laches serve a larger purpose, as time would not be spent unnecessarily on stale and nebulous disputes, enabling Courts/ Tribunals to deal with and decide active pressing cases - An aggrieved person should approach the High Court diligently. Delay in filing a writ petition can result in prejudice, as

parties' position and status may change. Courts do, in cases of such delay, insist that the party concerned should have a good and satisfactory explanation for it. It is only on being satisfied that other factors would not outweigh grant of relief, can the weighty objection of delay and laches be rejected. In other words, a Constitutional Court should be convinced that the case warrants exercise of jurisdiction under Article 226 of the Constitution- The grant of relief by a Constitutional Court under Article 226 of the Constitution, without considering blameworthy conduct, such as delay and laches, would be unsustainable even if such relief was granted for the alleged deprivation of a legal right. Discretionary relief, in such circumstances, can only be obtained upon fully satisfying the Court that the delay was justified and explainable. (Para 12-17)

Union Of India vs Doly Loyi 2024 INSC 729 – Service Law

Service Law- Office Memorandum ('OM') dated 14th September, 1992 dealing with the 'Promotion of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation- Whether by the mere grant of prosecution sanction, it could be said that the prosecution for a criminal charge is pending against the respondent Government Servant and whether grant of sanction for prosecution could be a valid ground for putting the DPC recommendations in a sealed cover"? The disciplinary/criminal proceedings can be said to be initiated against the employee only when a charge memo is issued to the employee in a disciplinary proceeding or a charge-sheet for a criminal prosecution is filed in the competent Court. The sealed cover procedure is to be resorted to only after issuance of the charge-memo/charge-sheet is issued. The pendency of investigation and grant of prosecution sanction will not be sufficient to enable the authorities to adopt the sealed cover procedure. (Para 24)

Shyamsundar Radheshyam Agrawal vs Pushpabai Nilkanth Patil 2024 INSC 730- S.4 Maharashtra Stamp Act

Maharashtra Stamp Act, 1958- Section 4 - In this case, the agreement for sale consists of a clause whereby the possession was handed over to the purchaser satisfying the requirement to treat the instrument as conveyance and what remained was only the formality of execution of the sale deed- Thus the agreement for sale was the principal document on which stamp duty was to be paid as per Article 25. Even if the sale agreements ultimately concluded in the sale deed on which stamp duty was paid, it would not by ipso facto absolve the primary liability of paying the appropriate stamp duty at the time of execution of the sale agreement as it was the principal document. Therefore, Section 4 of the Act cannot come to the aid -The second proviso to Article 25 only states that if the stamp duty is already paid or recovered on the agreement to sale, then the same shall be deducted while computing the stamp duty payable when the sale deed is executed- the proviso does not contemplate a situation similar to this case, where the document ought to have been registered with payment of stamp duty on the agreement for sale initially and only the balance, on the deed of sale after deduction of the duty already paid ought to have been collected. Since, the state cannot recover by way of stamp duty in excess of what it is entitled to, the recovery shall be restricted only to the extent of difference in stamp duty and the entire penalty from the date of execution of the agreement for sale till the date of payment of stamp duty. Needless to say, that until the defect is cured by satisfying the requirements under Section 34, the documents impounded cannot also be used in evidence.

Shoyeb Raja vs State Of Madhya Pradesh 2024 INSC 731 – S 307 IPC -Attempt To Murder- Minor Injury

Indian Penal Code,1860- Section 307 [BNS 2013- Section 109]- Attempt to Murder -The essential ingredients required to be proved in the case of an offence under Section 307 are: (i) that the death of a human being was attempted- (ii) that such death was attempted to be caused by, or in consequence of the act of the accused- and (iii) that such act was done with the intention of causing death- or that it was done with the intention of

causing such bodily injury as : (a) the accused knew to be likely to cause death- or (b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury- The nature or extent of injury suffered, are irrelevant factors for the conviction under this section, so long as the injury is inflicted with animus. -The question of intention to kill or the knowledge of death in terms of Section 307, IPC is a question of fact and not one of law - The minor nature of injuries is not sufficient reason to not frame a charge under Section 307 IPC. (Para 11-16)

S Vijikumari vs Mowneshwarachari C 2024 INSC 732 – Domestic Violence Act- Alteration, Modification Of Order

Protection of Women from Domestic Violence Act, 2005- Section 12,25- Any alteration, modification or revocation of an order passed under Section 12 of the Act owing to a change in circumstances could only be for a period ex post facto, i.e., post the period of an order being made in a petition under Section 12 of the Act and not to a period prior thereto. Thus, such an application for alteration, modification or revocation filed under sub-section (2) of Section 25 of the Act cannot relate to any period prior to the order being passed, inter alia, under Section 12 of the Act (Para 17) - for the invocation of Section 25(2) of the Act, there must be a change in the circumstances after the order being passed under the Act- Thus, an order for alteration, modification or revocation operates prospectively and not retrospectively. Though the order for grant of a maintenance is effective retrospectively from the date of the application or as ordered by the Magistrate, the position is different with regard to an application for alteration in an allowance, which may incidentally be either an increase or a reduction – to take effect from a date on which the order of alteration is made or any other date such as from the date on which an application for alteration, modification or revocation was made depending on the facts of each case. (Para 14)

Protection of Women from Domestic Violence Act, 2005- Section 25,29- The scope of Section 25(2) of the Act is broad enough to deal with all nature of orders passed under the Act, which may include orders of maintenance, residence, protection, etc. If any such application is filed before the Magistrate by any of the two parties, i.e., the aggrieved person or the respondent, then the Magistrate may, for reasons to be recorded in writing, pass an order as he may deem appropriate. Thus, an order passed under the Act remains in force till the time that order is either set aside in an appeal under Section 29 of the Act, or altered/modified/revoked in terms of Section 25(2) of the Act by the Magistrate - Change in the Circumstances -the Magistrate has to adjudge the change in the circumstances based on the material put forth by the parties in a case and having regard to the circumstances of the said case. A change in the circumstances under the Act may be of either a pecuniary nature, such as a change in the income of the respondent or an aggrieved person or it could be a change in other circumstances of the party paying or receiving the allowance, which would justify an increase or decrease of the maintenance amount ordered by the Magistrate to pay or any other necessary change in the relief granted by the Magistrate including a revocation of the earlier order. The phrasing of the provision is wide enough to cover factors like the cost of living, income of the parties, etc. Further, a change in the circumstances need not just be of the respondent but also of the aggrieved person. For example, a change in the financial circumstances of the husband may be a vital criterion for alteration of maintenance but may also include other circumstantial changes in the husband or wife's life which may have taken place since the time maintenance was first ordered. (Para 12-13)

Khunjamayum Bimoti Devi vs State Of Manipur 2024 INSC 733- Judgment – Declaration Of Law

Judgment – When there is a declaration of law by court, the judgment can be treated as judgment in rem and require equities to be balanced by treating those similarly situated, similarly. [In this case, the Court held that differential treatment for those who did not

approach the Court earlier may not be warranted in the facts of the present case, by treating them to be fence sitters and would amount to denial of opportunity under Article 14 and Article 16 of the Constitution of India]

**Manik vs State Of Maharashtra 2024 INSC 734 – Appeal Against Conviction
Section 304-II IPC – Split Verdict**

Indian Penal Code, 1860- Section 299-304- Conviction does not depend upon whether the dead body is found, if reliable evidence, direct or circumstantial, of the commission of homicide is established despite the non-tracing of the dead body (Para 30 of Ravikumar J Judgment)- production of a dead body to prove a murder is not necessary in the eye of law (Para 12 of Sanjay Kumar J Judgment)

Legal Maxims -'Corpus delicti'- 'body of the crime'- Generally, this principle has reference to the requirement of the prosecution proving that the crime has been committed, so as to charge the delinquent and secure a conviction (Para 12 of Sanjay Kumar J Judgment)- It means that before seeking to prove that accused is the author of the crime concerned, it must be established that the crime charged has been committed. In fact, the said Latin expression is used with reference to the establishment of the fact that an offence has been committed, as opposed to the proof that a given person has committed it - (Para 30 of Ravikumar J Judgment)

Summary: Appeal against concurrent conviction under Section 304-II read with Section 34 IPC -Appellants are members of the police force and the allegation against them is of misuse and abuse of their powers, in resorting to custodial torture of Shama @ Kalya, s/o Nanu Ukey, and tampering with evidence- In appeal, Supreme Court delivered split verdict - CT Ravikumar J held in the absence of evidence regarding the homicidal death of Shama @ Kalya, the appellants are entitled to be acquitted of the charge - Sanjay Kumar J dismissed appeal - Ravikumar J held that once the dead body is said to have been traced and it is, then, not proved to be of that person, it would be fatal to the case of the

prosecution. But according to Sanjay Kumar J, when sufficient evidence is available to conclude that deceased was in no position to escape from the custody of the appellants, the inevitable corollary that follows is that he died due to their torture while in their custody.

Vijay Singh @ Vijay Kr. Sharma vs State Of Bihar 2024 INSC 735 – Criminal Trial – Appeal Against Acquittal – Murder Conviction Set Aside

Criminal Trial -A post mortem report is generally not considered as conclusive evidence of the facts mentioned in the re-port regarding the cause of death, time of death etc. It could always be corroborated with other direct evidence on record such as ocular evidence of the eye witnesses. However, when there is no other credible evidence on record to contradict the report, the facts stated in the post mortem report are generally taken as true (Para 30)- in a case based on circumstantial evidence, the chain of evidence must be complete and must give out an inescapable conclusion of guilt - motive has a bearing only when the evidence on record is sufficient to prove the ingredients of the offences under consideration. Without the proof of foundational facts, the case of the prosecution cannot succeed on the presence of motive alone(Para 35)-Ordinarily, there is no rule of law to discard the testimonies of the witnesses merely be-cause they were known to the victim or belonged to her family. For, an offence may be committed in circumstances that only the family members are present at the place of occurrence in natural course.(Para 24) -Motive has a bearing only when the evidence on record is sufficient to prove the ingredients of the offences under consideration. Without the proof of foundational facts, the case of the prosecution cannot succeed on the presence of motive alone. (Para 35)

Code Of Criminal Procedure,1973- Section 378- In order to reverse a finding of acquittal, a higher threshold is required. For, the presumption of innocence operating in favour of an accused through-out the trial gets concretized with a finding of acquittal by the Trial Court. Thus, such a finding could not be reversed merely because the possibility of an alternate view was alive. Rather, the view taken by the Trial Court must be held to be completely unsustainable and not a probable view. (Para 32)

Sukhmander Singh vs State Of Punjab 2024 INSC 736 – Public Employment – Viva Voce

Public Employment -Recruitment Process- Limiting the number of candidates for the viva voce segment becomes essential for several reasons. Firstly, it enhances the efficiency of the selection process by providing for a more thorough and fair evaluation of each candidate. Secondly, by restricting the number of candidates, the process becomes more transparent and less susceptible to allegations of favouritism or bias. Consequently, it ensures that the only the most qualified candidates, based on an objective criterion, proceed to the stage of an interview, helping maintain the integrity of the process, upholding principles of meritocracy and reducing chances of oversight. (Para 19)

Kailashben Mahendrabhai Patel vs State Of Maharashtra 2024 INSC 737 – S 482 CrPC

Code Of Criminal Procedure, 1973- Section 482-There is no prohibition against quashing of the criminal proceedings even after the charge sheet has been filed.- Referred to Anand Kumar Mohatta v. State (NCT of Delhi) (2019) 11 SCC 706. (Para 16)

Summary: High Court refused to quash the FIR- Allowing appeal, SC observed: The provocation for the Complaint/FIR is essentially the property dispute between father and son. Further, the rights and claims in the suit are the very basis and provocation for filing the criminal cases. The Complaint/FIR is replete with just one theme i.e. that the appellants are threatening them that they will deny share in the property. The Complaint/FIR is intended only to further their interest of the civil dispute- none of the ingredients of Sections 498A, 323, 504, 506 read with Section 34 IPC are made out.

**Baljinder Singh @ Ladoo vs State Of Punjab 2024 INSC 738 – S 34,149 IPC –
Ss 464 CrPC**

Indian Penal Code,1860- Section 34 [BNS 2023- Section 3(5)]- There cannot be a fixed timeframe for formation of common intention. It is not essential for the perpetrators to have had prior meetings to conspire or make preparations for the crime. Common intention to commit murder can arise even moments before the commission of the act. Since common intention is a mental state of the perpetrators, it is inherently challenging to substantiate directly. Instead, it can be inferred from the conduct of the perpetrators immediately before, during, and after the commission of the act. (Para 19)

Code Of Criminal Procedure,1973- Section 464(2) [BNSS 2023- Section 510]-In order to judge whether a failure of justice has been occasioned, it will be relevant to examine whether the accused was aware of the basic ingredients of the offence for which he is being convicted and whether the main facts sought to be established against him were explained to him clearly and whether he got a fair chance to defend himself- the burden to show that in fact a failure of justice has been occasioned is on the accused. (Para 25)

Indian Penal Code,1860- Section 34,149 [BNS 2023- Section 3(5),190]-Common intention and common object- Both the sections deal with combinations of persons who become punishable as sharers in an offence. Thus, they have a certain resemblance and may to some extent overlap - If the common object does not necessarily involve a common intention, then the substitution of Section 34 for Section 149 might result in prejudice to the accused and ought not, therefore, to be permitted. But if it does involve a common intention then the substitution of Section 34 for Section 149 must be held to be a formal matter. Whether such recourse can be had or not must depend on the facts of each case. The non-applicability of Section 149 is, therefore, no bar in convicting the appellants under Section 302 read with Section 34 IPC, if the evidence discloses commission of an offence in furtherance of the common intention of them all - Referred to Chittarmal vs. State of Rajasthan (2003) 2 SCC 266. (Para 21-22)

Criminal Trial -The sworn testimonies provided by injured witnesses generally carry significant evidentiary weight. Such testimonies cannot be dismissed as unreliable unless there are pellucid and substantial discrepancies or contradictions that undermine their credibility. If there is any exaggeration in the deposition that is immaterial to the case, such exaggeration should be disregarded- however, it does not warrant the rejection of the entire evidence. (Para 12) -Examination of independent witness is not an indispensable requisite if the testimonies of other witnesses are deemed trustworthy and reliable.

V. Senthil Balaji vs Deputy Director, Directorate of Enforcement 2024 INSC 739 – PMLA – Bail

PMLA,2002- Section 3- The existence of a scheduled offence is sine qua non for alleging the existence of proceeds of crime. A property derived or obtained, directly or indirectly, by a person as a result of the criminal activity relating to a scheduled offence constitutes proceeds of crime. The existence of proceeds of crime at the time of the trial of the offence under Section 3 of PMLA can be proved only if the scheduled offence is established in the prosecution of the scheduled offence. (Para 21)

PMLA,2002- NDPS Act,1985 - UAPA,1967- Considering the gravity of the offences in such statutes, expeditious disposal of trials for the crimes under these statutes is contemplated. Moreover, such statutes contain provisions laying down higher threshold for the grant of bail. The expeditious disposal of the trial is also warranted considering the higher threshold set for the grant of bail. Hence, the requirement of expeditious disposal of cases must be read into these statutes. Inordinate delay in the conclusion of the trial and the higher threshold for the grant of bail cannot go together- “bail is the rule, and jail is the exception.” These stringent provisions regarding the grant of bail, such as Section 45(1)(iii) of the PMLA, cannot become a tool which can be used to incarcerate the accused without trial for an unreasonably long time. (Para 25)

PMLA,2002- Section 45- Section 45(1)(ii) does not confer power on the State to detain an accused for an unreasonably long time, especially when there is no possibility of trial concluding within a reasonable time. What a reasonable time is will depend on the provisions under which the accused is being tried and other factors. One of the most relevant factor is the duration of the minimum and maximum sentence for the offence. Another important consideration is the higher threshold or stringent conditions which a statute provides for the grant of bail. Even an outer limit provided by the relevant law for the completion of the trial, if any, is also a factor to be considered- -The extraordinary powers can only be exercised by the Constitutional Courts- Based on the facts on record, if the Judges conclude that there is no possibility of a trial concluding in a reasonable time, the power of granting bail can always be exercised by the Constitutional Courts on the grounds of violation of Part III of the Constitution of India notwithstanding the statutory provisions.In a given case, if an undue delay in the disposal of the trial of scheduled offences or disposal of trial under the PMLA can be substantially attributed to the accused, the Constitutional Courts can always decline to exercise jurisdiction to issue prerogative writs. An exception will also be in a case where, considering the antecedents of the accused, there is every possibility of the accused becoming a real threat to society if enlarged on bail. The jurisdiction to issue prerogative writs is always discretionary (Para 27)

Constitution of India,1950- Article 21- There are cases where clean acquittal is granted by the criminal courts to the accused after very long incarceration as an undertrial. When we say clean acquittal, we are excluding the cases where the witnesses have turned hostile or there is a bona fide defective investigation. In such cases of clean acquittal, crucial years in the life of the accused are lost. In a given case, it may amount to violation of rights of the accused under Article 21 of the Constitution which may give rise to a claim for compensation. (Para 28)

Dinesh Sahu Alias Dinnu vs State Of Madhya Pradesh 2024 INSC 740 - Criminal Trial - Interested Witness

Criminal Trial - Murder Case - Merely because the witness knew the deceased, it cannot be said that he was an interested witness or an unreliable witness. [Supreme Court upheld murder conviction]

**Ahmednagar District Central Cooperative Bank vs State Of Maharashtra 2024
INSC 741 – Writ Jurisdiction**

Constitution of India,1950- Article 32,226- A writ court does not encourage petitions from indolent, tardy and lethargic litigants- the writ court comes to the aid of a litigant who approaches it with promptitude and before accrual of third-party rights. (Para 30)

**Punjab State Civil Supplies Corporation Ltd. vs Sanman Rice Mills 2024 INSC
742 – Ss. 34,37 Arbitration Act**

Arbitration and Conciliation Act,1996- Section 34,37 -The scope of the intervention of the court in arbitral matters is virtually prohibited, if not absolutely barred and that the interference is confined only to the extent envisaged under Section 34 of the Act. The appellate power of Section 37 of the Act is limited within the domain of Section 34 of the Act. It is exercisable only to find out if the court, exercising power under Section 34 of the Act, has acted within its limits as prescribed thereunder or has exceeded or failed to exercise the power so conferred. The Appellate Court has no authority of law to consider the matter in dispute before the arbitral tribunal on merits so as to find out as to whether the decision of the arbitral tribunal is right or wrong upon reappraisal of evidence as if it is sitting in an ordinary court of appeal. It is only where the court exercising power under Section 34 has failed to exercise its jurisdiction vested in it by Section 34 or has travelled beyond its jurisdiction that the appellate court can step in and set aside the order passed under Section 34 of the Act. Its power is more akin to that superintendence as is vested in

civil courts while exercising revisionary powers. The arbitral award is not liable to be interfered unless a case for interference as set out in the earlier part of the decision, is made out. It cannot be disturbed only for the reason that instead of the view taken by the arbitral tribunal, the other view which is also a possible view is a better view according to the appellate court. - Proceedings under Section 34 of the Act are summary in nature and are not like a full-fledged regular civil suit. Therefore, the scope of Section 37 of the Act is much more summary in nature and not like an ordinary civil appeal. The award as such cannot be touched unless it is contrary to the substantive provision of law- any provision of the Act or the terms of the agreement. (Para 20-21)

RP Garg vs Chief General Manager, Telecom Department 2024 INSC 743 – S 31 Arbitration Act – Post Award Interest

Arbitration and Conciliation Act,1996- Section 31- The statutory scheme relating to grant of interest provided in Section 31(7) creates a distinction between interest payable before and after the award. So far as the interest before the passing of the award is concerned, it is regulated by Section 31(7)(a) of the Act which provides that the grant of interest shall be subject to the agreement between the parties. This is evident from the specific expression at the commencement of the sub-section which says “unless otherwise agreed by the parties” - So far as the entitlement of the post-award interest is concerned, sub-Section (b) of Section 31(7) provides that the sum directed to be paid by the Arbitral Tribunal shall carry interest. The rate of interest can be provided by the Arbitrator and in default the statutory prescription will apply. Clause (b) of Section 31(7) is therefore in contrast with clause (a) and is not subject to party autonomy. In other words, clause (b) does not give the parties the right to “contract out” interest for the post-award period. The expression ‘unless the award otherwise directs’ in Section 31(7)(b) relates to rate of interest and not entitlement of interest. The only distinction made by Section 31(7)(b) is that the rate of interest granted under the Award is to be given precedence over the statutorily prescribed rate- Granting post-award interest is not subject to the contract between the parties. (Para 10- 11)

Lakha Singh vs Balwinder Singh 2024 INSC 744 – Specific Performance Suit – Article 136 Constitution

Constitution of India, 1950- Article 136- Jurisdiction under Article 136 of the Constitution of India should not be exercised unless the findings on facts recorded by the Courts below suffer from perversity or are based on omission to consider vital evidence available on record- The scope of an appeal by special leave under Article 136 of the Constitution of India against concurrent findings discussed -(Para 22-23)

Summary: Suit seeking a decree for specific performance of an agreement to sell in respect of an agricultural plot of land decreed - First Appellate Court and High Court dismissed appeals - Allowing appeal, SC observed: The averments set out in the plaint and the evidence of the plaintiff do not bear an iota of truth and appear to be nothing but a sheer concoction. The circumstances noted above, the evidence of the respondent-plaintiff- the disputed agreement and the plaint clearly indicates that the disputed agreement seems to have been prepared on a blank stamp paper on which, the thumb impressions of the illiterate appellantdefendant had been taken prior to its transcription. The large blank spaces on the first and second pages of the disputed agreement and the absence of thumb impression/signatures of the parties and the attesting witnesses on these two pages, fortifies the conclusion that the disputed agreement was transcribed on one of the blank stamp papers on which the thumb impression of the appellant-defendant had been taken beforehand.

Sub Inspector Sanjay Kumar vs State Of Uttar Pradesh 2024 INSC 745 – Service Law

Service Law -Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991- Rule 7(2)- The appellant , while being posted as Sub-Inspector at Police Station was handed down a penalty of censure - Dismissing appeal, SC held: Superintendent of Police was having the jurisdiction to award minor penalty of censure to the Sub-Inspector of Police

K Vadivel vs K Shanthi 2024 INSC 746 – CrPC – Further Investigation – Speedy Justice

Code Of Criminal Procedure,1973- Section 173(8)- Where fresh materials come to light which would implicate persons not previously accused or absolve persons already accused or where it comes to the notice of the investigating agency that a person already accused of an offence has a good alibi, it may be the duty of the investigating agency to investigate the genuineness of the same and submit a report to the court-However, the further investigation cannot be permitted to do a fishing and roving enquiry when the police had already filed a charge-sheet. (Para 32-33)

Criminal Trial -Speedy Justice - The victims of crime, the accused, and the society at large have a legitimate expectation that justice will be available to the parties within a reasonable time. It is beyond cavil that speedy and timely justice is an important facet of rule of law. Denial of speedy and timely justice can be disastrous to rule of law in the long term. Even if the parties involved in a case themselves, with no valid justification attempt to delay the proceedings, the courts need to be vigilant and nip any such attempt in the bud instantly. The administration of justice feeds on the faith of the citizenry and nothing should be done to even remotely shake that faith and confidence. (Para 45)- The legal profession has an important role to play in the process. Any proceeding or application which *prima facie* lacks merit should not be instituted in a court. (Para 46)

State Of Madhya Pradesh vs Ramji Lal Sharma 2024 INSC 747 – Juvenility Claim After Conviction

Juvenile Justice -An application for claiming juvenility may be made even after the judgment and order of conviction and sentence has been granted against a person which has attained finality. (Para 11) [In this case, Court accepted appellant's juvenility claim and acquitted the him in murder case]

V Vincent Velankani vs Union Of India 2024 INSC 748 – Service Law – GOs/OMs Retrospectivity

Service Law- Once an incumbent is appointed to a post according to the rules, his seniority has to be reckoned from the date of the initial appointment and not according to the date of confirmation, unless the rules provide otherwise -When an employee completes the probation period and is confirmed in service albeit with some delay, the confirmation in service shall relate back to the date of the initial appointment. Any departure from this principle in the form of statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution of India. (Para 30- 34)

Office Memorandum/Government Orders- Office Memorandum/Government Order cannot have a retrospective effect unless and until there is an express provision to make its effect retrospective or that the operation thereof is retrospective by necessary implication -If a Government Order is treated to be in the nature of a clarification of an earlier Government Order, it may be made applicable retrospectively. Conversely, if a subsequent Government Order is held to be a modification/amendment of the earlier Government Order, its application would be prospective as retrospective application

thereof would result in withdrawal of vested rights which is impermissible in law and the same may also entail recoveries to be made. (Para 42-43)

Service Law -The effect of altering the seniority list at a belated stage and how it may adversely affect the employees whose seniority and rank has been determined in the meantime- (Para 45) -seniority list should not be reopened after a lapse of reasonable period as it would disturb the settled position which is unjustifiable. (Para 48) -To alter a seniority list after such a long period would be totally unjust to the multitudes of employees who could get caught in the labyrinth of uncertainty for no fault of theirs and may suffer loss of their seniority rights retrospectively. (Para 50)

Atul Kumar vs Chairman (Joint Seat Allocation Authority) – 2024 INSC 749 – IIT Admission

Summary: The petitioner appeared for the JEE (Advanced) 2024 Examination and secured a rank of 1455 in his category-He was allotted a seat at the Indian Institute of Technology Dhanbad for a four year Bachelor of Technology course in Electrical Engineering- The time frame for the completion of online reporting, including the payment of fees and uploading of documents was till 5 pm on 24 June 2024- He could not do it and thus was denied admission- Allowing his writ petition, SC observed: The petitioner logged in on 24 June 2024 between 15.12 hours and 16.57 hours, on as many as six occasions. This evidently indicates that he was making earnest efforts to log into the portal. There is no conceivable reason why the petitioner would not have done so if he had the wherewithal to pay the fees of Rs 17,500. - A talented student like the petitioner who belongs to a marginalized group of citizens and has done everything to secure admission should not be left in the lurch. The power of this Court under Article 142 of the Constitution to do substantial justice is meant precisely to cover such a situation - the petitioner should be granted admission to IIT Dhanbad against the seat which was allotted to him in the branch of Electrical Engineering.

K Bharthi Devi vs State Of Telangana 2024 INSC 750 – S 482 CrPC – Quashing Of Criminal Cases With Civil Character

Code Of Criminal Procedure 1973 - Section 482 - Criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. (Para 31)

Khalsa University vs State Of Punjab 2024 INSC 751 – Manifest Arbitrariness – Single Entity Legislation

Summary: Khalsa University (Repeal) Act, 2017 struck down as being unconstitutional.

Constitution of India; Article 14,32,226– The test of manifest arbitrariness would apply to invalidate legislation as well as subordinate legislation under Article 14-Manifest arbitrariness must be something done by the legislature capriciously, irrationally and/or without adequate determining principle- When something is done which is excessive and disproportionate, such a legislation would be manifestly arbitrary. (Para 62)

Legislation – Though a legislation affecting a single entity or a single undertaking or a single person would be permissible in law, it must be on the basis of reasonable classification having nexus with the object to be achieved. There should be a reasonable differentia on the basis of which a person, entity or undertaking is sought to be singled out from the rest of the group. Further, if a legislation affecting a single person, entity or undertaking is being enacted, there should be special circumstances requiring such an enactment. Such special circumstances should be gathered from the material taken into consideration by the competent legislature and shall include the Parliamentary/Legislative Debates. (Para 48)

Tarina Sen vs Union Of India 2024 INSC 752 – S 482 CrPC – Quashing Of Criminal Cases With Civil Character

Code Of Criminal Procedure 1973 - Section 482 –In the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 CrPC for giving an end to the criminal proceedings – The possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice. (Para 15)

Sukanya Shantha vs Union of India 2024 INSC 753 – Prison Manuals – Caste Discrimination

Summary: Writ petition challenging caste-based discrimination in the prisons in the country and offending provisions in State prison manuals- SC held: Provisions discriminate against marginalized castes and act to the advantage of certain castes. By assigning cleaning and sweeping work to the marginalized castes, while allowing the high castes to do cooking, the Manuals directly discriminate. This is an instance of direct discrimination under Article 15(1)- Rules that discriminate among individual prisoners on the basis of their caste specifically or indirectly by referring to proxies of caste identity are violative of Article 14 on account of invalid classification and subversion of substantive equality – The impugned provisions are declared unconstitutional for being violative of Articles 14, 15, 17, 21, and 23 of the Constitution. All States and Union Territories are directed to revise their Prison Manuals/Rules in accordance with this judgment within a period of three months; Union government is directed to make necessary changes, as highlighted in this judgment, to address caste-based discrimination in the Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023 within a period of three months; References to “habitual offenders” in the prison manuals/Model Prison Manual shall be in accordance with the definition provided in the habitual offender legislation enacted by the respective State legislatures, subject to any constitutional

challenge against such legislation in the future. All other references or definitions of “habitual offenders” in the impugned prison manuals/rules are declared unconstitutional. In case, there is no habitual offender legislation in the State, the Union and the State governments are directed to make necessary changes in the manuals/rules in line with this judgment, within a period of three months; (iv) The “caste” column and any references to caste in undertrial and/or convicts’ prisoners’ registers inside the prisons shall be deleted.

Constitution of India – The interpretation of the Constitution is not static – Our interpretation of the Constitution must fill the silences in its text. The framers of the Constitution could not have anticipated every situation that might arise in the future.-The Constitution of India is an emancipatory document. It provides equal citizenship to all citizens of India. The Constitution is not just a legal document, but in India’s social structure, it is a quantum leap. In one stroke, it gave a dignified identity to all citizens of India. (Para 5-24)-**Article 14** – The constitutional standards laid down by the Court under Article 14 can be summarized as follows. First, the Constitution permits classification if there is intelligible differentia and reasonable nexus with the object sought. Second, the classification test cannot be merely applied as a mathematical formula to reach a conclusion. A challenge under Article 14 has to take into account the substantive content of equality which mandates fair treatment of an individual. Third, in undertaking classification, a legislation or subordinate legislation cannot be manifestly arbitrary, i.e. courts must adjudicate whether the legislature or executive acted capriciously, irrationally and/or without adequate determining principle, or did something which is excessive and disproportionate. In applying this constitutional standard, courts must identify the “real purpose” of the statute rather than the “ostensible purpose” presented by the State, as summarized in ADR. Fourth, a provision can be found manifestly arbitrary even if it does not make a classification. Fifth, different constitutional standards have to be applied when testing the validity of legislation as compared to subordinate legislation. (Para 25-34) – **Article 15** -Anti-discrimination principles emerge under Article 15(1). First, discrimination can be either direct or indirect, or both. Second, facially neutral laws may have an adverse impact on certain social groups, that are marginalized. Third, stereotypes can further discrimination against a marginalized social group. Fourth, the State is under a positive obligation to prevent discrimination against a marginalized social group. Fifth,

discriminatory laws based on stereotypes and causing harm or disadvantage against a social group, directly or indirectly, are not permissible under the constitutional scheme. Sixth, courts are required to examine the claims of indirect discrimination and systemic discrimination; and seventh, the test to examine indirect discrimination and systemic discrimination. (Para 35-48)- **Article 17-** Article 17 has several components. It abolishes the practice of “untouchability”. At the same time, it prohibits “its practice in any form”. Furthermore, “enforcement of any disability” arising out of “Untouchability” is a criminal offense as per the “law”. The meaning of “law” is any legislation enacted to tackle any practice or disability arising out of “untouchability- It is a provision that can be implemented both against the State and non-state actors such as the citizensArticle 17 enunciates that everyone is born equal. There cannot be any stigma attached to the existence, touch or presence of any person. By way of Article 17, our Constitution strengthens the equality of status of every citizen. (Para 49-54)

Constitution of India – Article 23 –The scope of Article 23 can be invoked to challenge practices where no wages are paid, non-payment of minimum wages takes place, social security measures for workers are not adopted, rehabilitation for bonded labour does not happen, and in similar unfair practices. The State shall be held accountable even in cases where the violation of fundamental rights such as Article 23 is done by private entities or individuals. Article 23 can also be applied to situations inside prisons, if the prisoners are subjected to degrading labour or other similar oppressive practices. (Para 68-85)- Article 23 was incorporated into the Constitution to protect the members of oppressed castes from exploitative practices, where their labour is taken advantage of, and without any adequate return- Assigning labour based on caste background strips individuals of their liberty to engage in meaningful work, and denies them the opportunity to rise above the constraints imposed by their social identity. (Para 195)

Constitution of India – Article 21- Rights of prisoners – Even the incarcerated have inherent dignity. They are to be treated in a humanely and without cruelty. Police officers and prison officials cannot take any disproportionate measures against prisoners. The prison system must be considerate of the physical and mental health of prisoners. For instance, if a prisoner suffers from a disability, adequate steps have to be taken to ensure

their dignity and to offer support. (Para 67) -Article 23 can also be applied to situations inside prisons, if the prisoners are subjected to degrading labour or other similar oppressive practices. (Para 85) -The right to life enshrined in Article 21 “cannot be restricted to mere animal existence” and “means something much more than just physical survival”. It includes the right to live with dignity. In fact, dignity forms a part of the basic structure of the Constitution. The “references” to dignity are “found in the guarantee against arbitrariness (Article 14), the lamps of freedom (Article 19) and in the right to life and personal liberty (Article 21).” Thus, dignity is the “core” which “unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence”. In that sense, human dignity is a constitutional value and a constitutional goal. (Para 56-57) Article 21 envisages the growth of individual personality. Caste prejudices and discrimination hinder the growth of one’s personality. Therefore, Article 21 provides for the right to overcome caste barriers as a part of the right to life of individuals from marginalized communities. The protection provided by Article 21 can be seen as a constitutional guarantee that individuals from marginalized communities should have the freedom to break free from these traditional social restrictions. It extends beyond mere survival to ensure that they can flourish in an environment of equality, respect, and dignity, without being subjected to caste-based discrimination which stifles their personal growth (Para 187)

Constitution of India – Article 15- Article 15(1), caste cannot be a ground to discriminate against members of marginalized castes. Any use of caste as a basis for classification must withstand judicial scrutiny to ensure it does not perpetuate discrimination against the oppressed castes. While caste-based classifications are permissible under certain constitutional provisions, they are strictly regulated to ensure they serve the purpose of promoting equality and social justice

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989- PoA Act is a significant legislative measure designed to protect the fundamental rights and freedoms of the Scheduled Castes and Scheduled Tribes, ensuring their dignity and safety against discrimination and violence – Discrimination against the Scheduled Castes, Scheduled Tribes, and Denotified Tribes has continued in a systemic manner.

Remedying systemic discrimination requires concrete multi-faceted efforts by all institutions. In discharge of their role, courts have to ensure that while there should be proper implementation of the protective legislation such as the PoA Act, there should not be unfair targeting of members from marginalized castes under various colonial-era or modern laws. (Para 131-144)

Quotable quotes -Our interpretation of the Constitution must fill the silences in its text. (Para 9) The Constitution is not just a legal document, but in India's social structure, it is a quantum leap. In one stroke, it gave a dignified identity to all citizens of India. (Para 14) The Constitution mandates the replacement of fundamental wrongs with fundamental rights. The Constitution is the embodiment of the aspirations of the millions of caste-oppressed communities, which hoped for a better future in independent India. (Para 15) The fight against caste-based discrimination is not a battle that can be won overnight; it requires sustained effort, dedication, and the willingness to confront and challenge societal norms that perpetuate inequality. (Para 23) As a society that divided people into a hierarchy, we must remain conscious of the forms and kinds of discrimination against marginalized groups. Discriminatory laws enacted before the Constitution of India came into force need to be scrutinized and done away with. (Para 36) Article 17 enunciates that everyone is born equal. There cannot be any stigma attached to the existence, touch or presence of any person. (Para 54) A nation must prioritize human dignity—ensuring that every person, regardless of their background or identity, is able to live with respect, equality, and freedom. (Para 57) The right to live with dignity extends even to the incarcerated. Not providing dignity to prisoners is a relic of the colonizers and pre-colonial mechanisms, where oppressive systems were designed to dehumanize and degrade those under the control of the State.(Para 58) The rules of caste continued in medieval history. The law of caste manifested in several ways— with each manifestation causing a form of violence against the oppressed communities. (Para 94) The exercise of the power to arrest or detain may become reflective of a colonial mindset, if not exercised with caution. (Para 143) Discrimination against the Scheduled Castes, Scheduled Tribes, and Denotified Tribes has continued in a systemic manner. Remedying systemic discrimination requires concrete multi-faceted efforts by all institutions. (Para 144) Segregating prisoners on the basis of caste would reinforce caste differences or animosity that ought to be prevented at the first

place. Segregation would not lead to rehabilitation. (Para 166) The notion that an occupation is considered as “degrading or menial” is an aspect of the caste system and untouchability. (Para 179) Refusal to check caste practices or prejudices amounts to cementing of such practices. If such practices are based on the oppression of the marginalized castes, then such practices cannot be left untouched.(Para 180) The rule that a prisoner of a high caste be allowed to refuse the food cooked by other castes is a legal sanction by the State authorities to untouchability and the caste system.”(Para 181) Article 21 envisages the growth of individual personality. Caste prejudices and discrimination hinder the growth of one’s personality. Therefore, Article 21 provides for the right to overcome caste barriers as a part of the right to life of individuals from marginalized communities. (Para 187) Assigning labour based on caste background strips individuals of their liberty to engage in meaningful work, and denies them the opportunity to rise above the constraints imposed by their social identity. (Para 195) After all, the “bounds of caste are made of steel”— “Sometimes invisible but almost always inextricable””.But not so strong that they cannot be broken with the power of the Constitution. (Para 229)

Union Of India vs Rajeev Bansal 2024 INSC 754 – Income Tax Act- Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act

Income Tax Act,1961; Section 149,151-Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act 2020-a.After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions; b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021; c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under Section 148; d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval; e. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified

authority under Section 151(2) has extended time till 31 March 2021 to grant approval; f. The directions in Ashish Agarwal (*supra*) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021; g. The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assessee in terms of the directions issued by this Court in Ashish Agarwal (*supra*), and the period of two weeks allowed to the assessee to respond to the show cause notices; and h. The assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside. (Para 114)

Constitution of India-Article 265- No tax shall be levied or collected except by authority of law. A taxing statute must be valid and conform to other provisions of the Constitution -Distinction between “levy” and “collection.”- The expression “levy” has a wider connotation. It includes both the imposition of a tax as well as assessment. The quantum of tax levied by a taxing statute, the conditions subject to which it is levied, and how it is sought to be recovered are all matters within the competence of the legislature. In a taxing statute, the charging provisions are generally accompanied by a set of provisions for computing or assessing the levy. The character of assessment provisions bears a relationship to the nature of the charge -The expression “assessment” comprehends the entire procedure for ascertaining and imposing liability upon taxpayers. The process of assessment involves computation of the income of the assessee, determination of tax payable by them, and the procedure for collecting or recovering tax. An assessing officer is concerned with the assessment and collection of revenue. An assessing officer must administer the provisions of the Income Tax Act in the interests of the public revenue and to prevent evasion or escapement of tax legitimately due to the State. (Para 23-24) –

Article 142 –Article 142 empowers this Court to pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it. The discretionary jurisdiction exercised by this Court under Article 142 is of the widest amplitude. The Constitution has left it to the judicial discretion of this Court to decide the

scope and limits of its jurisdiction to render substantial justice in matters coming before it. The expression “any cause or matter” mentioned under Article 142 includes every kind of proceeding pending before this Court. Article 142 allows this Court to give precedence-The exercise of the jurisdiction under Article 142 is meant to supplement the existing legal framework to do complete justice between the parties. In a given circumstance, this Court can supplement a legal framework to craft a just outcome when strict adherence to a source of law and exclusive rule based theories create inequitable results. – The directions issued by this Court under Article 142 cannot be considered as a ratio because they are issued based on the peculiar facts and circumstances of the cause or matter before this Court- a judgment has two components: (a) declaration of law; and (b) directions- What is binding on all courts under Article 141 is the declaration of law, and not the directions issued under Article 142. (Para 82-87)

Administrative Law – If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner. Any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid. (Para 30) -A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction. There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment. An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction. (Para 32)

Interpretation of Statutes- Principle of harmonious construction . The legislature is presumed to enact a consistent and harmonious body of laws in deference to the rule of law. In case of any apparent conflict within a provision or between two provisions of the same statute, the courts must read the provisions harmoniously- The principle of harmonious construction requires courts to bring about a reconciliation between seemingly conflicting provisions to give effect to both. An interpretation which reduces one of the provisions to a “dead letter” is not a harmonious construction. The

principle of harmonious construction also applies to reconcile two seemingly conflicting provisions of different statutes.(Para 39) – **Non-obstante clause-** A legislature often appends a non obstante clause to a provision to give it an overriding effect over provisions contained in the same statute or a separate statute. The purpose of incorporating a non obstante clause in a provision is to prohibit the operation and effect of all contrary provisions -A non-obstante clause must be given effect to the extent Parliament intended and not beyond. In construing a provision containing a non obstante clause, courts must determine the purpose and object for which the provision was enacted. The courts are also required to find out the extent to which the legislature intended to give one provision overriding effect over another provision. In case of a clear inconsistency between two enactments, a provision containing a non obstante clause can be given an overriding effect over a provision contained in another statute (Para 40-41) – **Implied Repeal** –When two laws are inconsistent or repugnant, the later legislation is interpreted as having impliedly repealed the earlier legislation. The principle underlying implied repeal is that there is no need for the later enactment to state in express words that the earlier enactment has been repealed if the legislative intent to supersede the earlier law is manifested through the provisions of the later enactment -The following principles applicable to the implied repeal of legislation: a. A subsequent legislation may not be too readily presumed to effectuate a repeal of existing statutory laws in the absence of express or at least unambiguous indication to that effect; b. Courts must lean against implying a repeal unless the two provisions are so plainly repugnant to each other that they cannot stand together and it is not possible on any reasonable hypothesis to give effect to both at the same time; c. It is necessary to closely scrutinise and consider the true meaning and effect of both the earlier and the later statute; and d. If the objects of the two statutory provisions are different and the language of each statute is restricted to its objects or subject, then they are generally intended to rule in parallel lines without meeting and there would be no real conflict-The principle on which the rule of implied repeal rests is that if the subjectmatter of a later legislation is identical to that of an earlier legislation so that they both cannot stand together, then the earlier legislation is impliedly repealed by the later legislation. The courts have to determine whether the legislature intended the two sets of provisions to be applied simultaneously. The presumption against implied repeal is based on the theory that the legislature knows the existing laws and does not intend to create any confusion by

retaining two conflicting provisions or statutes. The test to be applied for the construction of implied repeal is whether the new or subsequent law is inconsistent with or repugnant to the old law. The inconsistency or repugnancy should clearly and manifestly reveal an intention to repeal the existing laws. The inconsistency or repugnancy must be such that the two statutes cannot be reconciled on reasonable construction or hypothesis. To determine whether a later statute repeals by implication an earlier statute, it is necessary to examine the scope and object of the two enactments by comparison of their provisions.¹⁰⁵ Implied repeal should be avoided, if possible, where both the statutes can stand together. (Para 42-43)

Legislation – Amendment by substitution – The process of substitution of a statutory provision generally involves two steps: first, the existing rule is deleted; and second, the new rule is brought into existence in its place. The deletion effectively repeals the existing provision. Thus, an amendment by substitution results in the repeal of an earlier provision and its replacement by a new provision. The repealed provision will cease to operate from the date of repeal and the substituted provision will commence operation from the date of its substitution. After the substitution, the legislation must be read and construed as if the altered words have been written into the legislation “with pen and ink and the old words scored out.” Therefore, after amendment by substitution any reference to a legislation must be construed as the legislation as amended by substitution. (Para 57)

–Legal fiction– A legal fiction is a supposition of law that a thing or event exists even though, in reality, it does not exist. The word “deemed” is used to treat a thing or event as something, which otherwise it may not have been, with all the attendant consequences. The effect of a legal fiction is that “a position which otherwise would not obtain is deemed to obtain under the circumstances.”- A legal fiction is created for a definite purpose and it should be limited to the purpose for which it is enacted or applied. It is a well-established principle of interpretation that the courts must give full effect to a legal fiction by having due regard to the purpose for which the legal fiction is created. The consequences that follow the creation of the legal fiction “have got to be worked out to their logical extent.”¹⁵⁸ The court has to assume all the facts and consequences that are incidental or inevitable corollaries to giving effect to the fiction (Para 98-99)

Words and expressions –The expression “any” has been interpreted by this Court to mean “all” or “every”. The context in which the word “any” appears has to be construed after taking into consideration the scheme and the purpose of the enactment. (Para 61)

Rama Devi vs State Of Bihar 2024 INSC 755 – Delay In Forwarding FIR – S. 161 Statements

Code of Criminal Procedure ,1973- Section 154- When there is a delay in forwarding the FIR to the jurisdictional magistrate and the accused raises a specific contention regarding the same, they must demonstrate how this delay has prejudiced their case. Mere delay by itself is not sufficient to discard and disbelieve the case of the prosecution. If the investigation starts in right earnest and there is sufficient material on record to show that the accused were named and pinpointed, the prosecution case can be accepted when evidence implicates the accused. The requirement to dispatch and serve a copy of the FIR to the jurisdictional magistrate is an external check against ante dating or ante timing of the FIR to ensure that there is no manipulation or interpolation in the FIR. If the court finds the witnesses to be truthful and credible, the lack of a cogent explanation for the delay may not be regarded as detrimental. (Para 30)

Code of Criminal Procedure ,1973- Section 161- Statements under Section 161 CrPC are per se not evidence in the court. (Para 31)

Summary: Murder conviction of some of the accused upheld – Murder conviction of some other accused restored.

Chief Commissioner of Central Goods and Service Tax vs Safari Retreats Private Ltd 2024 INSC 756 – S.17(5)(c & d) CGST Act- Constitutional Validity Upheld

Central Goods and Services Tax Act, 2017,2016- Section 17(5)- Constitutional validity of clauses (c) and (d) of Section 17(5) upheld- The expression “plant or machinery” used in Section 17(5)(d) cannot be given the same meaning as the expression “plant and machinery” defined by the explanation to Section 17- The question whether a mall,

warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within the meaning of the expression “plant or machinery” used in Section 17(5)(d) is a factual question which has to be determined keeping in mind the business of the registered person and the role that building plays in the said business. If the construction of a building was essential for carrying out the activity of supplying services, such as renting or giving on lease or other transactions in respect of the building or a part thereof, which are covered by clauses (2) and (5) of Schedule II of the CGST Act, the building could be held to be a plant. Then, it is taken out of the exception carved out by clause (d) of Section 17(5) to sub-section (1) of Section 16. Functionality test will have to be applied to decide whether a building is a plant. Therefore, by using the functionality test, in each case, on facts, in the light of what we have held earlier, it will have to be decided whether the construction of an immovable property is a “plant” for the purposes of clause (d) of Section 17(5)- (Para 65)-**Section 16(4)**- The words “thirtieth day of November” were substituted with effect from 1st October 2022 for the words “due date of furnishing of the return under Section 39 for the month of September”. We fail to understand how sub-section (4) of Section 16 becomes discriminatory when the legislature says that a registered person shall not be entitled to take ITC in respect of any invoice or debit note for the supply of goods or services or both after the thirtieth day of November following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. It is not shown how the provision is arbitrary and discriminatory. The fact that the provisions could have been drafted in a better manner or more articulately is not sufficient to attract arbitrariness. (Para 63)- **Section 16(3)** -A registered person will not be entitled to ITC on the tax component of the cost of capital goods and plant and machinery if he claims depreciation on the said tax component under the Income Tax Act. The object is that a registered person does not take advantage of both depreciation and ITC. (Para 28)

Legislation – Constitutional Validity- While dealing with a taxing statute, it can always be said that, ideally, a particular provision ought not to have been incorporated or ought to have been incorporated with a modification. Even if this can be said, per se, the particular provision does not become unconstitutional. The Court cannot impose its views on the legislature. (Para 62) – Laws relating to economic activities should be viewed with

greater latitude than laws touching civil rights such as freedom of speech, religion, etc. (Para 57) The fact that the provisions could have been drafted in a better manner or more articulately is not sufficient to attract arbitrariness. (Para 63)

Constitution of India.- Article 14 –Reasonable classification test- To satisfy the test, there must be an intelligible differentia forming the basis of the classification, and the differentia should have a rational nexus with the object of legislation. (Para 58)

Interpretation of Statutes – Rules Regarding Interpretation of Taxing Statutes summarized: a. A taxing statute must be read as it is with no additions and no subtractions on the grounds of legislative intendment or otherwise; b. If the language of a taxing provision is plain, the consequence of giving effect to it may lead to some absurd result is not a factor to be considered when interpreting the provisions. It is for the legislature to step in and remove the absurdity; c. While dealing with a taxing provision, the principle of strict interpretation should be applied; d. If two interpretations of a statutory provision are possible, the Court ordinarily would interpret the provision in favour of a taxpayer and against the revenue; e. In interpreting a taxing statute, equitable considerations are entirely out of place; f. A taxing provision cannot be interpreted on any presumption or assumption; g. A taxing statute has to be interpreted in the light of what is clearly expressed. The Court cannot imply anything which is not expressed. Moreover, the Court cannot import provisions in the statute to supply any deficiency; h. There is nothing unjust in the taxpayer escaping if the letter of the law fails to catch him on account of the legislature's failure to express itself clearly; i. If literal interpretation is manifestly unjust, which produces a result not intended by the legislature, only in such a case can the Court modify the language; j. Equity and taxation are strangers. But if construction results in equity rather than injustice, such construction should be preferred; k. It is not a function of the Court in the fiscal arena to compel the Parliament to go further and do more; l. When a word used in a taxing statute is to be construed and has not been specifically defined, it should not be interpreted in accordance with its definition in another statute that does not deal with a cognate subject. It should be understood in its commercial sense. Unless defined in the statute itself, the words and expressions in a taxing statute have to be construed in the sense in which the persons dealing with them understand, that is, as per

the trade understanding, commercial and technical practice and usage. (Para 25) -**Non-obstante clause-** A device used by the legislature that is usually employed to give an overriding effect to certain provisions over some contrary provisions that may be found in the same or some other enactments. Such a clause is used to indicate that the said provision should prevail despite anything to the contrary in the provisions mentioned in the non-obstante clause. (Para 30)

**Banshidhar Construction Private Limited vs Bharat Coking Coal Limited 2024
INSC 757 – Government Contracts**

Constitution of India-Article 226- Scope of judicial intervention in Government contracts -Government bodies/ instrumentalities are expected to act in absolutely fair, reasonable and transparent manner, particularly in the award of contracts for Mega projects. Any element of arbitrariness or discrimination may lead to hampering of the entire project which would not be in the public interest-Court does not sit as a Court of Appeal in the matter of award of contracts and it merely reviews the manner in which the decision was made; and that the Government and its instrumentalities must have a freedom of entering into the contracts. However, it is equally well settled that the decision of the government/ its instrumentalities must be free from arbitrariness and must not be affected by any bias or actuated by malafides. Government bodies being public authorities are expected to uphold fairness, equality and public interest even while dealing with contractual matters. Right to equality under Article 14 abhors arbitrariness. Public authorities have to ensure that no bias, favouritism or arbitrariness are shown during the bidding process and that the entire bidding process is carried out in absolutely transparent manner. (Para 21-29)

In Re: Remarks By High Court Judge During Court Proceedings 2024 INSC 758 – Live Streaming – Court Proceedings

Live Streaming – Livestreaming has provided fresh sunlight. The answer to sunlight is to provide more sunlight. All stakeholders in the judicial system, including judges, lawyers and parties in person, have to be conscious of the fact that the reach of judicial proceedings extends beyond those who are physically present. The reach of judicial hearings extends to

audiences well beyond the physical precincts of the court- This places an added responsibility on judges and lawyers as well as litigants who appear in person to conduct the proceedings conscious of the wide and immediate impact of casual observations on the community at large. (Para 14)

Judiciary – Judges need to be conscious of the fact that each individual bears a certain degree of accumulated predispositions, based on their experiences of life. Some may be early experiences. Others are gained later. Every Judge should be aware of those predispositions. The heart and soul of judging lies in the need to be impartial and fair. Intrinsic to that process is the need for every Judge to be aware of their own predispositions. Awareness of these predispositions is the first step in excluding them in the decision making process. It is on the basis of that awareness that a judge can be faithful to the fundamental obligation to render objective and fair justice. Every stake holder in the administration of justice has to understand that the only values which must guide decision making are those which are enshrined in the Constitution of India- Casual observations often reflect individual bias, particularly, when they are likely to be perceived as being directed against a particular gender or community. Courts, therefore, have to be careful not to make comments in the course of judicial proceedings which may be construed as being misogynistic or, for that matter, prejudicial to any segment of our society. (Para 15)

**Shivkumar Ramsundar Saket vs State Of Maharashtra 2024 INSC 759
-Murder Case- Death Sentence Set Aside**

Summary: Trial Judge did not impose death penalty holding that it does not fit in the category of ‘rarest of rare cases’ – High Court imposed death penalty in appeal – Partly allowing appeal, SC observed: Unless the finding recorded by the Trial Judge was found to be perverse or impossible, the High Court ought not to have interfered with the same. In any case, the role played by appellant- is similar with all the other accused and the case of appellant could not have been segregated to impose death penalty upon him- The sentence of death imposed by the High Court set aside.

Shriram Investments vs Commissioner of Income Tax III Chennai 2024 INSC 760 – Income Tax – Revised Return Limitation

Income Tax Act, 1961 -Sections 139 and 143- In this case, the appellant-assessee filed a return of income on 19th November 1989 for the assessment year 1989-90. On 31st October 1990, the appellant filed a revised return. As per intimation issued under Section 143(1)(a) of the IT Act on 27th August 1991, the appellant paid the necessary tax amount. On 29th October 1991, the appellant filed another revised return. The assessing officer did not take cognizance of the said revised return- Dismissing appeal, SC held: The assessing officer had no jurisdiction to consider the claim made by the assessee in the revised return filed after the time prescribed by Section 139(5) for filing a revised return had already expired.

Jayashree vs Commissioner Of Police 2024 INSC 761

Note: Judgment not yet available on the SCI website.

Manisha Ravindra Panpatil vs State Of Maharashtra 2024 INSC 762- Public Representative

Public Representative- Matter of removal of an elected public representative should not be treated so lightly, especially when it concerns women belonging to rural areas. It must be acknowledged that these women who succeed in occupying such public offices, do so only after significant struggle. [In this case, the Collector passed an order disqualifying the appellant from continuing as Sarpanch- SC held: Punishment awarded to the appellant, namely, her removal from the office of Sarpanch, is highly disproportionate- Collector's order set aside]

Shashi Bhushan Prasad Singh vs State Of Bihar 2024 INSC 763 – Public Employment

Public Employment –Introducing new requirements into the selection process after the entire selection process was completed amounted to changing the rules of the game after the game was played. (Para 28) [In this case, despite the preparation of the Final Select List which signals the conclusion of the appointment process, the State Government seeks to scrap the entire process and undertake a fresh appointment process under the New Rules- SC observed: This amounts to effectively changing the rules of the game after the

game was played which is impermissible and deprives the candidates of their legitimate right of consideration under the previous Rules.]

Khursheed vs Shaqoor 2024 INSC 764- U.P. Consolidation of Holdings Act, 1954 – Voidable Sale Deed

U.P. Consolidation of Holdings Act, 1954 A “voidable” document continues to be in force until it is set aside and such a document can only be set aside by a competent civil court- Consolidation authorities do not have the jurisdiction and power to cancel a document, which is required to be set aside or cancelled and the document will continue to be valid till it is cancelled by a Competent Court i.e. a Civil Court- If the document is void, it would be open for the Consolidation Authorities to disregard such a document & in such a case, they would get the exclusive jurisdiction to proceed with the matter. But if the document is voidable, the Civil Court is vested with the jurisdiction to declare the same to be voidable. In the case of voidable documents, not only would the Consolidation Authorities have no power to cancel such documents, but even the proceedings pending before any competent Civil Court would not abate. [In this case, the allegation was that the fraudulent misrepresentation was by petitioner’s mother, who executed the sale deed by impersonation: It would make the sale deed voidable, but not void -Therefore sale deed will be binding on the Consolidation Authorities unless it is set aside by a competent Civil Court and there would be no bar on jurisdiction of the Civil Court to try a suit for cancellation of such a sale deed.]

Rekha Sharma vs Rajasthan High Court 2024 INSC 765 – Reservation – Vertical & Horizontal – Overall & Compartmentalised

Constitution of India, 1950; Article 16- Reservation – The concept of “Vertical Reservations” and “Horizontal Reservations” explained – Referred to Indra Sawhney vs. Union of India 1992 Supp. (3) SCC 217. (Para 12) -The reservation for persons with disabilities would be relatable to Clause (1) of Article 16 and the persons selected against this quota will be placed in appropriate category i.e. if he/she belongs to Scheduled

Category, he/she will be placed in that category by making necessary adjustments, and if he/she belongs to open category, necessary adjustments will be made in the open category.

Reservation— Concept of Overall Reservations and Compartmentalised Reservations explained – Referred to Anil Kumar Gupta vs. State of U.P (1995) 5 SCC 173 – Where the seats reserved for the Horizontal Reservations are proportionately divided amongst the Vertical (Social) Reservations and are not intertransferable, it would be a case of Compartmentalised reservations, whereas in the Overall Reservation, while allocating the special reservation candidates to their respective social reservation category, the Overall Reservation in favour of special reservation categories has to be honoured. Meaning thereby the special reservations cannot be proportionately divided among the Vertical (Social) reservation categories, and the candidates eligible for special reservation categories have to be provided overall seats reserved for them, either by adjusting them against any of the Social/Vertical reservations or otherwise, and thus they are intertransferable. (Para 14)

Public Employment – The candidates who consciously took part in the process of selection cannot be permitted to question the advertisement or the methodology adopted for making selection, on their having been declared as unsuccessful in the Preliminary Examinations. (Para 16)

Summary: High Court had issued an advertisement for the direct recruitment of 120 posts of Civil Judge and Judicial Magistrate under the Civil Judge Cadre – It declared the cut off marks for the persons falling under Compartmentalised Horizontal Reservation and not for the Overall Horizontal Reservation under which the appellants fall- Dismissing appeal, SC held: Such action could neither be said to be arbitrary nor violative of Article 14, 16 and 21 of the Constitution of India.

Ranjeet Mittal vs State Of Madhya Pradesh 2024 INSC 766 – S 482 CrPC – Quashing Of Criminal Charges

Code of Criminal Procedure 1973 – Section 482 -For quashing of criminal charges it must be shown that there is no sufficient evidence to prove a prima facie case against the accused person/s. [In this case, there are statements by witnesses indicating abuse and torture of deceased by her in-laws and other factual circumstances- Therefore prima facie case is made against the accused persons- The High Court erred in quashing the order of trial court framing charges]

Nipun Aneja vs State Of Uttar Pradesh 2024 INSC 767-S 306 IPC – S 482 CrPC – Abetment Of Suicide – Quashing

Indian Penal Code,1860 –Section 306 [Section 108 of BNS,2023]-The basic ingredients to constitute an offence under Section 306 of the IPC are suicidal death and abetment thereof -The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and brother and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large,

the expectations and obligations are prescribed by law, rules, policies and regulations. (Para 14- 21)

Code of Criminal Procedure, 1973- Section 482 – Abetment of suicide cases

-The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even *prima facie* that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a fullfledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them. (Para 22)

Summary: Allowing appeal filed by accused in an abetment to suicide case, the Supreme Court observed: putting the appellants to trial on the charge that they abetted the commission of suicide by the deceased will be nothing but abuse of process of law. In our opinion, no case worth the name against the appellants is made out.

Kerala State Electricity Board Ltd vs Jhabua Power Limited 2024 INSC 768 – Electricity Act

Electricity Act 2003-Section 108 – The state regulatory commissions are not ‘bound’ by the directions of the state government, or the Central Government -The state commission shall only be ‘guided’ by the directions issued by the state government and is not automatically bound by them – The provision, in no manner, seeks to control the exercise of quasi-judicial power by the state commissions based on directions issued by the state government – The State government while issuing a policy directive cannot impinge on the adjudicatory discretion which is vested in an authority under the Act. (Para 16-18)

Electricity Act 2003- Section 94(f) – State commission has the same powers as vested in a civil court under the CPC in respect of reviewing its decisions, directions and orders. Order XLVII Rule 1 of the CPC provides for review on limited grounds. An order cannot be made the subject of an appeal under the garb of a review. While reviewing an order, the court or tribunal must be satisfied that there was an error apparent in its previous order, which warrants the exercise of its power to review. (Para 19)

Neelam Gupta vs Rajendra Kumar Gupta 2024 INSC 769 – Transfer Of Property Act – Minor Transferee- Adverse Possession

Transfer of Property Act,1882- Section 54– A minor can be a transferee though not a transferor of immovable property- Though an agreement to sell is a contract of sale, a sale cannot be said to be a contract. Sale, going by the definition, is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. (Para 30)

Adverse Possession -Tenants or lessees could not claim adverse possession against their landlord/lessor, as the nature of their possession is permissive in nature- Once the plaintiff proves his title over suit property it is for the defendant resisting the same claiming adverse possession that he perfected title through adverse possession –**Article 65 of the Limitation Act, 1963** –The starting point of limitation would not commence from the date when the right of ownership arises to the plaintiff but would commence only from the date the defendant’s becomes adverse. (Para 40-41)

Shingara Singh vs Daljit Singh 2024 INSC 770 – Lis Pendens – S 52 Transfer Of Property Act

Transfer of Property Act,1882- Section 52,41- Once it has been held that the transactions are illegal due to the doctrine of lis pendens, the defence that they are bona fide purchasers for valuable consideration and thus, entitled to protection under Section 41 is liable to be rejected. (Para 14) – the doctrine of lis pendens applies to an alienation during the pendency of the suit whether such alienees had or had no notice of the pending proceedings. (Para 11)

Doctrine Of Lis Pendens -In this case, suit was filed on 24.12.1992 and the next date before the Trial Court was fixed on 12.01.1993. The sale deed was executed by defendant no. 1 in favour of defendant no. 2 on 08.01.1993- Trial Court partly decreed the suit – In Second appeal, High Court held that this sale deed is hit by doctrine of lis pendens and that defendant no. 2/appellant is not a bona fide purchaser – Dismissing appeal, SC observed- Once the subsequent sale was during pendency of the suit hit by the doctrine of lis pendens, the High Court was fully justified in setting aside the judgment and decree of the Trial Court and the First Appellate Court and passing a decree for specific performance.

Sandeep vs State Of Uttarakhand 2024 INSC 771 – S 34 IPC – Object Of Punishment

Indian Penal Code 1860 – Section 34 –For a person to be convicted under section 34, there must be an involvement of two or more persons with common intention to commit the crime. Mere presence of the accused at the scene of occurrence is not sufficient. (Para 17)

Punishment -The object of punishment is not only to deter the accused from committing any further crime, but also to reform and retribute; and the extent of reformation can be

derived only by the conduct of the accused exhibited during his days of retribution. (Para 19)

Criminal Trial –The law on minor discrepancies which does not affect the basic case of the prosecution- Referred to C. Muniappan v. State of Tamil Nadu [2010] 10 S.C.R. 262:: 2010 INSC 553: Even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be disregarded. After exercising care and caution and sifting through the evidence to separate truth from untruth, exaggeration and improvements, the court comes to a conclusion as to whether the residuary evidence is sufficient to convict the accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution's witness. As the mental abilities of a human being cannot be expected to be attuned to absorb all the details of the incident, minor discrepancies are bound to occur in the statements of witnesses. (Para 15)

Somjeet Mallick vs State Of Jharkhand 2024 INSC 772 – S 482 CrPC – Quashing FIR – Mens Rea

Code of Criminal Procedure 1973- Section 482 –A petition to quash the FIR does not become infructuous on submission of a police report under Section 173 (2) of the CrPC- But when a police report has been submitted, particularly when there is no stay on the investigation, the Court must apply its mind to the materials submitted in support of the police report before taking a call whether the FIR and consequential proceedings should be quashed or not – At the stage of deciding whether a criminal proceeding or FIR, as the case may be, is to be quashed at the threshold or not, the allegations in the FIR or the police report or the complaint, including the materials collected during investigation or inquiry, as the case may be, are to be taken at their face value so as to determine whether a *prima facie* case for investigation or proceeding against the accused, as the case may be, is made out. The correctness of the allegations is not to be tested at this stage- FIR is not an encyclopedia of all imputations. Therefore, to test whether an FIR discloses commission of a cognizable offence what is to be looked at is not any omission in the accusations but the gravamen of the accusations contained therein to find out whether, *prima facie*, some

cognizable offence has been committed or not. At this stage, the Court is not required to ascertain as to which specific offence has been committed. It is only after investigation, at the time of framing charge, when materials collected during investigation are before the Court, the Court has to draw an opinion as to for commission of which offence the accused should be tried. Prior to that, if satisfied, the Court may even discharge the accused. Thus, when the FIR alleges a dishonest conduct on the part of the accused which, if supported by materials, would disclose commission of a cognizable offence, investigation should not be thwarted by quashing the FIR. (Para 16-19)

Mens Rea – To commit an offence, unless the penal statute provides otherwise, mens rea is one of the essential ingredients. Existence of mens rea is a question of fact which may be inferred from the act in question as well as the surrounding circumstances and conduct of the accused. (Para 17)

Renjith KG vs Sheeba 2024 INSC 773 – Order XXI Rule 99 CPC – Pendent Lite Transferee -Limitation For Execution Of Partition Decree

Code of Civil Procedure 1908 – Order XXI Rule 99– “Any person” not a party to the suit or in other words a stranger to the suit can seek redelivery, after he has been dispossessed. The term “Stranger” would cover within its ambit, a pendent lite transferee, who has not been impleaded- The difference between the rights of a decree holder qua a third party to the suit and the right of a third party after being dispossessed- Referred to Sriram Housing Finance & Investment (India) Ltd. v. Omesh Mishra Memorial Charitable Trust, (2022) 15 SCC 176 – The pendent lite purchaser has every right to defend his right, title, interest and possession – Referred to Yogesh Goyanka v. Govind, (2024) 7 SCC 524 : [2024] 7 S.C.R. 668 : 2024 INSC 510

Code of Civil Procedure 1908 – Order XXI Rule 99– Once an application under Order 21 Rule 99 is filed, it is incumbent upon the Trial Court to consider all the rival claims including the right title and interest of the parties under Order 21 Rule 101 which bars a separate suit by mandating the execution court to decide the dispute-

Limitation Act 1963 – Limitation for execution of a decree passed in the suit for partition- The time begins to run from the date of final decree and not from the date on which it is engrossed on the stamp paper. (Para 17)

State Bank of India vs India Power Corporation Limited 2024 INSC 774 – Rule 50 Of NCLT Rules

NCLT Rules – Rule 50 –The provisions of Rule 50 of the NCLT Rules place both the free certified copy as well as the certified copy which is applied for on payment of fees on the same footing – Both the certified copy which is provided free of cost as well as the certified copy which is made on an application in that behalf are treated as certified copies for the purposes of Rule 50. (Para 13,22)

Omkar Ramchandra Gond vs Union of India 2024 INSC 775- NMC Guidelines – Specified Disability

National Medical Commission (NMC) guidelines regarding admission of students with “specified disabilities” under the Rights of Persons with Disabilities Act, 2016– (i) Quantified disability per se will not disentitle a candidate with benchmark disability from being considered for admission to educational institutions. The candidate will be eligible, if the Disability Assessment Board opines that notwithstanding the quantified disability the candidate can pursue the course in question. The NMC regulations in the notification of 13.05.2019 read with the Appendix H-1 should, pending the re-formulation by NMC, be read in the light of the holdings in this judgment – The Disability Assessment Boards assessing the candidates should positively record whether the disability of the candidate will or will not come in the way of the candidate pursuing the course in question. The Disability Assessment Boards should state reasons in the event of the Disability Assessment Boards concluding that the candidate is not eligible for pursuing the course. (iii) The Disability Assessment Boards will, pending formulation of appropriate regulations by the NMC, pursuant to the communication of 25.01.2024 by the Ministry of Social Justice and Empowerment, keep in mind the salutary points mentioned in the said communication while forming their opinion. (iv) Pending creation of the

appellate body, we further direct that such decisions of the Disability Assessment Boards which give a negative opinion for the candidate will be amenable to challenge in judicial review proceedings. The Court seized of the matter in the judicial review proceedings shall refer the case of the candidate to any premier medical institute having the facility, for an independent opinion and relief to the candidate will be granted or denied based on the opinion of the said medical institution to which the High Court had referred the matter. (Para 53)

Rights of Persons with Disabilities Act, 2016 – Section 2(y)– The reasonable accommodation as defined in Section 2(y) of the RPwD Act should not be understood narrowly to mean only the provision of assisting devices and other tangible substances which will aid persons with disabilities. If the mandate of the law is to ensure a full and effective participation of persons with disabilities in the society and if the whole idea was to exclude conditions that prevent their full and effective participation as equal members of society, a broad interpretation of the concept of reasonable accommodation which will further the objective of the RPwD Act and Article 41 of the Directive Principles of State Policy is mandated. (Para 40) -principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society. (Para 41) – The approach of the Government, instrumentalities of States, regulatory bodies and for that matter even private sector should be, as to how best can one accommodate and grant the opportunity to the candidates with disability. The approach should not be as to how best to disqualify the candidates and make it difficult for them to pursue and realize their educational goals. (Para 38)

Constitution of India- Article 14 – A Constitutional Court examining the plea of discrimination is mandated to consider whether real equality exists. This Court is not to be carried away by a projection of facial equality -Appearances can be deceptive. The Court of law is obliged to probe as to whether beneath the veneer of equality there is any invidious breach of Article 14. (Para 25) n**Article 41** -The Constitutional goal of our nation that within the limits of its economic capacity and development, the State was to make effective

provisions for securing the right to education including for the persons with disabilities.
(Para 16)

Harshad Gupta vs State Of Chhattisgarh 2024 INSC 776 – S 235 CrPC – Conviction & Sentencing

Code of Criminal Procedure, 1973 – Section 235 –A judgment of conviction shall have two components; namely, (i) Judgment on the point of conviction; and (ii) Where the accused is convicted, a separate order of sentence to be passed according to law, after hearing the accused on the question of sentence- Once the judgment of conviction is delivered, the accused has a right to be heard on the quantum of the sentence- Various relevant factors, including mitigating circumstances, if any, are to be kept in mind by the Court while awarding an adequate and proportionate sentence- In this case, the accused was held guilty and convicted vide judgment pronounced on 30.04.2015- Before he could be heard on the quantum of the sentence, the accused moved an application to exempt him from personal appearance on the ground that he had met with an accident. In view of that application, the matter was adjourned on a few occasions to enable the accused to recover from the accident.In the meanwhile, the Presiding Officer of the Court,, who had convicted him, was transferred – A new Presiding Officer was posted in his place. The question raised in this appeal is whether the new Presiding Officer was obligated not only to hear the accused on the question of sentence but also on the point of conviction? SC Held: The process and procedure contemplated under Section 235(2) cannot annul the judgment of conviction recorded under sub-section (1) thereof. Both clauses operate in their respective fields, though sub-section (2) is contingent upon the outcome under sub-section (1) of Section 235. The occasion to comply with subsection (2) arises only when there is a judgment of conviction passed under Section 235(1) of the Cr.PC -Once the judgment was pronounced, the conviction of the appellant stood finalized within the meaning of Section 235(1) whereupon the Trial Court became functus officio for the purpose of sub-section (1) of Section 235 of the Cr.P.C. The only issue that survived thereafter was of the quantum of sentence for which, the procedure contemplated under sub-section (2) was to be complied

with-The successor officer should therefore hear the appellant on the question of sentence and pass an appropriate order.

Chandramani Nanda vs Sarat Chandra Swain 2024 INSC 777 – Motor Accident Claims

Motor Accident Compensation Claims –The amount of compensation claimed is not a bar for the Tribunal to award more than what is claimed, provided it is found to be just and reasonable. It is the duty of the Court to assess fair compensation. Rough calculation made by the claimant is not a bar or the upper limit. (Para 20)

Janardan Das vs Durga Prasad Agarwalla 2024 INSC 778 – Specific Performance – Agency

Specific Relief Act, 1963 -Section 16(c) – A plaintiff seeking specific performance of a contract must aver and prove that they have performed or have always been ready and willing to perform the essential terms of the contract which are to be performed by them. This requirement is a condition precedent and must be established by the plaintiff throughout the proceedings. The readiness and willingness of the plaintiff are to be determined from their conduct prior to and subsequent to the filing of the suit, as well as from the terms of the agreement and surrounding circumstances. The rationale behind this provision is to ensure that a party seeking equitable relief has acted equitably themselves. Specific performance is a discretionary relief, and the plaintiff must come to the court with clean hands, demonstrating sincerity and earnestness in fulfilling their contractual obligations. Any laxity, indifference, or failure to perform their part of the contract can be a ground to deny such relief. (Para 8) -The plaintiffs' failure to comply with the essential terms of the agreement and to take necessary steps within the stipulated time demonstrates a lack of readiness and willingness, which is fatal to their claim for specific performance. (Para 13) – Section 20 (pre-2018 amendment) -The relief of specific performance under the Specific Relief Act, 1963, is discretionary in nature. Section 20 of the Act explicitly stated that the court is not bound to grant such relief merely because it is lawful to do so. The discretion must be exercised judiciously and based on sound

principles, ensuring that granting specific performance is just and equitable in the circumstances of the case. (Para 19)

Agency– While it is legally permissible for an agent to bind a principal even if the agency relationship is not disclosed, this principle applies when the agent has valid and subsisting authority. (Para 16) – An agent's authority must be explicit, and any limitations or revocations thereof must be given due consideration. (Para 17)

**Eknath Kisan Kumbharkar vs State Of Maharashtra 2024 INSC 779 – S 302
IPC -Death Sentence Commuted**

Indian Penal Code 1860 – Section 302 – Death Sentence –Doctrine of “rarest of rare” requires that death sentence should not be imposed only by taking into consideration the grave nature of crime but only if there is no possibility of reformation by a criminal. (Para 32)

Criminal Trial – Non-examination of independent witnesses by itself would not give rise to adverse inference against the prosecution. It would only assume importance when the evidence of eyewitness raises a serious doubt about their presence at the time of actual occurrence (Para 14(– here are bound to be some discrepancies between the narration of different witnesses, when they speak on details, and unless the contradictions are of a material dimension, the same should not be used to jettison the evidence in its entirety. It is further observed that corroboration of evidence with mathematical niceties cannot be expected in criminal cases. Minor embellishment, there may be, but variations by reason therefore should not render the evidence unbelievable. Trivial discrepancies ought not to obliterate an otherwise acceptable evidence. (Para 21) -Conviction can be based on the testimony of a sole eyewitness- The court can act on the testimony of a single witness though uncorroborated. Unless corroboration is insisted upon by a statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence that corroboration should be insisted upon. Whether corroboration of the testimony of a single witness is or is not necessary, would depend upon facts and circumstances of each case and depends upon the judicial

discretion- Court would be considered with the quality and not the quantity of the evidence necessary for proving or not proving a fact. (Para 12)

Summary: Appellant conviction for murdering his pregnant daughter upheld -But the sentence of death penalty imposed by the courts below converted to 20 years of rigorous imprisonment without remission.

IDBI bank vs Ramswaroop Daliya 2024 INSC 780 – Security Interest (Enforcement) Rules

Security Interest (Enforcement) Rules, 2002- Rule 9(4) – The period to deposit the balance sale consideration, as provided under the Rules, is not sacrosanct and is extendable with the consent in writing of the parties and that Rule 9(4) will only come into play when there is default on part of the party i.e. the auction purchaser to deposit the amount and will not apply where there is no default or that the default, if any, lies upon the auctioneer. (Para 21)

Practice and Procedure -The validity of an order can only be adjudged on the basis of the reasoning contained in the order and the said reasoning cannot be supplemented in any manner much less by means of a counter affidavit or a supplementary affidavit when the parties have entered into a litigation- The parties are not permitted to raise new pleas not contained in the order impugned while assailing the correctness or the validity of such an order. (Para 12)

Bank of Rajasthan Ltd. vs Commissioner of Income Tax 2024 INSC 781 – Income Tax Act – Securities

Income Tax Act, 1961 – Section 28 – Banks are required to purchase Government securities to maintain the SLR. As per RBI's guideline dated 16th October 2000, there are three categories of securities: HTM, AFS and HFT. As far as AFS and HFT are concerned, the interest accrued will have to be treated as income from the business of the Bank. Thus, after the deduction of broken period interest is allowed, the entire interest earned or

accrued during the particular year is put to tax. Thus, what is taxed is the real income earned on the securities. By selling the securities, Banks will earn profits. Even that will be the income considered under Section 28 after deducting the purchase price. Therefore, in these two categories of securities, the benefit of deduction of interest for the broken period will be available to Banks – The securities of the HTM category are usually held for a long term till their maturity. Therefore, such securities usually are valued at cost price or face value. In many cases, Banks hold the same as investments. Whether the Bank has held HMT security as investment or stockintrade will depend on the facts of each case. HTM Securities can be said to be held as an investment (i) if the securities are actually held till maturity and are not transferred before and (ii) if they are purchased at their cost price or face value- When the securities were treated as stockintrade, the interest on the broken period cannot be considered as capital expenditure and will have to be treated as revenue expenditure, which can be allowed as a deduction . (Para 18-24)

Lalu Yadav vs State of Uttar Pradesh 2024 INSC 782 – Article 226 – Judicial Review In Criminal Matters – S 376 IPC – Rape – Subsequent Marriage Refusal

Constitution of India – Article 226- High Court could exercise its power of judicial review in Criminal matters and it could exercise the power either under Article 226 or under Section 482 CrPC to prevent the abuse of process of the court or otherwise to secure the ends of justice. Nomenclature under which a petition is filed is not quite relevant. If the court finds that the petitioner could not invoke the jurisdiction of the Court under Article 226, it may treat the petition under Section 482, Cr. P.C. (Para 1)

Indian Penal Code 1860 – Section 376 -Quashing a rape case, Supreme Court observed: Firstly, it is to be noted that the subject FIR itself would reveal that there occurred a delay of more than 5 years for registering the FIR; secondly, the very case of the complainant, as revealed from the FIR, would go to show that they lived for a long period as man and wife and thirdly, the facts and circumstances obtained from the subject FIR and other materials on record would reveal absence of a *prima facie* case that the complainant had given her consent for sexual relationship with the appellant under

misconception of fact – The subsequent refusal to marry the complainant would not be sufficient, in view of the facts and circumstances obtained in the case at hand, by any stretch of imagination to draw existence of a *prima facie* case that the complainant had given consent for the sexual relationship with the accused under misconception of fact, so as to accuse the appellant guilty of having committed rape within the meaning of Section 375, IPC. (Para 14-15)

**Central Bureau of Investigation vs Srinivas D. Sridhar 2024 INSC 783
-Discharge -Cheating Case**

Summary -Charge sheet alleged that the accused, with the object of cheating the Bank, granted the three facilities to a company – High Court allowed his discharge petition – Dismissing appeal, SC observed: perhaps the only material that creates suspicion is the speed with which the proposal of the Company was sanctioned. As far as the respondent is concerned, considering his position and the role ascribed to him in the grant of sanction to the loan proposal of the Company, mere suspicion against him is not enough to frame a charge against him- Only because the entire proposal was processed and cleared within a short span of time, no offence is made out against the respondent. Taking the material in the charge sheet as it is, complicity of the respondent is not made out.

Patna Municipal Corporation vs Tribro Ad Bureau 2024 INSC 784 – Bihar Municipal Act – Royalty & Tax

Bihar Municipal Act, 2007 – Section 431 –Royalty and tax are not one and same. Corporation's power to charge royalty cannot be interfered with on the ground that the same is not available, either in the Act or in the Regulations concerned, as there is no question of the said 'royalty' being a tax. Section 431 of the Act, therefore, would not come into the picture where royalty, that too by way of and under an agreement/understanding is concerned. (Para 24)

Administrative Law -Quoting the wrong provision of law, when the power to do an act otherwise exists, would not invalidate or render illegal the act in question. (Para 29)

Vitthal Damuji Meher vs Manik Madhukar Sarve 2024 INSC 785 – Bail -Judgments

Judgments -Judgments are not to be read as Euclid's theorems; they are not to be construed as statutes, and; specific cases are authorities only for what they actually decide. (Para 4)

Bail – Parity – Grant of bail to co-accused would not ipso facto entitle the accused to the same – [the accused was incarcerated for 5 ½ months only – This cannot be taken as 'incarceration for a significant period of time' as sought to be projected by him]

DC Malviya (D) vs Dr. AH Memon 2024 INSC 786 – Medical Negligence

Medical Negligence – Special Leave Petition seeking enhancement of compensation awarded on account of alleged medical negligence – Dismissing SLP, SC observed: The value of human life cannot be assessed in monetary terms whatsoever is awarded is a matter of solace.

Sajeena Ikhbal vs Mini Babu George 2024 INSC 787 – MACT Case- Witnesses

Motor Accident Compensation Claim– A witness who is otherwise found trustworthy cannot be disbelieved, in a motor accident case, only on the ground that the police have not recorded his statement during investigation – In claim cases, arising out of motor accident, the court has to apply the principles of preponderance of probability and cannot apply the test of proof beyond reasonable doubt.

Vishwajeet Kerba Masalkar vs State Of Maharashtra 2024 INSC 788 – Death Sentence Acquittal- Criminal Trial

Criminal Trial – A conviction could be based solely on the basis of the evidence of a solitary witness, however, the testimony of such a witness is required to be found to be credible and trustworthy. It is also necessary to examine the testimony of such a witness critically – **Circumstantial Evidence** – the circumstances from which the conclusion of

guilt is to be drawn should be fully established. The Court held that it is a primary principle that the accused ‘must be’ and not merely ‘may be’ proved guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between ‘may be proved’ and ‘must be or should be proved’. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except the one where the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities, the act must have been done by the accused-The suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted solely on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt. (Para 21-22)

In Re: Section 6A Of The Citizenship Act 1955 2024 INSC 789

Citizenship Act 1955 – Section 6A – Constitutional validity upheld -Section 6A falls within the bounds of the Constitution and does not contravene the foundational principles of fraternity, nor does it infringe upon Articles 6 and 7, Article 9, Article 14, Article 21, Article 29, Article 326, or Article 355 of the Constitution of India. Furthermore, Section 6A does not clash with the IEAA or established principles of international law – Section 6A does not suffer from manifest arbitrariness because: (a) there is application of mind behind the incorporation of the cut-off dates; (b) the process under Section 6A is not arbitrary; (c) Section 6A does not violate Part II; and (d) the term ‘ordinary residence’ is not vague enough to be void.-But there is inadequate enforcement of the same-leading to the possibility of widespread injustice. Further, the intention of Section 6A, i.e., to restrict illegal immigration post- 1971 has also not been given proper effect. **Directions issued:** (a) Section 6A of the Citizenship Act, 1955 falls within the bounds of the Constitution and is a valid piece of legislation; (b) As a necessary corollary thereto, (i) immigrants who entered the State of Assam prior to 1966 are deemed citizens; (ii) immigrants who entered between the cut off dates of 01.01.1966 and 25.03.1971 can seek citizenship subject to the

eligibility conditions prescribed in Section 6A (3); and (iii) immigrants who entered the State of Assam on or after 25.03.1971 are not entitled to the protection conferred vide Section 6A and consequently, they are declared to be illegal immigrants. Accordingly, Section 6A has become redundant qua those immigrants who have entered the State of Assam on or after 25.03.1971; (c) The directions issued in Sarbananda Sonowal (*supra*) are required to be given effect to for the purpose of deporting the illegal immigrants falling in the category of direction (b) (iii) above; (d) The provisions of the Immigrants (Expulsion from Assam) Act, 1950 shall also be read into Section 6A and shall be effectively employed for the purpose of identification of illegal immigrants; (e) The statutory machinery and Tribunals tasked with the identification and detection of illegal immigrants or foreigners in Assam are inadequate and not proportionate to the requirement of giving time-bound effect to the legislative object of Section 6A read with the Immigrants (Expulsion from Assam) Act, 1950, the Foreigners Act, 1946, the Foreigners (Tribunals) Order, 1964, the Passport (Entry into India) Act, 1920 and the Passport Act, 1967; and (f) The implementation of immigration and citizenship legislations cannot be left to the mere wish and discretion of the authorities, necessitating constant monitoring by this Court.

Constitution of India – Article 14 –Manifest arbitrariness- Manifest arbitrariness must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary- While the test of manifest arbitrariness requires the presence of logicality, such reasoning does not have to be stated explicitly and can be discernable from the facts and circumstances.¹⁶³ However, it should be noted that the converse may not hold. In other words, even if the reason or rationale behind the impugned provision is expressly stated, it does not automatically guarantee non-arbitrariness. Such reason also needs to align with constitutional morality and public interest, and must bear a nexus with the object of the statute. The aspect of irrationality, as found in the test for ‘manifest arbitrariness’, thus, does not solely imply the absence of reason but also requires alignment with constitutional morality. Hence, the legitimacy of the reason or logic behind the impugned legislation should be viewed from the lens of constitutional ideals- Irrationality does not merely denote the absence of reason but also requires that such reasoning be in harmony with constitutionalism- bright-line test. In law,

the bright-line test is a clearly defined norm that does not leave a scope of interpretation – while testing the arbitrariness of bright-line tests, the Courts must be mindful of the inherent limitations in such norms and therefore a microscopic review should be avoided. Instead, as discussed above, the effort should be to determine if the bright-line norm crosses the prescribed limit of ‘manifest arbitrariness’ and is irrational and capricious enough to be struck down. If the norm is backed by a policy reason, the Court must refrain from excessively questioning the specific standard and should exercise judicial review cautiously. (Para 214-226)

Constitution of India – Fraternity – the term ‘fraternity’ embodies a sense of collective brotherhood amongst all Indians. It serves as a critical element for national unity and social cohesion. Fraternity assumes paramount significance in reinforcing the ideals of equality and liberty, both of which are integral facets of the Preamble. In the Indian context, the meaning of fraternity has thus entirely diverged from the French sense of the term and is intricately woven into the fabric of fostering social solidarity, uplifting marginalised groups, and achieving a more equitable society. Unlike some Western perspectives, where fraternity may be overshadowed by an emphasis on individual rights, in India, fraternity is distinctly perceived as a vital instrument for realising equality and harmonising the diverse segments of society. It serves as a conduit for transcending societal disparities and working towards collective well-being. Therefore, in the Indian constitutional context, fraternity assumes a dynamic and inclusive role, aligning with the broader goals of social justice, equality, and upliftment. (Para 96-106) – the essence of fraternity, therefore, is fundamentally geared towards fostering interconnectedness among Indians and was envisaged to be a principle for uplifting marginalised sections of society (Para 115)

Constitution of India – Article 29(1). This article aims to protect and guarantee the right conferred upon every citizen of India to conserve their language, script or culture. When read in conjunction with Article 30, the overarching objective of Article 29 is to allow minority communities to establish educational institutions to preserve and fortify their cultural, linguistic, or scriptural heritage. Article 29(1) effectively has two key aspects that need to be determined: first, whether there is a ‘section of citizens’ seeking to conserve their language, script or culture and second, that such language, script or culture in

question is ‘distinct’. Article 29(1) begins with the term ‘any section of citizens’. Though the term ‘minority’ is used in the marginal heading, the scope of Article 29(1) is not restricted to minorities as understood in the technical sense. It instead extends to any section of citizens residing in the territory of India – , Article 29(1), while conferring the right to conserve, does not restrict itself only to the notion of a minority as understood in the technical sense but includes any group that may seek to conserve a distinct language, script or culture. Article 29 does not advocate for absolute governmental abstention in matters involving culture, language or script. In fact, to some extent, government intervention is unavoidable as regulation is essential for the maintenance of public order and for upholding constitutionalism. State actions and regulations with an insignificant or merely incidental effect on a community’s cultural rights might also not be caught in the crosshairs of Article 29(1). This is also seconded by various decisions of this Court, where some such regulatory interventions by the State were held to not constitute a curtailment of Article 29(1) rights.¹⁹⁸ In addition, although not germane to the controversy at hand, we must add a word of caution that not all cultural practices of a section of citizens—for example, those blatantly running against the spirit and grain of our Constitution, like casteism and gender discrimination—would be protected by Article 29(1). violation of Article 29, therefore hinges on the ‘nature’ and ‘degree’ of State intervention and not merely on the simpliciter fact of intervention. In other words, the violation of Article 29 is necessarily a question of law which requires adjudication of the circumstances, intention and effect of the state intervention on the aggrieved section of citizens, as well as the society at large. .To sum up our discussion, the rights conferred by Article 29(1) require that the State not take any steps to erode a community’s culture, language or script; and concomitantly accords to such section of citizens the freedom and independence to preserve and conserve their culture, language and script, by themselves. At the same time, the right under Article 29(1) does not necessitate the Government to enact specific provisions for its enforcement and also does not altogether restrict the State from enacting regulations. (Para 280-295)

Citizenship Act 1955 – Section 6A and 9 –An individual falling under Sections 6A (2) and 6A (3) can only assert Indian citizenship. Such individuals are presumed to have relinquished their previous citizenship. If authorities have reasons to believe that the

previous citizenship is still being exercised, they are empowered under Section 9 of the Citizenship Act and associated rules to take steps to revoke the Indian citizenship of the delinquent individuals. Consequently, it can be deduced that Section 6A does not contradict Section 9. (Para 153)

Constitution of India – Article 14 -The right to equality enshrined under Article 14 is not a mechanical idea of parity. Article 14 requires the legislature to treat equals equally, but it also allows for differential treatment if the characteristics of the classes differ.¹²⁰ In fact, treating unequal entities alike and subjecting them to the same laws could potentially lead to greater injustice. Therefore, rather than enforcing a fixed procrustean notion of equality, Article 14 permits the legislature to classify individuals into different groups and apply distinct norms accordingly. (Para 168) -a classification is reasonable if it differentiates between similar and dissimilar elements, if such distinction is intelligible, and if the similarities and dissimilarities have nexus with the purpose of the statute (Para 177) –

Constitution of India – Article 32 -The test for striking down a law on the grounds of vagueness can be viewed through two perspectives, both of which are to be taken into account, and the standards for the same have to be satisfied to sustain a challenge on the grounds of a law or provision being void for vagueness. Thus, a statute or its provision can be struck down for vagueness if: i. The authority interpreting and applying the impugned law or provision is not sufficiently guided by such law or provision and is conferred unfettered discretion by virtue of the same; and ii. When confronted with the plain meaning, a person of ordinary intelligence, amongst the persons regulated by the impugned¹³⁵ law or provision, faces difficulty in understanding the sphere of their application (Para 263)

Society for Enlightenment and Voluntary Action vs Union Of India 2024 INSC 790 – Child Marriages

Constitution of India- Article 21 – The right to life and liberty enshrined in Article 21 of the Constitution²⁵⁸ is violated by the commission of child marriage. All children married as minors are denied their right to choice and autonomy, right to education, right

to sexuality and the right to development of the child. Girls who are married as children are denied their right to health. (Para 171) – Issued guidelines for the effective and useful implementation of the PCMA. The orientation of these guidelines is to prioritise prevention before protection and protection before penalisation . Parliament may consider outlawing child betrothals which may be used to evade penalty under the PCMA. While a betrothed child may be protected as a child in need of care and protection under the JJ Act, the practice also requires targeted remedies for its elimination. (Para 215)

Prohibition of Child Marriage Act 2006 -Section 16- Child Marriage Prohibition Officers – Given the significant obligations expected to be discharged by a dedicated CMPO, no officer with other responsibilities shall be appointed as the CMPO. States or UTs shall appoint exclusive CMPOs in each district in addition to any CMPOs already serving in a dual capacity, and they shall equip these officers with adequate resources for the effective discharge of their functions. If a State or UT concludes that instances of child marriage have decreased to the extent that appointing exclusive CMPOs is no longer necessary, it may file an application before this Court, seeking leave to appoint a CMPO who also holds other duties at the District level. (Para 78)

Prohibition of Child Marriage Act 2006-Section 2(a),9 –Despite the age of majority for a man to enter into a marriage being prescribed as twenty-one under Section 2(a) of the Act, his criminal liability for entering into a child marriage with a minor woman begins at eighteen- A woman, regardless of her age is not liable for entering into a child marriage. A man above the age of eighteen but under the age of twenty one is liable for marrying a girl who is under the age of eighteen. The legislative intent behind making a groom liable for entering child marriage is to recognise the relative control of the agency that a groom may have in relation to his marriage as opposed to a girl- No child as defined in Section 2(a) of the PCMA is liable under Section 9 for marrying an adult person. (Para 55-56) – **Section 10** – The provision is expansive and would govern any accomplice to the commission of child marriage. This would include the priest who performs the marriage, any family member, relative or person at whose direction the marriage takes place or anyone who abets it. (Para 58) – **Section 11** – The intention of the provision is to place an obligation on any person who has the charge of a child to ensure that the offence of child

marriage is not committed. The provision not only penalises the active participation of the person having charge of a child but also penalises the omission on the part of such a person to prevent child marriage. The provision recognises that children lack the ability to form intelligent consent and may not necessarily know the full ambit of the activity which they are about to commit. Further, children may lack the ability and grit to defend themselves and refuse to participate in the marriage against the pleasure of their custodians or parents. Clause (2) of Section 11 raises a presumption. It stipulates that any person, who is in charge of a child who was married off, is presumed to have negligently failed to prevent the child marriage. The presumption is a rebuttable one and may be defended if the person proves that he could not have prevented the marriage or failed at preventing it, having tried to do so to the best of their ability. This principle is only applicable to an offence under Section 11. (Para 61-62) – PCMA seeks to prohibit child marriages, it does not stipulate on betrothals. Marriages fixed in the minority of a child also have the effect of violating their rights to free choice, autonomy, agency and childhood. It takes away from them their choice of partner and life paths before they mature and form the ability to assert their agency. International law such as CEDAW stipulates against betrothals of minors. Parliament may consider outlawing child betrothals which may be used to evade penalty under the PCMA. While a betrothed child may be protected as a child in need of care and protection under the JJ Act, the practice also requires targeted remedies for its elimination. - **Section 12** – Section 12 provides that the marriage in these instances is non-existent in law and has no legal standing from its inception. The declaration of the provision is mandatory and removes the option from the hands of the party to consent to the marriage after its commission. Therefore, all marriages done by taking or enticing a child, compelling by force or deceit or selling are void. Section 12(c) further stipulates that where a child marriage occurs and after the marriage, the minor is sold or trafficked or used for immoral purposes is void. Therefore, even when the commission of marriage was not through force or deceit the marriage would be void from the inception based on the acts performed after the marriage takes place. (Para 64-65)

Airports Economic Regulatory Authority of India vs Delhi International Airport Ltd. 2024 INSC 791 – Adjudicatory Authorities

Practice and Procedure -a. An authority (either a judicial or quasi-judicial authority) must not be impleaded in an appeal against its order if the order was issued solely in exercise of its “adjudicatory function”; b. An authority must be impleaded as a respondent in the appeal against its order if it was issued in exercise of its regulatory role since the authority would have a vital interest in ensuring the protection of public interest; and c. An authority may be impleaded as a respondent in the appeal against its order where its presence is necessary for the effective adjudication of the appeal in view of its domain expertise- What are the tests to identify if a function is an adjudicatory one? One of the factors to determine if an order was issued in exercise of an adjudicatory function, is whether it was specific to an individual or of general application. The second is that it is not necessary that a legislative action must always be ‘subjective’ and an adjudicatory function ‘objective’. (Para 33,48)

Airport Economic Regulatory Authority of India Act 2008 – Section 31,13-
AERA is performing a regulatory function while determining tariff under Section 13(1)(a) of the AERA Act -Appeals filed by AERA against orders of TDSAT under Section 31 of the AERA Act are maintainable. (para 58,67)

Code Of Civil Procedure 1908 -Order 1 Rule 10- A necessary party is defined as someone who is indispensable to the suit and without whom the suit cannot effectively proceed. A proper party, on the other hand, is a party who has an interest in the adjudication of the suit though they may not be a person in whose favour or against whom a decree ought to be made- A party would not become a necessary party merely because she has an interest in the correct solution of the question involved. She would be a necessary party only when she would be bound by the result of the action and has a direct or a legal interest in the proceeding. (Para 32)

Union of India vs Pranav Srinivasan 2024 INSC 792 - Citizenship Act - Article 8 Constitution

Constitution of India -Article 8 - Article 8 will only apply to someone ordinarily residing on the date of commencement of the Constitution in any country outside India as

defined in the 1935 Act, as originally enacted-Article 8 not intended to apply to a foreign national born after the commencement of the Constitution. (Para 16)

Citizenship Act 1955 - Section 5 - For applicability of clause (b) of sub-section (1) of Section 5 of the 1955 Act, Pranav will have to establish that he is a person of Indian origin who is an ordinary resident in any country or place outside undivided India. In view of explanation 2 to Section 5, a person shall be deemed to be of Indian origin if (i) he or either of his parents were born in undivided India or (ii) in any such other territory which was not part of undivided India, but became part of India after 15th August 1947. There is no third category mentioned in the explanation- If we read “undivided India” as India as on or after 15th August 1947, we would be doing violence to the plain language of the Explanation- Section 8- Section 8(1) will apply if any citizen of India of full age and capacity makes, in the prescribed manner, a declaration renouncing his Indian Citizenship. Section 8(1) will not apply to the involuntary cessation of citizenship by the operation of law as provided in Section 9(1). Section 8(2) will apply only if the minor child's parents had voluntarily renounced citizenship by making a declaration- Citizenship of India cannot be conferred on foreign citizens by doing violence to the plain language of the 1955 Act.

Constitution of India - Article 142 -The power under Article 142 is an extraordinary power which should be exercised to deal with exceptional circumstances- This Court will have to be very circumspect when it comes to the exercise of power under Article 142 for the grant of citizenship of India to a foreign national. (Para 24)

Salil R Uchil vs Vishu Kumar 2024 INSC 793

Summary: Appeal against HC judgment that set aside auction sale - Disposing appeal, SC modified the HC judgment observing thus: High Court set aside the auction sale not based on the provisions of the said Rules or on the ground that the auction was illegal.

Asim Akhtar vs State Of West Bengal 2024 INSC 794 – S 319 CrPC – Cross Examination

Code Of Criminal Procedure 1973 – Section 319 – Is it mandatory to decide the application under section 319 CrPC before conducting cross-examination and only on the basis of examination-in-chief? The Constitution Bench judgment in Hardeep Singh vs. State of Punjab does not take away the discretion of the Trial Court to wait for the crossexamination to take place before deciding the application under section 319 CrPC. It merely provides that consideration of such an application should not be a mini trial. It is for the Trial Court to decide whether the application should be decided without waiting for the crossexamination to take place or to wait for it. The same would depend upon the satisfaction of the Trial Court on the basis of the material placed on record- The complicity of any person sought to be arrayed as an accused can be decided with or without conducting cross-examination of the complainant and other prosecution witnesses, and there is no mandate to decide the application under section 319 CrPC before crossexamination of other witnesses. (Para 13-17)

Criminal Trial –The role of the complainant in a trial does not permit it to act as a Public Prosecutor on behalf of the State. The complainant and its counsel have a limited role in a sessions trial in a State case. (Para 18)

**Solar Energy Corporation Of India vs Wind Four Renergy Private Limited
2024 INSC 795**

Summary: APTEL allowed appeal preferred by respondent Wind Four Renergy Private Limited directing that the period of 132 days, for which delay was to be condoned, would commence from the date of the impugned judgment, that is, 11.01.2022 – Allowing appeal, SC held: direction that the period of 132 days shall commence from the date the APTEL order is irrational. The objective and purpose of timelines is to ensure early supply of green energy and reduction of carbon footprint. Tariffs of green energy, it is well known, have come down substantially. [This is a revised version of judgment delivered in February 2024]

**Haryana Urban Development Authority vs Abhishek Gupta 2024 INSC 796 –
Land Acquisition Act – Doctrine Of Merger – Article 14 Constitution**

Land Acquisition Act, 1894-Section 5A- It codifies the fundamental safeguard of audi altrem partem. Landowners have the opportunity to demonstrate that the acquisition is against public purpose or marred by mala fides. In the event the landowner presents a cogent case, the appropriate government may exempt such land from acquisition. By enabling landowners to put forward their perspective and elucidate their remonstrances, Section 5A envisions a modus of deliberation and consultation, which must therefore be construed to be mandatory, akin to a right. – Objections under Section 5A of the 1894 Act most often proceed in four distinct stages: i. The filing stage: Landowners can file objections within thirty days of the notification issued under Section 4 of the 1894 Act; ii. The hearing stage: The Collector must provide an oral hearing to the objecting landowners, either in person or through a pleader/authorized representative; iii. The recommendation stage: The Collector—after hearing objections and upon further inquiry—makes a report to the appropriate government containing their recommendations; and iv. The decision stage: The appropriate government considers the Collector's report and takes a final decision on the objections- The Collector has no power to “decide” the case and can only give “recommendations” to the Government. It is the Government which is the ultimate arbiter for determining whether the land is to be released or not. No other authority can dictate the outcome of Section 5A proceedings neither the Collector nor the landowner- While the Collector's report can form the “basis” of such a decision, the Government is free to independently evaluate and take a final decision, of course, based on relevant and lawful considerations. (Page 12-17)

Constitution of India-Article 14- Article 14 cannot be ordinarily employed as a ground to claim negative equality, i.e., it cannot be used for claiming illicit benefits simply because someone else has been allowed such an undue favour, especially when doing so would jeopardize the entire acquisition by undermining its contiguity – A mere plea regarding differential treatment is insufficient; the claimant must instead demonstrate that similarly placed classes had been treated dissimilarly, unjustifiably. 9 The burden lies on the Respondents to not only prove disparate treatment of equals, but that it amounts to hostile discrimination as well. (Para 29-30)

Doctrine of Merger – When the previous SLPs arising out of the same impugned judgment were dismissed after granting leave, arguably, the doctrine of merger would be attracted-The doctrine of merger is neither a doctrine of constitutional law nor of statutory recognition. Since it is a common law principle directed towards judicial propriety, the same should not be applied in a straitjacket manner, and the nature of facts and circumstances of that particular case should be considered.

Quotes – Private interest of a few, should give way to the public interest of the many (Para 25)

Horrmal (D) vs State Of Haryana 2024 INSC 797 – Land Acquisition – Market Value – Sale Exemplars

Land Acquisition Act of 1894 – Section 23(1) – In determining compensation for acquired land, the Court must consider the ‘market value’ of the land- smaller parcels of land conventionally command higher prices. Relying on sale exemplars also, especially when only single solitary such instances are presented, may thus not be appropriate. However, there is no bar in law against considering sale exemplars of smaller plots, provided they are subjected to adequate developmental charges. The rationale behind applying such cuts lies in the fact that smaller plots often command higher prices due to their developed nature, whereas a larger tract of land which is acquired for development may require significant allocation for creating roads, parks, essential services, etc. Accordingly, these sale exemplars can be relied upon only after applying appropriate cuts- When valuing a large block of land, appropriate deduction must be made for setting aside areas for roads, open spaces and dividing the land into smaller plots suitable for the construction of buildings – where there are multiple sale deeds available for consideration, the Court shall rely on the highest valued exemplars unless the prices fall within a narrow range, in which case calculating an average of the values therein may be more congruous- The degree of application of cuts is essentially a question of fact dependent on the unique circumstances of each case, the particulars to be reckoned with in determining the extent of such deduction often include a myriad of factors, such as the relative difference in the

size of the land in the sale exemplar vis a vis the acquired land, proximity to a road, nearness to developed areas, etc- Additionally, several decisions have also taken into account the nature of the lands because of the stark difference that may exist between the valuation of an agricultural or undeveloped land and the sale price of a small developed plot in a private layout. (Para 18-31)

**Yashodeep Bisanrao Vadode vs State of Maharashtra 2024 INSC 798 – S 498A
IPC – Tendency Of Over Implication**

Indian Penal Code 1860 – Section 498-A – Essential ingredients: (a) The victim was a married lady (may also be a widow); (b) That she has been subjected to cruelty by her husband or relative(s) of her husband; (c) That such cruelty consisted of either (i) harassment with a view to coerce meeting a demand for dowry, or (ii) a wilful contact by the husband or his relative of such a nature as is likely to lead the lady to commit suicide or to cause grave injury to her life, limb or health; (d) That such injury as aforesaid may be physical or mental. [In this case, SC acquitted a person by observing thus: There is no scintilla of evidence against the appellant herein to hold that he has committed the offence under Section 498-A, IPC, even with the aid of Section 34, IPC- Exaggerated versions of the incident are reflected in a large number of complaints and the tendency of over implication is also reflected in a large number of cases- The courts have to be careful to identify instances of over implication and to avert the suffering of ignominy and inexpiable consequences, by such persons.]

Union of India vs Ganpati Dealcom Pvt Ltd 2024 INSC 799 – Prohibition of Benami Property Transactions Act 1988 – Constitutional Validity

Constitution of India – Article 32 – A challenge to the constitutional validity of a statutory provision cannot be adjudicated upon in the absence of a lis and contest between the parties. (Para 6)

Summary: SC recalled its decision in Union of India and Another v Ganpati Dealcom Private Ltd [2022] 12 S.C.R. 320:: 2022 INSC 853 which had declared Section 3(2) of the

unamended provisions of the Prohibition of Benami Property Transactions Act 1988 as unconstitutional.

Shyam Narayan Ram vs State Of UP 2024 INSC 800 – S 294 IPC – Formal Proof Of Documents

Code Of Criminal Procedure 1973 – Section 294– Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed. That is to say that if the authors of such documents does not enter the witness box to prove their signatures, the said documents could still be read in evidence. Further, under the proviso the Court has the jurisdiction in its discretion to require such signature to be proved. In the present case, the documents filed by the investigating agency were all public documents duly signed by public servants in their respective capacities either as Investigating Officer or the doctor conducting the autopsy or other police officials preparing the memo of recoveries etc. (Para 15)

Ratilal Jhaverbhai Parmar vs State Of Gujarat 2024 INSC 801 – Judgment Pronouncement – Reasons To Follow Practice

Code Of Civil Procedure 1908 – Order XX – Practice to pronounce the operative part with the outcome and to provide the reasons later in detailed final judgments- It would be prudent to leave it to the learned Judges to pick any one of the three options [(i) dictation of the judgment in open court, (ii) reserving the judgment and pronouncing it on a future day, or (iii) pronouncing the operative part and the outcome, i.e., “dismissed” or “allowed” or “disposed of”, while simultaneously expressing that reasons would follow in a detailed final judgment supporting such outcome]- It would be in the interest of justice if any learned Judge, who prefers the third option (supra), makes the reasons available in the public domain, preferably within 2 (two) days thereof but, in any case, not beyond 5 (five) days to eliminate any kind of suspicion in the mind of the party losing the legal battle. If the pressure of work is such that in the assessment of the learned Judge the reasons in support of the final judgment cannot be made available, without fail, in 5 (five) days, it

would be a better option to reserve the judgment. Also, if the ultimate order would have the effect of changing the status of the parties or the subject matter of the lis, it would always be advisable to stick to the course envisaged in Order XX.

Quotable Quotes -Since, the fraternity of learned Judges of all the courts are interested to preserve the dignity of the respective judicial institutions with which they are associated, all learned Judges must be mindful of the impact of their actions on the society at large. Dealing with lakhs of litigation is no mean task, but at the same time we must realize that instances do emerge leaving absolutely no margin for error. It is our duty as Judges to stand tall and rise to the challenge. (Para 19)- If the Supreme Court and the high courts were thought of as brothers, we as Judges of the apex court in the country remain as the elder brother only to the extent of exercise of appellate jurisdiction.(Para 21) – The society expects every Judge of a high court, so to say, to be a model of rectitude, an epitome of unimpeachable integrity and unwavering principles, a champion of moral excellence, and an embodiment of professionalism, who can consistently deliver work of high-quality guaranteeing justice (Para 18) We feel pained to observe, once more, that neglect/ omission/refusal to abide by binding precedents augurs ill for the health of the system. Not only does it tantamount to disservice to the institution of the judiciary but also affects the administration of justice. For a learned Judge to deviate from the laid down standards would be to betray the trust reposed in him by the nation (Para 6)

Lenin Kumar Ray vs Express Publications (Madurai) Ltd. 2024 INSC 802 – Industrial Disputes Act

Industrial Disputes Act,1947 – Section 2(s) –The determinative factor for “workman” covered under section 2(s) of the I.D. Act, is the principal duties and functions performed by an employee in the establishment and not merely the designation of his post. Further, the onus of proving the nature of employment rests on the person claiming to be a “workman” within the definition of section 2(s) of the I.D. Act (Para 15) [Allowing appeal, SC observed: Applying the pre-amended provision of section 2(s), since the employee was terminated from service and was drawing salary of more than Rs.1,600/-, he does not

come within the definition of “workman”. Therefore, we hold that the employee is not a “workman” as defined under section 2(s) and is not covered by the provisions of the I.D. Act.]

KC Kaushik vs State Of Haryana 2024 INSC 803 – Misleading Representation Before Court

Practice and Procedure – Each party should present truthful and accurate information to the court to facilitate fair adjudication. Such information should be provided in the form of writing. Relying on the oral instructions may lead to factual errors, misunderstanding / misrepresentations, etc., ultimately compromising the integrity of the judicial process. Misleading representations not only affect the parties involved, but also erode public trust in the judicial system as a whole. The Court should also pass orders only based on the written instructions, so as to enable it to fix the liability on the correct official(s), responsible for any such wrongful representations / instructions. Therefore, it is imperative that the official(s)/counsel(s) appearing before the Court to represent the Government authorities should equip with proper written instructions from the competent authority(ies). Needless to state that if any misrepresentation is made on the part of the parties, in particular, Government authorities, the court should not shy away from it, rather act sternly by mulcting with costs on the official(s) who make the same. (Para 22)

Summary: Appeal against the judgment of High Court (Division Bench) allowed the State’s appeals and set aside the orders of the learned Single Judge with respect to grant of interest on delayed payment of revised pension to the appellants- Appeal dismissed.

SP Pandey vs Union Of India 2024 INSC 804 – Service Law – Armed Forces

Summary: Armed Forces Tribunal allowed Appellant’s OA and quashed the order of Admonition passed against him – In appeal before SC, appellant sought compensation for the wrongful order – Allowing appeal, SC observed: Small excesses like overtaking the vehicle of one’s senior at a railway crossing may be an incident of indiscipline in defense

services, but the balance and proportion that needs to be maintained between such an infraction and its punishment will always be at the core of good governance. If the balance is not maintained, the distinction between bad governance, impropriety, unfairness and inhuman treatment is not much. The Tribunal is right in holding that a small incident has unnecessarily grown beyond proportion. When the institutions that we build grow beyond proportion, officers act mechanically and many a times helplessly, ignore the simple and readily available remedies that are available in our normal lives. We would have thought that an incident like this would have ended if a senior officer had at the right time intervened and resolved the issue by taking into account the emotional aspect of the dispute- Respondents directed to pay an amount of Rs. 1 lakh to the appellant towards compensation for having suffered an unnecessary and a long drawn litigation that was foisted on him.

Central Warehousing Corporation vs Sidhartha Tiles & Sanitary Pvt. Ltd. 2024 INSC 805- S 11(6) Arbitration Act – Public Premises Act

Arbitration and Conciliation Act,1996 – Public Premises Act, 1971 – In so far as the dispute relating to this right of renewal is concerned, it depends on the terms of the agreement. The Public Premises Act neither bars nor overlaps with the scope and ambit of proceedings that were initiated under the Arbitration and Conciliation Act.

Arbitration and Conciliation Act,1996 – Section 11(6) –The remit of the referral court to consider an application under Section 11(6) is clear and unambiguous. We need to just examine the existence of an arbitration agreement. (Para 14)

Mafabhai Motibhai Sagar vs State Of Gujarat 2024 INSC 806 – S 432 CrPC – Remission Conditions

Code Of Criminal Procedure 1973- Section 432 of the CrPC [Section 473(1) BNSS] -(I) The appropriate Government has the power to remit the whole or any part of the punishment of a convict. The remission can be granted either unconditionally or

subject to certain conditions; (ii) The decision to grant or not to grant remission has to be well informed, reasonable and fair to all concerned; (iii) A convict cannot seek remission as a matter of right. However, he has a right to claim that his case for the grant of remission ought to be considered in accordance with the law and/or applicable policy adopted by the appropriate Government; (iv) Conditions imposed while exercising the power under subsection (1) of Section 432 or subsection (1) of Section 473 of the BNSS must be reasonable. If the conditions imposed are arbitrary, the conditions will stand vitiated due to violation of Article 14. Such arbitrary conditions may violate the convict's rights under Article 21 of the Constitution; (v) The effect of remitting the sentence, in part or full, results in the restoration of liberty of a convict. If the order granting remission is to be cancelled or revoked, it will naturally affect the liberty of the convict. The reason is that when action is taken under subsection (3) of Section 432 of the CrPC or subsection (3) of Section 473 of the BNSS, it results in the convict being taken to prison for undergoing the remaining part of the sentence. Therefore, this drastic power cannot be exercised without following the principles of natural justice. A show cause notice must be served on the convict before taking action to withdraw/cancel remission. The show cause notice must contain the grounds on which action under subsection (3) of Section 432 of the CrPC or subsection (3) of Section 473 of BNNS is sought to be taken. The concerned authority must give the convict an opportunity to file a reply and of being heard. After that, the authority must pass an order stating the reasons in brief- Registration of a cognizable offence against the convict, per se, is not a ground to cancel the remission order. The allegations of breach of condition cannot be taken at face value, and whether a case for cancellation of remission is made out will have to be decided in the facts of each case. Every case of breach cannot invite cancellation of the order of remission. The appropriate Government will have to consider the nature of the breach alleged against the convict. A minor or a trifling breach cannot be a ground to cancel remission. There must be some material to substantiate the allegations of breach. Depending upon the seriousness and gravity thereof, action can be taken under subsection (3) of Section 432 of the CrPC or subsection (3) of Section 473 of the BNSS of cancellation of the order remitting sentence. (Para 17)

Code Of Criminal Procedure 1973- Section 432 of the CrPC [Section 473(1) BNSS] – Condition requiring the convict to behave decently for a period of two years after

release from jail- The words ‘decent’ or ‘decently’ are not defined in the CrPC or any other cognate legislation. The concept of decency of each human being is likely to be different. The idea of decency keeps on changing with time. As the term ‘decency’ is not defined in the CrPC or any other cognate legislation, every person or authority may interpret the same differently. Therefore, such a condition while granting remission becomes too subjective. Putting such a vague condition while exercising the power under sub section (1) of Section 432 of the CrPC will give a tool in the hands of the executive to cancel the remission at its whims and fancies. Therefore, such a condition is arbitrary and will be hit by Article 14 of the Constitution of India. Such a condition cannot be imposed as it will defeat the very object of remitting the sentence in the exercise of powers under sub section (1) of Section 432 of the CrPC. (Para 13)

Constitution of India – Article 226- The convict can always challenge the order of cancellation of remission by adopting a remedy under Article 226 of the Constitution of India. (Para 15)

HDFC Bank Ltd. vs State Of Bihar 2024 INSC 807 – Ss 409,420 IPC – Mens Rea

Indian Penal Code 1860 – Section 420 – For bringing out the offence under the ambit of Section 420 IPC, the FIR must disclose the following ingredients: (a) That the appellant-bank had induced anyone since inception; (b) That the said inducement was fraudulent or dishonest; and (c) That mens rea existed at the time of such inducement –

Section 409- Following ingredients will have to be made out: (a) That there has been any entrustment with the property, or with any dominion over property on a person in the capacity of a public servant or banker, etc.; (b) That the said person commits criminal breach of trust in respect of that property. For bringing out the case under criminal breach of trust, it will have to be pointed out that a person, with whom entrustment of a property is made, has dishonestly misappropriated it, or converted it to his own use, or dishonestly used it, or disposed of that property- Bank is a juristic person and as such, a question of mens rea does not arise. (Para 20-23)

Summary: Criminal proceedings against HDFC Bank quashed.

Commissioner Of GST And Central Excise vs Citibank NA 2024 INSC 808 – Finance Act- Service Act – Taxation

Finance Act, 1994- Section 65(33a) – Service tax is not separately payable on the interchange fee, as service tax has been paid on the MDR. (Para 11)

Interpretation Of Statutes– While interpreting a tax provision, one must keep in mind that the legislature ennobles the ease of collection of tax and payment of tax. These principles, especially when there is no loss of revenue, can be taken into consideration for interpreting a provision in case of doubt or debate. (Para 6)

Uma vs State 2024 INSC 809 – Criminal Trial- Circumstantial Evidence – S 106 Evidence Act

Indian Evidence Act 1872 – Section 106– There are two important consequences that play out when an offence is said to have taken place in the privacy of a house, where the accused is said to have been present. Firstly, the standard of proof expected to prove such a case based on circumstantial evidence is lesser than other cases of circumstantial evidence. Secondly, the accused would be under a duty to explain as to the circumstances that led to the death of the deceased. In that sense, there is a limited shifting of the onus of proof. If he remains quiet or offers a false explanation, then such a response would become an additional link in the chain of circumstances. [Referred to Trimukh Maroti Kirkan v. State of Maharashtra, [2006] Supp. (7) S.C.R. 156] (Para 24)

Criminal Trial – Circumstantial Evidence – Panchsheel of proof, for a case based on circumstantial evidence: insofar as the facts so established should be consistent only with the hypothesis of the guilt of the accused, and the circumstances should be of a conclusive nature and tendency; they should exclude every possible hypothesis except the one to be proved; there must be a chain of evidence so complete as not to leave any reasonable

ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused. [Referred to Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116]

Vidyasagar Prasad vs UCO Bank 2024 INSC 810 – IBC – Limitation

Insolvency and Bankruptcy Code 2016 -Section 238A – Limitation Act 1963-

Section 16 –The commencement of a fresh period of limitation from the time of acknowledgement of the debt is part of the statutory scheme. Section 238A of the Code extends the applicability of the provisions of the Limitation Act to the proceedings under the Code. With the extension of Limitation Act to the provisions of the Code, the benefit of Section 18 of the Limitation Act dealing with the effect of acknowledgement of a debt in writing applies – Referred to Laxmi Pat Surana v. Union Bank of India- [In this case, SC held: the Adjudicating Authority as well as the NCLAT have examined the case in detail and have come to the conclusion that the entry made in the balance sheet coupled with the note of the auditor of the appellant clearly amounts to acknowledgement of the liability]

GLAS Trust Company LLC vs BYJU Raveendran 2024 INSC 811 – IBC – Withdrawal Of CIRP

NCLT Rules – Rule 8 – IBC – Section 12 -CIRP Regulations – Rule 30A –

Procedure for the withdrawal of an application filed by creditors under Sections 7, 9, or 10 of the IBC- Before the application under Sections 7, 9 or 10 is admitted by the NCLT: Such cases are squarely covered by Rule 8 of the NCLT Rules, which requires that the applicant approach the NCLT directly. The NCLT may then pass an order permitting the withdrawal of the application. At this stage, as the CIRP process has not been initiated, the proceedings are still in personam, as between the applicant creditor and the corporate debtor. Therefore, while approving the withdrawal at this stage, the NCLT may restrict its enquiry to only hear the applicant creditor and corporate debtor, and other potential creditors are not stakeholders at this stage- After an application under Sections 7, 9, or 10 is admitted, but before the CoC has been constituted: Although Section 12A continues to be

silent on this aspect, after the decision in Swiss Ribbons (supra), Regulation 30A was amended to provide for this eventuality. An application for withdrawal in such cases may be made by the applicant through the IRP.⁴⁶ The IRP will then place the application before the NCLT, which may pass an order either approving or rejecting the application. As noted above, once the application has been admitted, the proceedings are no longer the sole preserve of the applicant creditor and the corporate debtor. They are now in rem and at this stage, the NCLT must hear the concerned parties and consider all relevant factors before approving or rejecting the application for withdrawal. The NCLT being a quasi-judicial body, must not act as a mere post office, which stamps and approves every settlement agreement, without application of judicial mind – After an application under Section 7, 9 or 10 is admitted, the CoC has been constituted and the invitation for expression of interest has not been issued: Section 12A read with Regulation 30A provides exhaustively for this scenario. In such cases, the application for withdrawal is to be placed before the NCLT, through the IRP or the RP. The application is first placed before the CoC and after ascertaining approval with a ninety percent voting share, the RP shall submit the application to the NCLT- After an application under Section 7, 9 or 10 is admitted, the CoC has been formed and the invitation for expression of interest has been issued: The procedure is the same as that detailed in (iii) above, with the added requirement stemming from the proviso to Regulation 30A (1). in such cases, the applicant must state the reasons for withdrawal at this belated stage. (Para 63)

Insolvency and Bankruptcy Code 2016 -Sections 7, 9 or 10 – Nature of the proceedings after admission of the application – a. Once the petition is admitted, the proceedings are no longer the preserve of the applicant creditor and the debtor. They now become in rem and all creditors of the corporate debtor become stakeholders in the process; and b. Once the petition is admitted, the management of the affairs of the corporate debtor is vested in the IRP and eventually, in the RP. Thus, the corporate debtor no longer exists in the form that it did, before the admission of the petition. Once CIRP is initiated, the interests of the erstwhile management of the corporate debtor must be distinguished from the interests of the corporate debtor. (Para 44)

NCLT Rules 2016 – Rule 11- NCLAT Rules 2016 – Rule 11- ‘Inherent powers’ may be exercised in cases where there is no express provision under the legal framework. However, such powers cannot be exercised in contravention of, conflict with or in ignorance of express provisions of law- When a procedure has been prescribed for a particular purpose exhaustively, no power shall be exercised otherwise than in the manner prescribed by the said provisions. In such cases, the court must be circumspect in invoking its ‘inherent powers’ to deviate from the prescribed procedure. If such deviation is made, the court must justify why this was necessary to “prevent the abuse of the process of the Court”. (Para 67-71)

State of UP vs Lalita Prasad Vaish 2024 INSC 812 – Constitution – Entry 8 List II Of Seventh Schedule – Industrial Alcohol

Constitution of India- a. Entry 8 of List II of the Seventh Schedule to the Constitution is both an industry-based entry and a product-based entry. The words that follow the expression “that is to say” in the Entry are not exhaustive of its contents. It includes the regulation of everything from the raw materials to the consumption of ‘intoxicating liquor’; b. Parliament cannot occupy the field of the entire industry merely by issuing a declaration under Entry 52 of List I. The State Legislature’s competence under Entry 24 of List II is denuded only to the extent of the field covered by the law of Parliament under Entry 52 of List I; c. Parliament does not have the legislative competence to enact a law taking control of the industry of intoxicating liquor covered by Entry 8 of List II in exercise of the power under Article 246 read with Entry 52 of List I; meaning of the expression ‘intoxicating liquor’ not limited to its popular meaning, that is, alcoholic beverages that produce intoxication- Entry 8 of List II is based on public interest. It seeks to enhance the scope of the entry beyond potable alcohol. This is inferable from the use of the phrase ‘intoxicating’ and other accompanying words in the Entry. Alcohol is inherently a noxious substance that is prone to misuse affecting public health at large. Entry 8 covers alcohol that could be used noxiously to the detriment of public health. This includes alcohol such as rectified spirit, ENA and denatured spirit which are used as raw materials in the production of potable alcohol and other products. However, it does not include the final product (such as

a hand sanitiser) that contains alcohol since such an interpretation will substantially diminish the scope of other legislative entries; h. The judgment in *Synthetics* (7J) (supra) is overruled in terms of this judgment; Item 26 of the First Schedule to the IDRA must be read as excluding the industry of “intoxicating liquor”, as interpreted in this judgment. (Para 141)

Constitution of India- Article 246- The federal balance lies not on the recognition that the Constitution grants Parliament predominant legislative power but on the identification of the scope of such predominance. The scope of the non-obstante clause in Article 246(1) and the subjugation clause in Article 246(3) must not be interpreted in isolation but along with the substantive provisions of the clauses. When there is a conflict between an entry in List I and entry in List II which is not ‘capable of reconciliation’⁷⁷, the power of Parliament to legislate with respect to a field covered by List I must supersede the exercise of power by the State legislature to that extent- a. In case of a seeming conflict between the entries in the two lists, the entries must be read together without giving a narrow and restricted meaning to either of the entries in the Lists; and b. If the entries cannot be reconciled by giving a wide meaning, it must be determined if they can be reconciled by giving the entries a narrower meaning- The principle of federal supremacy in Article 246 can be resorted to only when there is an ‘irreconcilable direct conflict’ between the entries in List I and List II. (Para 43-46) – It is crucial to note the difference between ‘overlap’ and ‘conflict’. An overlap occurs when two or more things or fields partially intersect. However, a conflict occurs when two or more entries operate in the exactly same field. Courts while dealing with an overlap of legislative entries must endeavour to diminish the overlap and not enhance it by including it in the field of conflict. The federal supremacy accorded to Parliament ticks in at the stage of ‘conflict’. (para 50)

Suhas Chakma vs Union Of India 2024 INSC 813 – Legal Aid

Constitution of India – Article 21 -Legal Aid-Free legal assistance for poor and indigent at the cost of the State is a fundamental right of a person under Article 21 even if the person does not seek legal assistance on his own- Right to counsel for a prisoner is a

fundamental right traceable to Article 21 – Legal aid to poor should not be poor legal aid – Directions issued – For the success of the functioning of the legal aid mechanism, awareness is the key. A robust mechanism should be put in place and periodically updated to ensure that the various beneficial schemes promoted by the Legal Services Authorities reaches the nook and corner of the nation and particularly, to those whose grievances it has set out to address. Adequate literature including in the local languages in the States and appropriate promotional methods should be launched so that the consumers of justice to whom the schemes are intended can make best use of the same.

Joginder Singh (D) vs Virinderjit Singh Gill (D) 2024 INSC 814 – S 47 CPC – Execution

Code Of Civil Procedure 1908 – Section 47- Order XI – Court cannot ‘go behind’ a decree- if a decree is passed by a competent court after due adjudication of merits, it operates as res judicata. If the same is nullity, its validity can be questioned at any stage- The executing court is to determine all questions inter se the parties to the decree- An executing court is to execute the decree as it stands and cannot modify its terms- A decree passed by a Court not having the jurisdiction to do so, does not ipso facto, render it illegal. The recourse is for the aggrieved to have it set aside as per law. If they fail to do so, they shall be bound thereby.- Execution petition dismissed for default of the decree-holder does not operate as res judicata qua “further execution of the decree.”-In scenarios where a compromise decree is entered into between the parties, the question to be asked is whether the Court whose duty it is to execute the decree is the one to have recorded the compromise. (Para 11-12)

Manish Kumar Rai vs Union of India 2024 INSC 815

Summary: Dismissing appeal filed against order of Armed Forces Tribunal, SC observed: There is neither any illegality nor arbitrariness in giving grade pay to Artificers III to I which is more than the grade pay of Artificer IV but less than the grade pay of Chief Artificers. The Speaking Order dated 20th April 2009 refers to the fact that under

Regulation 247, the “Chief” rating is given only to Chief Artificer and not to Artificers of grades III to I. It also notes that Artificers of grades III to I cannot be directly promoted to the post of Master Chief Artificer.

Saroj vs IFFCO Tokio General Insurance Co. 2024 INSC 816 – Motor Accident Compensation Claim – Aadhaar vs School Leaving Certificate – Age Determination

Motor Accident Compensation Claim – MACT determined age based on the School Leaving Certificate – High Court, while partly allowing appeal, noted that the Aadhar Card of the deceased records date of birth to be 1st January 1969; thus, the age comes to 47 years. Hence, the multiplier applicable would be 13 – Allowing appeal by claimants, SC observed: In case of conflict of the dates of birth between the two documents, as in this case between the School Leaving Certificate and the Aadhar Card, which of the two is to be taken as authoritative- School Leaving Certificate has been accorded statutory recognition. Sub-section (2) of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 – Unique Identification Authority of India has stated that an Aadhar Card, while can be used to establish identity, it is not per se proof of date of birth- MACT’s determination of age based on the School Leaving Certificate.

N Thajudeen vs Tamil Nadu Khadi & Village Industries Board 2024 INSC 817 – TP Act- Gift Revocation – Declaration Suit – Limitation

Transfer of Property Act 1882- Section 126 –The gift validly made can be suspended or revoked under certain contingencies but ordinarily it cannot be revoked, more particularly when no such right is reserved under the gift deed. – Section 126 of the Act is drafted in a peculiar way in the sense that it contains the exceptions to the substantive law first and then the substantive law. The substantive law as is carved out from the simple reading of the aforesaid provision is that a gift cannot be revoked except in the cases mentioned earlier. The said exceptions are three in number; the first part provides that the donor and donee may agree for the suspension or revocation of the gift deed on the

happening of any specified event which does not depend on the will of the donor. Secondly, a gift which is revocable wholly or in part with the agreement of the parties, at the mere will of the donor is void wholly or in part as the case may be. Thirdly, a gift may be revoked if it were in the nature of a contract which could be rescinded- ordinarily a gift deed cannot be revoked except for the three contingencies mentioned above. The first is where the donor and the donee agree for its revocation on the happening of any specified event. In the gift deed, there is no such indication that the donor and donee have agreed for the revocation of the gift deed for any reason much less on the happening of any specified event. (Para 12-15)

Limitation Act 1963 -In a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief. In fact, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsists- Though the limitation for filing a suit for declaration of title is three years as per Article 58 of the Schedule to the Limitation Act but for recovery of possession based upon title, the limitation is 12 years from the date the possession of the defendant becomes adverse in terms of Article 65 of the Schedule to the Limitation Act.

Vimalakka Ramappa Koli @ Talwar vs State Of Karnataka 2024 INSC 818 – S 198 IPC – Caste Certificate – Corruptly Using

Indian Penal Code 1860 – Section 198-Mens rea is an essential ingredient of the offence. Only because the accused could not establish her caste claim before the Committee, one cannot conclude that the accused corruptly used the caste certificate. Moreover, corruptly using the certificate is not sufficient. The accused must have knowledge that the certificate is false. The allegation that the certificate is false to the knowledge of the accused must be proved by the prosecution. (Para 7) **Section 415,420 –** Fraudulent or dishonest acts are essential ingredients of cheating. (Para 9)

Code Of Criminal Procedure 1973 – Section 378,386- The Appellate Court has to examine whether the findings recorded in the acquittal judgment are plausible findings that could have been recorded based on the evidence on record. Only if the Appellate Court is satisfied that the guilt of the accused is duly proved was the only plausible finding which could have been recorded based on the evidence on record, the Appellate Court can overturn the order of acquittal. In this case, no such finding has been recorded by the Sessions Court. Only because it is possible to take another view is no ground to overturn an order of acquittal. (Para 5)

Central Bureau Of Investigation vs Ashok Sirpal 2024 INSC 819 – S 389 CrPC – Suspension Of Sentence – Fine

Code of Criminal Procedure 1973 – Section 389 –[Section 430 BNSS] While convicting an accused, if a direction is issued against him to pay a fine, such a direction can be suspended in the exercise of power under subsection (1) of Section 389 of the CrPC (Para 6)- While suspending the sentence, especially the sentence of fine, the Appellate Court can impose conditions. Whether the order of suspension of the sentence of fine should be conditional or unconditional depends on the facts of each case and especially the nature of the offence. For example, when there is a sentence of fine imposed while convicting an accused for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881, depending upon the facts of the case, the Appellate Court may impose a condition of depositing the fine amount or part thereof while suspending the sentence. However, the approach of the Court may be different in case of offences punishable under the IPC and cognate legislations. Whenever a prayer is for suspension of the sentence of fine, the Appellate Court must consider whether the sentence of fine can be suspended unconditionally or subject to conditions. (Para 8)

Constitution of India 1950 – Article 21 ; Code of Criminal Procedure 1973 – Section 389 -[Section 430 BNSS] – The Court has to keep in mind that if a condition of the deposit of an amount is imposed while suspending the sentence of fine, the same should not be such that it is impossible for the appellant to comply with it. Such a

condition may amount to defeating his right of appeal against the order of conviction, which may also violate his rights under Article 21 of the Constitution. (Para 8)

Indian Penal Code 1860 – Section 53,64 -The fine is one of the five punishments provided in Section 53 – The direction to pay a fine issued against the convicted accused is also a sentence. Under Section 64, the Court is empowered to direct that in default of payment of the fine, the offender shall suffer imprisonment for a specific term as directed therein. Therefore, there can be a sentence of fine and a further sentence in default of compliance with the sentence of fine. (Para 5-6)

Nisar Ahmad vs Sami Ullah (D) 2024 INSC 820 - Consolidation Of Holdings

Uttar Pradesh Consolidation of Holdings Act, 1953- High Court held that Deputy Director was not justified in importing principles of Hindu law while determining the share of the parties who were admittedly Mohammedans- Appeal dismissed.

Tarun Chugh vs Saroj Kumar Panda 2024 INSC 821 - Practice & Procedure

Practice and Procedure- A corporate has a separate legal entity as compared to an individual or an officer of the company. There can be privity of contract between the corporate and any other individual and that contract or communication may have been signed by any officer on its behalf as an authorized signatory. It does not mean that the officer signing the communication or the agreement or the executive head of the company becomes individually liable for any claim against the company except the cases where any specific claim is made in that regard. Any order or decree or award passed by the Court, in case proper parties are not impleaded, becomes inexecutable. [Context: In this case, management who was his employer was not even impleaded as party before the Central Government Industrial Tribunal, still a direction was issued to the management to reinstate him.]

Sapna Negi vs Chaman Singh 2024 INSC 822 – Constitution – Article 142 – Irretrievable Breakdown Of Marriage

Constitution of India – Article 142 – Supreme Court can depart from the procedure as well as the substantive laws, as long as the decision is exercised based on considerations of fundamental, general and specific public policy. It has the discretion to dissolve the marriage on the ground of its irretrievable breakdown, and this discretionary power is to be exercised to do ‘complete justice’ to the parties, when it is satisfied that the facts established show that the marriage has completely failed and there is no possibility that the parties will cohabit together, and continuation of the formal legal relationship is unjustified. [In this case, SC dissolved marriages between parties]

State of Madhya Pradesh vs Ramjan Khan 2024 INSC 823 - Ss 154,374 CrPC - S 32 Evidence Act - Art. 136 Constitution

Code of Criminal Procedure 1973 - Section 374 - In an appeal, against conviction in murder case under Section 374, a proper analysis of the evidence and accepting or rejecting the appreciation of evidence by the trial Court must reflect in the judgment of the High Court- The disposal of the appeal under Section 374, Cr.P.C., shall not be by cryptic or non reasoned order. (Para 7)

Code of Criminal Procedure 1973 - Section 154 - FIR is not an encyclopedia disclosing all facts and details relating the entire prosecution case - FIR is not meant to be a detailed document containing chronicle of all intricate and minute details- The prime object of FIR, from the point of view of the informant is to set the criminal law in motion and from the point of the investigating authorities is to obtain information about the alleged activity so as to enable to take suitable steps to trace and book the guilty. FIR is an important document, though not a substantial piece of evidence, and may be put in evidence to support or contradict the evidence of its maker viz., the informant. Whether the omission(s) is one which seriously impeaches the credibility of the witness and is sufficient to reject the testimony of the informant would depend upon the question whether it is of an important fact and whether that fact was within the knowledge of the informant, going by the case of prosecution unraveled through the witness concerned. (Para 11-15)

Indian Evidence Act 1872 - Section 32 - Oral dying declaration should be of such a nature as to inspire full confidence of the court in its correctness. (Para 20)

Criminal Trial - Conviction could be based on testimony of a single witness provided his testimony is found reliable and inspires confidence - When the ocular evidence in a murder case is unreliable benefit of doubt to be given to all accused. (Para 26)

Constitution of India - Article 136 - Where the trial Court and the High Court had concurrently found the accused guilty, the Supreme Court would not scrutinize the evidence once again, unless there has been a total miscarriage of justice. This Court may have to re-appreciate evidence in cases where a *prima facie* perverse appreciation of evidence is brought out, even in such cases. We shall also not be understood to have held that merely because the trial Court and the High Court have rendered divergent findings, this Court should invariably scrutinize the evidence once again and in that regard this Court should entertain an appeal. (Para 6)

Sankar Kumar Das vs Hon'ble High Court, Calcutta 2024 INSC 824

Summary: The appellants (Assistant Public Prosecutor and Stamp Reporter) appeared for the West Bengal Judicial Service Examination notified vide advertisement dated 17.02.2007- The selection process was completed in the year 2008, and appointments were made at relevant time. They are seeking appointment as Judicial Officers on the grounds set forth by them – Dismissing appeal, SC observed: Given the fact that 17 years have passed since the date of advertisement and the candidates who have been appointed would have reached senior positions as well as would have gained substantial experience as judicial officers, hence by lapse of time it would not be in public interest to adjudicate the issue on merit.

Neeraj Sud vs Jaswinder Singh 2024 INSC 825 – Medical Negligence

Medical Negligence – Actionable negligence in context of medical profession involves three constituents (i) duty to exercise due care; (ii) breach of duty and (iii) consequential

damage. However, a simple lack of care, an error of judgment or an accident is not sufficient proof of negligence on part of the medical professional so long as the doctor follows the acceptable practice of the medical profession in discharge of his duties. He cannot be held liable for negligence merely because a better alternative treatment or course of treatment was available or that more skilled doctors were there who could have administered better treatment- A medical professional may be held liable for negligence only when he is not possessed with the requisite qualification or skill or when he fails to exercise reasonable skill which he possesses in giving the treatment – Bolam's test: a doctor is not negligent if he is acting in accordance with the acceptable norms of practice unless there is evidence of a medical body of skilled persons in the field opining that the accepted principles/procedure were not followed- Deterioration of the condition of the patient post-surgery is not necessarily indicative or suggestive of the fact that the surgery performed or the treatment given to the patient was not proper or inappropriate or that there was some negligence in administering the same. In case of surgery or such treatment it is not necessary that in every case the condition of the patient would improve and the surgery is successful to the satisfaction of the patient. It is very much possible that in some rare cases complications of such nature arise but that by itself does not establish any actionable negligence on part of the medical expert- simply for the reason that the patient has not responded favourably to the surgery or the treatment administered by a doctor or that the surgery has failed, the doctor cannot be held liable for medical negligence straightway by applying the doctrine of Res Ipsa Loquitur unless it is established by evidence that the doctor failed to exercise the due skill possessed by him in discharging of his duties.

Ramratan @ Ramswaroop vs State Of Madhya Pradesh 2024 INSC 826 – Bail – Conditions – Police Interference In Possession Of Immovable Property

Bail – The fundamental purpose of bail is to ensure the accused's presence during the investigation and trial. Any conditions imposed must be reasonable and directly related to this objective- Court's discretion in imposing conditions must be guided by the need to facilitate the administration of justice, secure the accused's presence, and prevent the

misuse of liberty to impede the investigation or obstruct justice.- In this case, High Court granted bail to accused subject to certain conditions, including the removal of a wall at their expense and also directed the State of Madhya Pradesh to hand over the possession of the disputed property to the complainant -Allowing appeal filed by the accused, SC observed: The action by the police to take possession of immovable property reflects total lawlessness – Under no circumstances, can the police be allowed to interfere with the possession of immovable property, as such action does not bear sanction by any provision of law- The conditions imposed clearly tantamount to deprivation of civil rights, rather than measures to ensure the accused's presence during trial.

International Seaport Dredging Pvt Ltd vs Kamarajar Port Limited 2024 INSC 827 - Arbitration - Govt. & Private Entities

Arbitration and Conciliation Act 1996 - The Arbitration Act is a self-contained code – It does not distinguish between governmental and private entities -Governmental entities must be treated in a similar fashion to private parties insofar as proceedings under the Arbitration Act are concerned, except where otherwise indicated by law. This is because the parties have entered into commercial transactions with full awareness of the implications of compliance and non-compliance with the concerned contracts and the consequences which will visit them in law - Referred to Pam Developments Private Limited v State of West Bengal (2019) 8 SCC 112. (Para 15)

Code Of Civil Procedure 1908- Order XLI Rule 5 - Court has the power to direct full or part deposit and/or the furnishing of security in respect of the decretal amount - Referred to Toyo Engineering Corp. v. Indian Oil Corp. Ltd. (Para 17)

Anoop M vs Gireeshkumar TM 2024 INSC 828 - KPSC - Legitimate Expectation - Kerala High Court Rules

Kerala Public Service Commission (KPSC)- A State instrumentality seized of the solemn responsibility of making selections to public services must maintain a high standard of probity and transparency and is not expected to remain nebulous as to its norms or resort to falsehoods before the Court, contrary to what it had stated in its earlier sworn affidavits. We can only hope that the Kerala Public Service Commission learns from this experience and desists, at least in future, from trifling with the lives, hopes and aspirations of candidates who seek public employment.(Para 27)

Doctrine of Legitimate Expectation - State cannot be allowed to change course and belie legitimate expectation as regularity, predictability, certainty and fairness are necessary concomitants of governmental action. (Para 26)

Kerala High Court Rules - Rule 148- All persons directly affected should be made parties to the petition but where such persons are numerous, one or more of them may, with the permission of the Court, be impleaded on behalf of or for the benefit of all persons so affected, but notice of the original petition, on admission, should be given to all such persons either by personal service or by public advertisement- The very purpose of Rule 148 is to protect the interest of those affected persons who may be ignorant of the litigation and would be taken by surprise by the adverse developments therein. (Para 11)

Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited vs Bapuna Alcobrew Private Limited 2024 INSC 829 - Interim Relief - S 17 Limitation Act - Res Judicata

Practice and Procedure- Interim Relief -Once an interim order is passed in a suit or a proceeding, the interim relief granted to the party seeking interim relief could either be confirmed or vacated at the time of final disposal of the suit or proceedings, as the case may be. If the disposal is by way of an order of dismissal, interim relief which is granted as an aid of or ancillary to the final relief cannot continue beyond termination of such suit or proceeding- However, if in a particular suit or proceeding, interim relief is sought in respect of a development subsequent to institution of the suit/proceedings, , and the challenge to such subsequent development is spurned, the party who has approached the court cannot be heard to say that the effect of spurning of the challenge would come to an end with the disposal of the suit/proceedings. The effect of the challenge being spurned would continue till such time it is reversed in appeal or reviewed in a manner known to law. The situation in such a case, adversely affecting the party whose challenge has been spurned, cannot be sought to be overcome by contending that the suit or proceedings has/ have not been dismissed on merits but was/were merely withdrawn. By seeking a withdrawal, the Court before whom the lis was brought is requested not to decide the lis and if the Court while granting the prayer for withdrawal does not grant leave for institution of a fresh suit on the same cause of action, or even if leave is granted and a fresh suit/proceeding is instituted, that would not have the effect of negating the order spurning challenge passed in the earlier suit/ proceedings. The same would remain operative till set aside or varied. (Para 30-32)

Res Judicata -A point even if wrongly decided binds the party against whom it is decided and the same point cannot be urged in a subsequent suit or proceeding at the same level. (Para 37)

Limitation Act 1963 - Section 17 - Section 17 is meant to save suits from being dismissed as time-barred, which could not be filed due to bona fide mistakes or errors. If a suitor alleges that the suit could not be instituted by him within the prescribed period of limitation because of some mistake, which came to be discovered beyond the period prescribed for institution of a suit, it is open to such suitor to claim exemption from limitation in terms of Order VII Rule 6 of the Code of Civil Procedure, 1908 and such exemption can be granted in an appropriate case. However, if a suitor alleges to have

discovered a mistake later but it is proved on evidence being led that exercise of reasonable diligence could have resulted in the mistake being discovered on an earlier date, limitation would begin to count from that earlier date; and, in case, the count from the said earlier date takes the date of institution of the suit beyond the prescribed period of limitation, the bar of limitation would get attracted. Mistake is, thus, not a circumstance which can be used as a shield to save negligence in all cases. Absence of due diligence or lack of bona fides would not clothe a suitor to take undue advantage of a beneficent provision like section 17; it is for the relevant court to separate the grain from the chaff.

Indian Electricity Act, 1910- Section 24 - Section 24 prescribes no period of limitation, it does allow the licensee to discontinue supply of energy upon a consumer neglecting to pay charges that are demanded by raising a bill, irrespective of the fact that a suit for recovery of unpaid charges would be barred if not instituted within three (3) years of the liability accruing. There appears to be no limitation as regards the period within which notice under section 24(1) has to be issued, evincing the intention of the licensee to disconnect supply for nonpayment of claimed dues. However, if in case, despite the consumer not paying the charges demanded and the notice thereunder is not issued within a reasonable period or at any time within which a suit for recovery could be instituted, whether the right of the licensee to claim the unpaid charges would lapse will have to be decided by the court before whom the lis is brought upon consideration of the defense that is raised and the explanation for the delay. We only say that it must depend on the facts of each particular case whether the demand by reason of mere delay should be interdicted or not. (Para 20)

Sonal Gupta vs Registrar General, Rajasthan High Court 2024 INSC 830- Rajasthan Judicial Service Exams

Rajasthan Judicial Service Exams -The candidates who appeared for the main examination of the Rajasthan Civil Judge Cadre 2024 alleged that they have been awarded marks arbitrarily in the subjective exam paper, namely, the Language Paper – II (English Essay) which has led to them falling below the cut off marks for the interview round - Dismissing appeal, SC observed: In absence of any evidence that meritorious candidates have been deprived of their marks deliberately, the Court cannot interfere. he marking of the essay

does not suffer from an infirmity that would cast doubt on the overall assessment of the English Essay answer sheets.

Anjum Kadari vs Union of India 2024 INSC 831 - UP Madrasa Education Act - Constitutional Validity - Secularism - UGC Act

Uttar Pradesh Board of Madarsa Education Act, 2004 - Constitutional Validity

- The Madarsa Act is within the legislative competence of the State legislature and traceable to Entry 25 of List III. However, the provisions of the Madarsa Act which seek to regulate higher-education degrees, such as Fazil and Kamil are unconstitutional as they are in conflict with the UGC Act, which has been enacted under Entry 66 of List I- The Madarsa Act regulates the standard of education in Madarsas recognized by the Board for imparting Madarsa education- It is consistent with the positive obligation of the State to ensure that students studying in recognised Madarsas attain a level of competency which will allow them to effectively participate in society and earn a living. (Para 104)

Constitution of India - Article 30, 21A- Article 21-A and the RTE Act have to be read consistently with the right of religious and linguistic minorities to establish and administer educational institutions of their choice. The Board with the approval of the State government can enact regulations to ensure that religious minority institutions impart secular education of a requisite standard without destroying their minority character. (Para 104)

Constitution of India - Basic Structure Doctrine- A statute can be struck down only for the violation of Part III or any other provision of the Constitution or for being without legislative competence. The constitutional validity of a statute cannot be challenged for the violation of the basic structure of the Constitution. The reason is that concepts such as democracy, federalism, and secularism are undefined concepts. Allowing courts to strike down legislation for violation of such concepts will introduce an element of uncertainty in our constitutional adjudication. Recently, this Court has accepted that a challenge to the constitutional validity of a statute for violation of the basic structure is a technical aspect because the infraction has to be traced to the express provisions of the Constitution. Hence, in a challenge to the validity of a statute for violation of the principle of secularism,

it must be shown that the statute violates provisions of the Constitution pertaining to secularism.

Constitution of India - Article 30 - The right to administer minority educational institutions encompasses: (i) the right to constitute the managing or governing body; (ii) the right to appoint teachers; (iii) the right to admit students subject to reasonable regulations; and (iv) the right to use property and assets for the benefit of the institution.⁶⁹ However, the right to administer minority educational institutions is not absolute. The right to administer educational institutions implies an obligation and duty of minority institutions to provide a standard of education to the students. The right to administer is, it is trite law, not the right to maladminister. (Para 56)

Constitution of India - Article 30 - In the spirit of positive secularism, Article 30 confers special rights on religious and linguistic minorities “because of their numerical handicap and to instill in them a sense of security and confidence”. The positive concept of secularism requires the State to take active steps to treat minority institutions on par with secular institutions while allowing them to retain their minority character. Positive secularism allows the State to treat some persons differently to treat all persons equally. The concept of positive secularism finds consonance in the principle of substantive equality. (Para 70)

Constitution of India - Entry 25, List III Of Schedule VII- there is no jurisprudential basis to read Entry 25, List III to be limited to only education that is devoid of any religious teaching or instruction and to contend that the Madarsa Act (in its entirety) which seeks to regulate the functioning of Madarsas in Uttar Pradesh is outside the competence of the state legislature. (Para 90)

UGC Act - UGC Act occupies the field with regard to the coordination and determination of standards in higher education. Therefore, state legislation which seeks to regulate higher education, in conflict with the UGC Act, would be beyond the legislative competence of the State legislature. (Para 93)

Constitution of India - Article 13(2) - The entire statute does not need to be struck down each time that certain provisions of the statute are held to not meet constitutional muster. The statute is only void to the extent that it contravenes the Constitution- Although Article 13(2) upholds this proposition in the context of laws which abridge the fundamental rights in Part III, the same doctrine is equally applicable to provisions of a statute which are set aside on the ground of lack of legislative competence. (Para 101-102)

Mukul Kumar Tyagi vs State Of Uttar Pradesh 2024 INSC 832- Service Law

Service Law - Applications/appeal filed praying for a direction to the concerned authority to re-appoint the applicants on the post of Technical Grade-II (Electrical) in Uttar Pradesh Power Corporation Limited who were appointed pursuant to the advertisement dated 6th September 2014, by setting aside the termination letter dated 13th May 2018 issued by the Corporation against the applicants herein - SC allowed appeal/applications and issued certain directions.

Nabha Power Limited vs Punjab State Power Corporation Limited 2024 INSC 833 - Contract - Customs Act

Contract Law - The golden rule of interpretation is that the words of a contract should be construed in their grammatical and ordinary sense, except to the extent that some modification is necessary in order to avoid absurdity, inconsistency or repugnancy- Similarly, any invocation of the business efficacy test as canvassed would arise only if the terms of the contract are not explicit and clear. The business efficacy test cannot contradict any express term of the contract and is invoked only if by a plain and literal interpretation

of the term in the agreement or the contract, it is not possible to achieve the result or the consequence intended by the parties acting as prudent businessmen. (Para 41)

Customs Act - Section 25- An exemption under the Customs Act to operate thereon there has to be a notification issued in the manner provided by the Customs Act and duly published in the official gazette- If a certain thing has to be done in a certain manner, it shall be done in that manner or not at all. (Para 51)

Legislation - Law - Certainty is the hallmark of law. It is one of its essential attributes. It is an integral component of the rule of law. (Para 58)

Jurisprudence- A right vests when all the facts have occurred which must by law occur in order for the person in question to have the right (see Salmond on Jurisprudence, Twelfth Edition P.J. Fitzgerald page 245). It is only when the right vests will there be a correlative duty on the other as far as nature of the right involved in the present case is concerned. (Para 59) - Lord Bingham of Cornhill in his locus classicus 'The Rule of Law' rightly identifies as one of the facets of rule of law, the following – "the law must be accessible and so far as possible intelligible, clear and predictable. (Para 61)

Subrata Choudhury @ Santosh Choudhury vs State of Assam 2024 INSC 834 - Second Complaint - Maintainability

Code Of Criminal Procedure - Section 173 -Whether after the acceptance of the Final Report filed under Section 173, Cr.P.C., upon considering the written objection/ protest petition and hearing the complainant, a fresh complaint on the same set of facts is maintainable or not- There can be no blanket bar for filing a second complaint on the same set of facts- When Final Report filed after investigation based on the FIR registered pursuant to the receipt of complaint forwarded by a Court for investigation under Section 156 (3) of the Cr.P.C., is accepted and protest petition thereto is rejected, the Magistrate

can still take cognizance upon a second complaint or second protest petition, on the same or similar allegations or facts- The maintainability or otherwise of the second complaint would depend upon how the earlier complaint happened to be rejected/dismissed at the first instance- If the earlier disposal of the complaint was on merits and in a manner known to law, the second complaint on “almost identical facts” which were raised in the first complaint would not be maintainable. If the core of both the complaints is same, the second complaint ought not to be entertained. [Referred to Samta Naidu & Anr. v. State of Madhya Pradesh] (Para 23-32)

Code Of Criminal Procedure - Section 300- Section 300 (1), Cr.P.C., is found on the maxim “Nemo debet bis vexari pro una et eadem causa”, which means that no one shall be vexed twice for one and the same cause. The Section provides that no man once convicted or acquitted shall be tried for the same offence again for one and the same cause. Thus, it can be seen that in order to bar the trial in terms of Section 300 (1), Cr.P.C., it must be shown: - a. that the person concerned has been tried by a competent Court for the same offence or one for which he might have been charged or convicted at that trial, on the same facts. b. that he has been convicted or acquitted at the trial and that such conviction or acquittal is in force. (Para 8)

Code Of Criminal Procedure - Section 156(3) and 2(d)- ‘Narazi’ viz., disapproval against a final report submitted in a case investigated by the police on a first information report registered pursuant to the forwarding of a complaint under Section 156(3), Cr.P.C., for investigation should be treated as a complaint only if the same satisfies the requirement in law to constitute a complaint as defined under Section 2(d), Cr.P.C. - Though it would be open to the Magistrate to treat a protest petition as complaint and to take further proceedings in accordance with law even after accepting final report that is permissible only if the protest petition concerned satisfies the ingredients to constitute a complaint as defined under Section 2(d).

Property Owners Association vs State Of Maharashtra 2024 INSC 835 - Articles 31C, 39(b) Constitution - Material Resources Of The Community

Constitution of India - Article 31C - Article 31C to the extent that it was upheld in Kesavananda Bharati v Union of India remains in force.

Constitution of India - Article 39(b)- Whether the phrase ‘material resources of the community’ used in Article 39(b) includes privately owned resources? Theoretically, the answer is yes, the phrase may include privately owned resources. Not every resource owned by an individual can be considered a ‘material resource of the community’ merely because it meets the qualifier of ‘material needs’- Not all privately owned resources fall within the ambit of the phrase. However, privately owned resources are not excluded as a class and some private resources may be covered. The resource in question must meet the two qualifiers, i.e. it must be a “material” resource and it must be “of the community”. (Para 212)- The inquiry about whether the resource in question falls within the ambit of Article 39(b) must be context-specific and subject to a non-exhaustive list of factors such as the nature of the resource and its characteristics; the impact of the resource on the well-being of the community; the scarcity of the resource; and the consequences of such a resource being concentrated in the hands of private players. The Public Trust Doctrine evolved by this Court may also help identify resources which fall within the ambit of the phrase “material resource of the community”- The term ‘distribution’ has a wide connotation. The various forms of distribution which can be adopted by the state cannot be exhaustively detailed. However, it may include the vesting of the concerned resources in the state or nationalization. In the specific case, the Court must determine whether the distribution ‘subserves the common good’- To hold that all private property is covered by the phrase “material resources of the community” and that the ultimate aim is state control of private resources would be incompatible with the constitutional protection. (Para 220)

Precedent- The law laid down by Supreme Court is binding on subsequent benches of lesser or coequal strength. A bench of lesser strength cannot disagree or dissent from the view taken by a bench of a larger quorum. In case of any doubt, such a bench may only invite the attention of the Chief Justice and request for the matter to be placed for hearing before a bench of a larger strength than the quorum of the bench whose decision was being

considered. A bench of coequal strength may go one step ahead, and express an opinion doubting the correctness of the view taken by the earlier bench of coequal strength. Subsequently, the matter may be placed before a larger bench to lay down the law on the correctness of the decision which is doubted- **Dissenting Judgments** - Judges of this Court have the liberty to pronounce separate dissenting judgment(s). However, it is the decision of the majority of judges which constitutes the binding judgment. The binding nature of the judgment depends on the bench strength and not the numerical strength of the majority taking a particular view. For instance, if a judgment is pronounced by a bench of seven judges, with four judges constituting the majority, and the remaining three judges dissenting from the view of the majority, the majority judgment will constitute a binding judgment by a bench of seven judges and not a bench of four judges [Referred to Trimurthi Fragrances (P) Ltd. v. State (NCT of Delhi)] (Para 96-97)

Judgment - Distinction between a dissenting judgment and concurring judgment- A dissenting judgment is a judgment signed by a minority of judges, with or without an accompanying opinion, which expresses non-concurrence with the decision of the majority of judges of the court. However, judges of this Court who agree with the decision of the majority may also author separate opinions. In such ‘concurring opinions’, the judge (or judges) agree with the conclusion of the majority, though they separately state their views on the case or their reasons for concurrence. Such opinions may be based on different grounds and the judges may give separate reasons, even about observations on which they concur with the majority. The majority judgement too is not always contained in a single opinion. It is common practice for a plurality of judges of this Court to render separate opinions, and it is from the conclusions and concurring observations of each of their judgements that a majority opinion is identified- In order to determine whether the observations in the concurring opinion of a numerical minority of judges constitute a binding precedent, we must ask two questions. Firstly, when only the concurring opinion expounds the law on a particular point, does the majority opinion indicate a difference of opinion from that view or distance itself from such reasoning? Secondly, are the observations in the concurring opinion essential to the ratio decidendi and can they be regarded as an expression of opinion on behalf of this Court as a whole? These requirements are cumulative. For observations in a concurring opinion to be binding on a

smaller or coequal bench, the observations in the concurring opinion should be both free from disagreement or difference by the majority of judges and also be a part of the ratio decidendi of the judgment- The disagreement with the concurring view in the majority opinion may be express or implied. The majority may expressly state that it disagrees with or distances itself from the view taken in a concurring opinion on a particular issue. Alternatively, the discussion in the majority judgment on that issue may be at odds with the observations in the concurring opinion. It is the latter situation that becomes more tricky, particularly, when a single opinion has not been authored on behalf of the majority- In situations where several opinions are authored, dealing with the same questions of law, to identify the propositions of law that are binding on subsequent benches, the greatest common measure of agreement by a majority of judges would be binding on future benches- In the absence of disagreement by a majority of judges (either express or implied), nothing precludes subsequent benches of this Court from relying on observations made in a concurring opinion (on behalf of the minority of judges) which are not discussed by the other judges at all. It is assumed in such cases, that all judges on the bench have read the opinions of one another, and did not deem it necessary to either state their express disagreement with the opinion or lay down a different understanding of the proposition of law (implied disagreement). (Para 98-102)

Doctrine of stare decisis -The doctrine of stare decisis is not an inflexible rule of law. This Court may review its earlier decisions if it believes that there is an error, or the effect of the decision would harm the interests of the public or if “it is inconsistent with the legal philosophy of the Constitution”. In cases involving the interpretation of the Constitution, this Court would do so more readily than in other branches of law because not rectifying a manifest error would be harmful to the public interest and the polity. The period of time over which the case has held the field is not of primary consequence. (Para 107)

Precedent- Not every observation in a judgement of this Court is binding as precedent. Only the ratio decidendi or the propositions of law that were necessary to decide on the issues between the parties are binding. Observations by the judge, even determinative statements of law, which are not part of her reasoning on a question or issue before the court, are termed obiter dicta. Such observations do not bind the Court. More simply, a

case is only an authority for what it actually decides. (Para 111) -“Inversion test” formulated by Professor Eugene Wambaugh- The test mandates that to determine whether a particular proposition of law is part of the ratio decidendi of the case, the proposition is to be inverted. This means that either that proposition is hypothetically removed from the judgement or it is assumed that the proposition was decided in reverse. After such removal or reversal, if the decision of the Court on that issue before it would remain the same then the observations cannot be regarded as the ratio decidendi of the case- The mere presence of an observation in multiple opinions of the court, be it concurring or dissenting opinions, does not automatically indicate that they form part of the ratio decidendi. In order to determine whether the observations form part of the ratio decidendi, one must go back to the drawing board and determine whether the observations pertained to an issue which actually arose between the parties and were necessary to the determination by the court. In other words, even if a numerical majority of judges or opinions of the Court affirm an observation, it would not automatically constitute the ratio decidendi of the case. It must be independently established that the observation relates to an issue which was in dispute before the court. (Para 111-126)

Interpretation of Statute -No word in a statute may be construed as surplusage and be rendered ineffective. While construing a provision, full effect is to be given to the language used in the provision.¹⁴⁵ This principle is equally applicable to constitutional interpretation. (para 10)

Om Rathod vs Director General of Health Services 2024 INSC 836 - Rights of Persons with Disabilities Act - Reasonable Accommodation

Constitution of India -Articles 21, 19, 14 and 15 - Rights of Persons with Disabilities Act 2016 - Reasonable accommodation is a gateway right to avail all other fundamental, human and legal rights for persons with disabilities. Non-availability of reasonable accommodation amounts to discrimination and violates substantive equality of persons with disabilities; . The inclusion of persons with disability in the medical profession would enhance the quality of healthcare and meet the preambular virtue of fraternity and the guarantees in Articles 21, 19, 14 and 15 of the Constitution- (Para 60)- When reasonable accommodation is denied to a person with disability, it amounts to

discrimination and violates the fundamental rights of the aggrieved person and the preambular virtue of fraternity along with justice, liberty and equality. Persons with disability are not objects of pity or charity but an integral part of our society and nation. The advancement of rights for persons with disabilities is a national project along with eradication of all forms of discrimination. A component of this project is the inclusion of persons with disabilities in all pursuits of life. (Para 47)

Constitution of India - Preamble - Fraternity - The preamble, along with justice, liberty and equality, seeks to secure to all citizens - "FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation." The fundamental postulate of dignity which inheres in all people is intrinsic to the idea of fraternity and national integration. Fraternity, far from being mere collegiality among citizens, imagines a holistic sharing of goals and aspirations. It recognizes that to progress together we must join forces in our mutual advancement and emancipation. The framing of the preambular virtue of fraternity identifies the dignity of all individuals as a precondition. Dignity of the individual is assured when they are given equal opportunity and the freedom to contribute to the society - shoulder to shoulder with fellow citizens. (Para 42)

Rushi @ Ruchi Thapa vs Oriental Insurance Co. Ltd 2024 INSC 837

Motor Accident Compensation -Allowing appeal, Supreme Court noted: minimum wages payable to a skilled workman for quantifying the notional loss of earnings of the child. In this case, the High Court adopted the minimum wages payable to unskilled labour, i.e., ₹169 per day, but there is no justification for the same as the appellant was a school-going child at the time of her accident. The minimum wages payable to a skilled workman, as per the Notification dated 01.03.2013 of the Government of Assam, stood at ₹175 per day, which is more acceptable- Compensation enhanced.

Karakkattu Muhammed Basheer vs State Of Kerala 2024 INSC 838 - Criminal Trial - Circumstantial Evidence

Criminal Trial - Circumstantial Evidence- The chain of events needs to be so established that the court has no option but to come to one and only one conclusion i.e. the

guilt of the accused person. If an iota of doubt creeps in at any stage in the sequence of events, the benefit thereof should flow to the accused. Mere suspicion alone, irrespective of the fact that it is very strong, cannot be a substitute for a proof. The chain of circumstances must be so complete that they lead to only one conclusion that is the guilt of the accused. Even in the case of a conviction where in an appeal the chain of evidence is found to be not complete or the courts could reach to any another hypothesis other than the guilt of the accused, the accused person must be given the benefit of doubt which obviously would lead to his acquittal. Meaning thereby, when there is a missing link, a finding of guilt cannot be recorded. In other words, the onus on the prosecution is to produce such evidence which conclusively establishes the truth and the only truth with regard to guilt of an accused for the charges framed against him or her, and such evidence should establish a chain of events so complete as to not leave any reasonable ground for the conclusion consistent with the innocence of accused. (Para 11)

Indian Penal Code 1860 - Section 302 - Appeal against concurrent murder conviction allowed - Accused acquitted.

Noida Special Economic Zone Authority vs Manish Agarwal 2024 INSC 839 - IBC

Insolvency and Bankruptcy Code 2016 - Sections 30,31- All the dues, including statutory dues owned by the Central Government, State Government and local authority, which is not the part of the Resolution Plan shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority had approved the Resolution Plan could be pressed into service or continues. (Para 15)

Bajaj Alliance General Insurance Co. Ltd. vs Rambha Devi 2024 INSC 840 - Motor Vehicle Act- LMV Licence

Motor Vehicle Act 1988-Section 10(2) -(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a ‘Transport Vehicle’ without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the ‘Transport Vehicle’

class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e rickshaws, and vehicles carrying hazardous goods. (II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a ‘Transport Vehicle,’ does not supersede the definition of LMV provided in Section 2(21) of the MV Act. (III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving ‘transport vehicles’ would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. ‘medium goods vehicle’, ‘medium passenger vehicle’, ‘heavy goods vehicle’ and ‘heavy passenger vehicle’.

Legal Maxims & Doctrines -Per Incuriam - The term per incuriam is a Latin term which means ‘by inadvertence’ or ‘lack of care’. English Courts have developed this principle in relaxation of the rule of stare decisis. (Para 98)- When dealing with the ignorance of a statutory provision, we may bear in mind the following principles. These may not however be exhaustive: (i) A decision is per incuriam only when the overlooked statutory provision or legal precedent is central to the legal issue in question and might have led to a different outcome if those overlooked provisions were considered. It must be an inconsistent provision and a glaring case of obtrusive omission. (ii) The doctrine of per incuriam applies strictly to the ratio decidendi and does not apply to obiter dicta. (iii) If a court doubts the correctness of a precedent, the appropriate step is to either follow the decision or refer it to a larger Bench for reconsideration. (iv) It has to be shown that some part of the decision was based on a reasoning which was demonstrably wrong, for applying the principle of per incuriam. In exceptional instances, where by obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of per incuriam may apply. (Para 111)

Interpretation of Statutes -It is a fundamental principle of statutory interpretation that ‘construction is to be made of all the parts together and not of one part only by itself’ 14. When attempting to discern the meaning of a certain provision in a statute, it is essential to consider that provision within the broader context of the entire legislative framework. The

context encompasses several other critical dimensions. First, it involves reading the statute as a whole- Second, it is also crucial to take into account any previous statutes that are in pari materia. Third, a comprehensive understanding of the general scope and purpose of the statute is essential. Finally, a critical aspect of interpreting any statutory provision also involves identifying the mischief that the legislation intended to address ¹⁵. Therefore, a nuanced and thorough interpretation would lend clarity and consistency in the application of legal principles (Para 17) -One provision must give way to the other only when reconciliation is not possible. However, when it is possible to harmonize the two, the Court need not determine which is the leading provision. (Para 73) - A statute should be interpreted in a manner that avoids leading to unworkable or impractical outcomes. If a statutory interpretation results in confusion, impracticability or creates a burden that the legislature could not have intended, such an interpretation should be avoided. (Para 77)

Motor Accident Compensation Claims - compensation must not be denied for minor technical breaches of the licensing conditions. (Para 76)

Devendra Kumar vs State Of Chhattisgarh 2024 INSC 841 - Murder Conviction Altered

Indian Penal Code 1860 - Section 302, 304: Partly allowing appeal filed by accused convicted for murder, SC observed: The possibility of offence being committed by the appellants without premeditation in a sudden fight in a heat of passion upon a sudden quarrel cannot be ruled out. From the nature of the injuries sustained by the deceased, it cannot be said that the appellants have taken undue advantage or acted in a cruel or unusual manner- Appellants would be entitled to benefit of doubt and the conviction under Section 302 IPC needs to be altered to the one under Part I of Section 304 IPC.

Union of India vs Wing Commander M.S. Mander 2024 INSC 842 - AFT - Criminal Appeal Against Acquittal

Indian Penal Code 1860 - Section 304,149 -Armed Forces Tribunal set aside

conviction of the accused officers of the Air Force- Dismissing appeal filed by UoI, SC observed: An order of acquittal further enhances the presumption of innocence.- An order of acquittal cannot be interfered with only on the ground that another view can be taken based on the evidence on record. (Para 11)

Directorate of Enforcement vs Bibhu Prasad Acharya 2024 INSC 843 - Ss. 44,65,71 PMLA - S. 197 CrPC -Sanction

Prevention of Money Laundering Act 2002 - Section 44, 65, 71- Code Of Criminal Procedure 1973- Section 197 - The provisions of Section 197(1) of CrPC are applicable to a complaint under Section 44(1)(b) of the PMLA. - Section 71 cannot be invoked to say that the provision of Section 197(1) of CrPC will not apply to the PMLA- When a particular provision of CrPC applies to proceedings under the PMLA by virtue of Section 65 of the PMLA, Section 71 (1) cannot override the provision of CrPC which applies to the PMLA. A provision of Cr. P.C., made applicable to the PMLA by Section 65, will not be overridden by Section 71. (Para 17-18)

Code Of Criminal Procedure 1973- Section 197 -The object is to protect the public servants from prosecutions. It ensures that the public servants are not prosecuted for anything they do in the discharge of their duties. This provision is for the protection of honest and sincere officers. However, the protection is not unqualified. They can be prosecuted with a previous sanction from the appropriate government- 1. There are two conditions for applicability of Section 197(1). The first condition is that the accused must be a public servant removable from his office by or with the government's sanction. The second condition is that the offence alleged to have been committed by the public servant while acting or purporting to act in the discharge of his duty. (Para 6-11)

Interpretation of Statutes - No law can be interpreted in a manner which will render any of its provisions redundant. (Para 18)

Manik Panjabrao Kalmegh vs Executive Engineer Bembala Project Division Yavatmal 2024 INSC 844 - Land Acquisition Act -Cumulative Increase

Land Acquisition Act 1894 - The grant of cumulative increase in the market value of the land is not an absolute rule and that it is optional and may be granted in a given case only.

**Ramakrishna Medical College Hospital vs State Of Madhya Pradesh 2024
INSC 845 - Restitution - Interim Orders - Medical College Admission**

Principle of restitution - If on account of an act of a party persuading the court to pass an order, which at the end has been held not sustainable and if in the process one party has gained an advantage which it would not have otherwise earned or the other party had suffered an impoverishment, restitution can be made. This principle is not excluded from its application to interim orders- Court should be mindful to neutralize the effect of wrong interim orders which they have been persuaded to pass- the maxim *actus curiae neminem gravabit* will apply in such a scenario, and orders of restitution can be passed directing the party which obtained the advantage to compensate the party which suffered the disadvantage. (Para 27-29)

Medical College Admission -A medical seat has life only in the year it falls due and that too only till the cut-off date fixed. Even here, there are stringent regulations of the National Medical Commission providing that admission can only be made by the medical colleges within the sanctioned capacity for which permission/recognition has been granted. A seat falling vacant in a particular year cannot be carried forward or created in the succeeding year- In rare and exceptional circumstances, courts can direct increase in seats for the same academic year not exceeding one or two seats, if it finds that for no fault attributable to the candidate and for the fault on the part of the authorities, the candidate has suffered. This Court has also held that if in the same year, the candidate cannot be accommodated, the Court can mould the relief and direct the admission to be granted in the next academic year.

Ramji Lal Bairwa vs State Of Rajasthan 2024 INSC 846 - S 482 CrPC -Article 136 Constitution- SLP By 3rd Party

Code of Criminal Procedure 1973 - Section 482- Power under Section 482, Cr. P.C. could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society - In cases of this nature, the fact that in view of compromise entered into between the parties, the chance of a conviction is remote and bleak also cannot be a ground to abruptly terminate the investigation, by quashing FIR and all further proceedings pursuant thereto, by invoking the power under Section 482, Cr. P.C. (Para 32-33)

Constitution of India - Article 136 - Right to a third party to prefer a petition under Article 136 of the Constitution is certainly to be recognised and respected in a case where seemingly miscarriage of justice had occurred and still, neither State nor the victim or any relative falling under the term 'victim' approached this Court. (Para 20)

Tej Prakash Pathak vs Rajasthan High Court 2024 INSC 847 - Public Employment Recruitment Process

Public Employment Recruitment- Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies; (2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness- Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/ nonarbitrary and has a rational nexus to the object sought to be achieved. (5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps; (6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.

Constitution of India - Article 14 and 16- Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles alike to all similarly situate and not to be guided by any extraneous or irrelevant considerations. ¹⁴ In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action which Article 14 of the Constitution adopts. A deprivation of the entitlement of private citizens and private business must be proportional to a requirement grounded in public interest.

Doctrine of legitimate expectation- the doctrine of legitimate expectation does not impede or hinder the power of the public authorities to lay down a policy or withdraw it. The public authority has the discretion to exercise the full range of choices available within its executive power. The public authority often has to take into consideration diverse factors, concerns, and interests before arriving at a particular policy decision. The courts are generally cautious in interfering with a bona fide decision of public authorities which denies legitimate expectation provided such a decision is taken in the larger public interest. Thus, public interest serves as a limitation on the application of the doctrine of legitimate expectation. Courts have to determine whether the public interest is compelling and sufficient to outweigh the legitimate expectation of the claimant. While performing a balancing exercise, courts have to often grapple with the issues of burden and standard of proof required to dislodge the claim of legitimate expectation. (Para 16)

Kirloskar Ferrous Industries Limited vs Union Of India 2024 INSC 848 - MCR - MCDR -Royalty Computation

Mineral (Other than Atomic and Hydrocarbons Energy Minerals) Concession Rules, 2016 (MCR)- Explanation to Rule 38 ; Mineral Conservation and Development Rules, 2017 (MCDR) - Explanation to Rule 45(8)(a) - Validity of stipulation that computation of royalty to be levied for the extraction or consumption of mined ores- SC Held: Explanation(s) are merely clarificatory in nature inasmuch as it explains the ambiguities in the main provisions of Rule 38 of the MCR, 2016 and Rule 45

of the MCDR, 2017— While there is nothing to show that such policy is in excess of the powers or domain of the respondents herein or in breach of any statutory provision, at the same time, we should not ignore or overlook the fact that the legislature itself has acknowledged the anomaly in compounding of royalty etc. for the purpose of computation of average sale price- Within a period of 2-months from the date of pronouncement of this judgment, Respondents to conclude the public consultation process undertaken for amending the MMDR Act initiated pursuant to the Notice dated 25.05.2022 and take a final decisive call in regard to the cascading impact of royalty on royalty in the calculation of the ‘average sale price’ by virtue of the Explanation(s) to Rule 38 of the MCR, 2016 and Rule 45 of the MCDR, 2017.

Doctrine of judicial restraint- Courts should exercise caution and avoid involvement in policy decisions, as these are complex judgments that require a balancing of diverse and often competing interests. (Para 54)

Separation of Powers -In a constitutional democracy, each branch of government—executive, legislative, and judiciary — has a defined role and operates within its designated boundaries. This separation of powers ensures that one branch does not encroach upon the functions of the others, preserving a system of checks and balances crucial to democratic governance. (Para 52)

Interpretation of Statutes -an Explanation must be read so as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section. An explanation does not enlarge the scope of the original section that it is supposed to explain. It is axiomatic that an explanation only explains and does not expand or add to the scope of the original section. The purpose of an explanation is, however, not to limit the scope of the main provision. The construction of the explanation must depend upon its terms, and no theory of its purpose can be entertained unless it is to be inferred from the language used. An 'explanation' must be interpreted according to its own tenor. Sometimes an explanation is appended to stress upon a particular thing which ordinarily would not appear clearly from the provisions of the section. The proper function of an explanation is to make plain or elucidate what is enacted in the substantive provision

and not to add or subtract from it. Thus, an explanation does not either restrict or extend the enacting part; it does not enlarge or narrow down the scope of the original section that it is supposed to explain. The Explanation must be interpreted according to its own tenor; that it is meant to explain and not vice versa. Explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain or clarify certain ambiguities which may have crept in the statutory provision. (Para 65)

Aslam Ismail Khan Deshmukh vs ASAP Fluids Pvt. Ltd 2024 INSC 849 - S.11 Arbitration Act - Limitation

Arbitration and Conciliation Act 1996- Section 11(6) - While determining the issue of limitation in the exercise of powers under Section 11(6) of the Act, 1996, the referral court must only conduct a limited enquiry for the purpose of examining whether the Section 11(6) application has been filed within the limitation period of three years or not. At this stage, it would not be proper for the referral court to indulge in an intricate evidentiary enquiry into the question of whether the claims raised by the petitioner are time barred. Such a determination must be left to the decision of the arbitrator. After all, in a scenario where the referral court is able to discern the frivolity in the litigation on the basis of bare minimum pleadings, it would be incorrect to assume or doubt that the arbitral tribunal would not be able to arrive at the same inference, especially when they are equipped with the power to undertake an extensive examination of the pleadings and evidence adduced before them- the power of the referral court under Section 11 must essentially be seen in light of the fact that the parties do not have the right of appeal against any order passed by the referral court under Section 11, be it for either appointing or refusing to appoint an arbitrator. Therefore, if the referral court delves into the domain of the arbitral tribunal at the Section 11 stage and rejects the application of the claimant, we run a serious risk of leaving the claimant remediless for the adjudication of their claims. Moreover, the Courts are vested with the power of subsequent review in which the award passed by the arbitrator may be subjected to challenge by any party to the arbitration. Therefore, the Courts may take a second look at the adjudication done by the arbitral

tribunal at a later stage, if considered necessary and appropriate in the circumstances. (Para 39-40)

Arbitration and Conciliation Act 1996- Section 11 - At the stage of Section 11 application, the referral Courts need only to examine whether the arbitration agreement exists – nothing more, nothing less. This approach upholds the intention of the parties, at the time of entering into the agreement, to refer all disputes arising between themselves to arbitration. However, some parties might take undue advantage of such a limited scope of judicial interference of the referral courts and force other parties to the agreement into participating in a timeconsuming and costly arbitration process. This is especially possible in instances, including but not limited to, where the claimant canvasses either ex facie time-barred claims or claims which have been discharged through "accord and satisfaction", or cases where the impleadment of a non-signatory to the arbitration agreement is sought etc. In order to balance such a limited scope of judicial interference with the interests of the parties who might be constrained to participate in the arbitration proceedings, the arbitral tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. (Para 44)

Arif Azim Co. Ltd vs Micromax Informatics FZE 2024 INSC 850 - Arbitration - Seat & Venue Controversy

Arbitration & Conciliation Act 1996 - (i) Part I of the Act, 1996 and the provisions thereunder only applies where the arbitration takes place in India i.e., where either (I) the seat of arbitration is in India OR (II) the law governing the arbitration agreement are the laws of India. (ii) Arbitration agreements executed after 06.09.2012 where the seat of arbitration is outside India, Part I of the Act, 1996 and the provisions thereunder will not be applicable and would fall beyond the jurisdiction of Indian courts- (iii) Even those arbitration agreements that have been executed prior to 06.09.2012 Part I of the Act, 1996 will not be applicable, if its application has been excluded by the parties in the arbitration agreement either explicitly by designating the seat of arbitration outside India or implicitly by choosing the law governing the agreement to be any other law other than Indian law. (iv) The moment 'seat' is determined, it would be akin to an exclusive jurisdiction clause

whereby only the jurisdictional courts of that seat alone will have the jurisdiction to regulate the arbitral proceedings. The notional doctrine of concurrent jurisdiction has been expressly rejected and overruled by this Court in its subsequent decisions. (v) The ‘Closest Connection Test’ for determining the seat of arbitration by identifying the law with which the agreement to arbitrate has its closest and most real connection is no longer a viable criterion for determination of the seat or situs of arbitration in view of the Shashoua Principle. The seat of arbitration cannot be determined by formulaic and unpredictable application of choice of law rules based on abstract connecting factors to the underlying contract. Even if the law governing the contract has been expressly stipulated, it does not mean that the law governing the arbitration agreement and by extension the seat of arbitration will be the same as the *lex contractus*. (vi) The more appropriate criterion for determining the seat of arbitration is that where in an arbitration agreement there is an express designation of a place of arbitration anchoring the arbitral proceedings to such place, and there being no other significant contrary indicia to show otherwise, such place would be the ‘seat’ of arbitration even if it is designated in the nomenclature of ‘venue’ in the arbitration agreement. (vii) Where the curial law of a particular place or supranational body of rules has been stipulated in an arbitration agreement or clause, such stipulation is a positive indicium that the place so designated is actually the ‘seat’, as more often than not the law governing the arbitration agreement and by extension the seat of the arbitration tends to coincide with the curial law. (viii) Merely because the parties have stipulated a venue without any express choice of a seat, the courts cannot sideline the specific choices made by the parties in the arbitration agreement by imputing these stipulations as inadvertence at the behest of the parties as regards the seat of arbitration. Deference has to be shown to each and every choice and stipulations made by the parties, afterall the courts are only a conduit or means to arbitration, and the sum and substance of the arbitration is derived from the choices of the parties and their intentions contained in the arbitration agreement. It is the duty of the court to give weight and due consideration to each choice made by the parties and to construe the arbitration agreement in a manner that aligns the most with such stipulations and intentions. (ix) We do not for a moment say that, the Closest Connection Test has no application whatsoever, where there is no express or implied designation of a place of arbitration in the agreement either in the form of ‘venue’ or ‘curial law’, there the closest connection test may be more suitable for determining the

seat of arbitration (x) Where two or more possible places that have been designated in the arbitration agreement either expressly or impliedly, equally appear to be the seat of arbitration, then in such cases the conflict may be resolved through recourse to the Doctrine of Forum Non Conveniens, and the seat be then determined based on which one of the possible places may be the most appropriate forum keeping in mind the nature of the agreement, the dispute at hand, the parties themselves and their intentions. The place most suited for the interests of all the parties and the ends of justice may be determined as the 'seat' of arbitration. (Para 71)

HPCL Bio -Fuels Ltd. vs Shahaji Bhanudas Bhad 2024 INSC 851 - Section 11 Arbitration Act - Order 23 Rule 1 CPC - Section 5, 14 Limitation Act

Arbitration & Conciliation Act 1996- Section 11 ; Code Of Civil Procedure 1908 - Order 23 Rule 1- An application under Section 11(6) of the Act, 1996 is not a suit and hence will not be governed stricto-sensu by Order 23 Rule 1 of the CPC. However, the principles underlying Order 23 Rule 1 can be extended to applications for appointment of arbitrator - While applying the principles of Order 23 Rule 1 to applications under Section 11(6) of the Act, 1996 is that it will act as a bar to only those applications which are filed subsequent to the withdrawal of a previous Section 11(6) application filed on the basis of the same cause of action. The extension of the aforesaid principle cannot be construed to mean that it bars invocation of the same arbitration clause on more than one occasion. It is possible that certain claims or disputes may arise between the parties after a tribunal has already been appointed in furtherance of an application under Section 11(6). In such a scenario, a party cannot be precluded from invoking the arbitration clause only on the ground that it had previously invoked the same arbitration clause. If the cause of action for invoking subsequent arbitration has arisen after the invocation of the first arbitration, then the application for appointment of arbitrator cannot be rejected on the ground of multiplicity alone.

Arbitration & Conciliation Act 1996- Section 11 - A petition under Section 11(6) of the Act, 1996 is not a proceeding merely seeking the appointment of an arbitrator. It is in reality a proceeding for appointing an arbitrator and for commencing the actual or real arbitration proceedings. (Para 65)

Code Of Civil Procedure 1908 - Order 23 Rule 1 -Distinction between “abandonment” of a suit and “withdrawal” from a suit with permission Page 27 of 79 to file a fresh suit and provides for – first, abandonment of suit or a part of claim; and secondly, withdrawal from suit or part of claim with the leave of the court. Abandonment of suit or a part of claim against all or any of the defendants is an absolute and unqualified right of a plaintiff and the court has no power to preclude the plaintiff from abandoning the suit or direct him to proceed with it. Sub-rule (1) of Order 23 Rule 1 embodies this principle. However, if the plaintiff abandons the suit or part of claim, then he is precluded from instituting a fresh suit in respect of such subject-matter or such part of claim. Upon abandoning the suit or part of claim, the plaintiff also becomes liable to pay such costs as may be imposed by the Court. This is specified under sub-rule (4) of Order 23 Rule 1. 40. However, if the plaintiff desires to withdraw from a suit or part of a claim with liberty to file a fresh suit on the same subject matter or part of the claim, then he must obtain the permission of the court under sub-rule (3) of Order 23 Rule 1. The failure to obtain such permission would preclude the plaintiff from instituting any fresh suit in respect of such subject-matter or such part of the claim, and also to any costs that may be imposed by the court.

Arbitration & Conciliation Act 1996- Section 11 ; Limitation Act 1963 - Section 14- As a petition under Section 11(6) of the Act, 1996 is not a suit, hence it would not be governed by sub-section (1) of Section 14 of the Limitation Act. Instead, it would be governed by sub-section (2) of Section 14 of the Limitation Act. Some of the conditions required to be fulfilled for seeking the benefit of exclusion under Section 14(2) are materially different from those required under Section 14(1) and are as follows: i. Both the earlier and the subsequent proceeding must be civil proceedings; ii. Both the earlier and subsequent proceedings must be between the same parties; iii. The earlier and subsequent proceeding must be for the same relief; iv. The earlier proceeding must have failed owing to a defect of jurisdiction of the earlier court or any other cause of a like nature; v. The earlier proceedings must have been prosecuted in good faith and with due-diligence; and vi. Both the earlier and the subsequent proceedings are before a court.

Limitation Act 1963 - Section 14- difference between sub-sections (1) and (2) of Section 14 respectively is two-fold: i. First, the benefit of Section 14(1) can be availed of where the subsequent proceeding is a suit, whereas the benefit of Section 14(2) can be availed of where the subsequent proceeding is an application. ii. Secondly, Section 14(1) applies if both the earlier and the subsequent proceedings have the same matter in issue, whereas Section 14(2) applies when both the earlier and the subsequent proceedings are filed for seeking the same relief - the scope of the expression "same matter in issue" appearing in Section 14(1) is much wider than that of the expression "for the same relief" appearing in Section 14(2) of the Limitation Act. This is evident on account of the difference between the nature of a suit vis-à-vis an application. In a suit, a party generally seeks relief in the nature of the cause of action which is established on the basis of oral and documentary evidence and arguments. Whereas, an application is made under a particular provision of a statute and if it appears to the court that such provision of the statute is not applicable, then the application as a whole cannot be sustained. Thus, an application is made for a specific purpose as provided by the statutory provision under which it is made unlike a suit which is instituted based on a cause of action and is for seeking remedies falling in a wider conspectus. (Para 84-85)

Limitation Act 1963 - Section 14- The expression "other cause of a like nature" appearing in Section 14 should be given a wide interpretation. However, while considering the applicability of Section 14 of the Limitation Act, one must not lose sight of the fact that the applicability of the provision is contingent upon not just the reason for the failure of the earlier proceedings, but is also dependent on several other factors as explained in the preceding paragraphs. It is only when all the ingredients required for the applicability of Section 14 are fulfilled that the benefit would become available. (Para 89)

Limitation Act 1963 - Section 5- The necessary pre-condition for availing the remedy under Section 5 of the Limitation Act is that the applicant must satisfy the court that there was a sufficient cause which prevented him from instituting the application within the prescribed time period. Although it is a general practice that a formal application under Section 5 of the Limitation Act has to be filed by the applicant, yet no such requirement can be gathered from a bare reading of the statute. Thus, even in the absence of a formal

application, a court or tribunal may consider exercising its discretion under Section 5 of the Limitation Act subject to the applicant assigning sufficient cause for condoning the delay.

Limitation Act 1963 - Section 5 ; Arbitration & Conciliation Act 1996- Section 11 - Benefit under Section 5 of the Limitation Act is available in respect of the applications filed for appointment of arbitrator under Section 11(6) of the Act, 1996. (Para 121)

Practice and Procedure - The liberty to avail remedies available in law does not confer a right to avail such remedies.

State Bank Of India vs Consortium of Murari Lal Jalan and Florian Fritsch 2024 INSC 852 - IBC - NCLT & NCLAT

Insolvency and Bankruptcy Code 2016 (IBC)- Existing insolvency framework does not provide any scope for effecting further modifications or withdrawals of the Resolution Plan approved by the CoC, at the behest of the successful resolution applicant, once the plan has been submitted to the adjudicating authority. The submitted Resolution Plan is binding and irrevocable as between the CoC and the successful resolution applicant in terms of the provisions of the IBC, 2016 and the 2016 Regulations as well. In other words, once a CoC-approved resolution plan is submitted to the Adjudicating Authority i.e., NCLT, it immediately becomes binding on the CoC and the SRA, even if the Adjudicating Authority has not yet given its stamp of approval on the same. (Para 116)

IBC- NCLT and NCLAT Rules 2016- Rule 15 - The timely implementation of the Resolution Plan is also one of the underlying objectives of the IBC, 2016. (Para 154) Rule 15 grants power to the NCLT and NCLAT respectively, to extend the time limits for doing any act which have been fixed, either by the rules or by an order, as the justice of the case may require. However, such power must not be exercised mechanically without any application of mind-The discretion in extending the time limits fixed under the Resolution Plan must be exercised in a much more circumspect manner, especially in cases such as the present, which pertains to the aviation sector, wherein timely resolution and revival of the Corporate Debtor is all the more crucial since the sector operates in such a way that a

continuous flow of cash is required to maintain the company in a position of status quo. (Para 154-158)

NCLT and NCLAT - Functioning criticized- Serious lack of timely admission and disposal of the applications filed as regards the initiation of CIRP-Members often lack the domain knowledge required to appreciate the nuanced complexities involved in high-stake insolvency matters-They don't have the practice of sitting for the full working-lacking in the capacity to manage the growing number of cases and giving undivided attention required in such matters.-No effective system in place before the NCLTs for urgent listings. The staff of the Registry is given wide power to list or not to list a particular matter-Growing tendency amongst Members of the NCLT(s) and NCLAT to ignore the orders of this Court or act in its defiance-Should not act as a mere rubberstamping authority and must take their roles seriously in ensuring time-bound hearings and resolutions. Proper and effective hearings both virtually and in-court must be given to insolvency.-Persons with high ideals & impeccable integrity should be appointed as Members in the NCLT as well as NCLAT. There should not be any political appointment. (Para 182-185)

IBC - Shortcomings and suggestions - The authorities including the NCLT and NCLAT must not aid the successful resolution applicants in circumventing the strict mandates of the law by acceding to their requests to relax the terms of the plan itself - Adjudicating Authority while approving a Resolution Plan under Section 31 of the IBC, 2016, should record the next steps which are to be taken by the respective parties for commencement of implementation of the approved Resolution Plan- IBC, 2016 to statutorily provide for the constitution of a Monitoring Committee once the plan has been approved for a smooth handover of the Corporate Debtor to the successful resolution applicant. Presently, such a provision is absent in the Code and it is the Adjudicating Authority that orders for the constitution of a Monitoring Committee to ensure smooth implementation of the Plan. The CoC must be empowered to constitute the Monitoring Committee which may, by default, include the Resolution Professional and also include other nominees from the CoC and the resolution applicant respectively. Such a Monitoring Committee would be entrusted with the powers of monitoring and supervising the resolution plan. (Para 161-181)

**GOQII Technologies Private Limited vs Sokrati Technologies Private Limited
2024 INSC 853 - S 11 Arbitration Act**

Arbitration and Conciliation Act 1996 - Section 11 -The scope of inquiry under Section 11 of the Act, 1996 is limited to ascertaining the prima facie existence of an arbitration agreement - Frivolity in litigation too is an aspect which the referral court should not decide at the stage of Section 11 as the arbitrator is equally, if not more, competent to adjudicate the same - Limited jurisdiction of the referral Courts under Section 11 must not be misused by parties in order to force other parties to the arbitration agreement to participate in a time-consuming and costly arbitration process. This is possible in instances, including but not limited to, where the claimant canvasses the adjudication of non-existent and mala fide claims through arbitration. With a view to balance the limited scope of judicial interference of the referral Courts with the interests of the parties who might be constrained to participate in the arbitration proceedings, the Arbitral Tribunal may direct that the costs of the arbitration shall be borne by the party which the Tribunal ultimately finds to have abused the process of law and caused unnecessary harassment to the other party to the arbitration. (Para 18-20)

Commissioner of Customs vs Canon India Pvt. Ltd. 2024 INSC 854 - Article 137 Constitution - Review - Customs Act

Customs Act 1962- Section 28(11)- Constitutional Validity upheld- Its application is not limited to the period between 08.04.2011 and 16.09.2011. (Para 155)

Finance Act 2022 - Section 97 - Constitutional Validity upheld. (Para 167)

Constitution of India - Article 137 ; Supreme Court Rules, 2013 -Part IV Order XLVII ; Code of Civil Procedure, 1908 - Order XLVII Rule 1(1) - When a court disposes of a case without due regard to a provision of law or when its attention was not invited to a provision of law, it may amount to an error analogous to one apparent on the face of record sufficient to bring the case within the purview of Order XLVII Rule 1 of the Code of Civil Procedure, 1908. In other words, if a court is oblivious to the relevant

statutory provisions, the judgment would in fact be per incuriam. In such circumstances, a judgment rendered in ignorance of the applicable law must be reviewed. (Para 67)

Constitution of India - Article 32,226 -The possibility of misuse or abuse of a law which is otherwise valid cannot be a ground for invalidating it. (Para 152)

Legislation - The legislature is empowered to enact validating legislations to validate earlier acts declared illegal and unconstitutional by courts by removing the defect or lacuna which led to the invalidation of the law. With the removal of the defect or lacuna resulting in the validation of any act held invalid by a competent court, the act may become valid, if the validating law is lawfully enacted. (Para 160)

Aruna Dhanyakumar Doshi vs State Of Telangana 2024 INSC 855 - S 482 CrPC - Quashing FIR

Code Of Criminal Procedure 1973 - Section 482- High Court quashed FIR against respondents for the offences punishable under Sections 342, 347, 504, 506, 116 and 384 IPC as well as under Sections 23 and 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007- Dismissing appeal, SC observed: appellant has not made any allegation against the 4th and 5th respondents ascribing them any specific role.

Aligarh Muslim University vs Naresh Agarwal 2024 INSC 856 - Minority Status - Article 30 Constitution

Constitution of India -Article 30(1) - Article 30(1) can be classified as both an anti-discrimination provision and a special rights provision. A legislation or an executive action which discriminates against religious or linguistic minorities in establishing or administering educational institutions is ultra vires Article 30(1). This is the anti-discrimination reading of the provision. Additionally, a linguistic or religious minority which has established an educational institution receives the guarantee of greater autonomy in administration. This is the ‘special rights’ reading of the provision-Religious or linguistic minorities must prove that they established the educational institution for the community to be a minority educational institution for the purposes of Article 30(1)-The right guaranteed by Article 30(1) is applicable to universities established before the

commencement of the Constitution-The right under Article 30(1) is guaranteed to minorities as defined upon the commencement of the Constitution. A different right-bearing group cannot be identified for institutions established before the adoption of the Constitution- The incorporation of the University would not ipso facto lead to surrendering of the minority character of the institution. The circumstances surrounding the conversion of a teaching college to a teaching university must be viewed to identify if the minority character of the institution was surrendered upon the conversion. The Court may on a holistic reading of the statutory provisions relating to the administrative set-up of the educational institution deduce if the minority character or the purpose of establishment was relinquished upon incorporation- **Factors which must be used to determine if a minority ‘established’ an educational institution:** i. The indicia of ideation, purpose and implementation must be satisfied. First, the idea for establishing an educational institution must have stemmed from a person or group belonging to the minority community; second, the educational institution must be established predominantly for the benefit of the minority community; and third, steps for the implementation of the idea must have been taken by the member(s) of the minority community; and ii. The administrative-set up of the educational institution must elucidate and affirm (I) the minority character of the educational institution; and (II) that it was established to protect and promote the interests of the minority community. (Para 160)

Precedents - a. Decisions of this Court rendered by a Bench of larger strength are binding on Benches of a less or equal strength; b. If a Bench of lower strength is doubtful about the correctness of a judgment delivered by a Bench of larger strength, it cannot disagree or dissent from the view taken by the larger Bench. In case of doubt, it can invite the attention of the Chief Justice of India to its opinion and request the Chief Justice to list the matter before a Bench, the strength of which is greater than that which delivered the judgment which has been doubted; c. The correctness of the view taken by any Bench can only be doubted by a Bench of equal strength. The matter will then be placed for hearing before a Bench of greater strength; d. There are two exceptions to the rules discussed above: i. The discretion of the Chief Justice is not bound by the rules. As the master of the roster, the Chief Justice may list any case before any Bench of any strength; ii. Despite the rules discussed above, if a particular case has come up for hearing before a Bench of larger

strength and that Bench is of the opinion that the judgment of the Bench of lower strength requires reconsideration or correction, or is otherwise doubtful of its correctness, it may dispense with the need for a reference in the terms described above or an order of the Chief Justice and hear the matter for reasons given by it. (Para 37-39)

Constitution of India - Article 26(d) and 30(1)- The rights differ in nature and scope. Article 26(d) guarantees the right to administer property in ‘accordance with law’. The provision does not confer any special right to administration as in the case of minority educational institutions. (Para 79)

Constitution of India - Article 13 and 372- Article 13(1) has a retroactive effect and not a retrospective effect - Article 372 read with Article 13(1) stipulates that laws which pre-date the Constitution are unconstitutional if they contravene the fundamental rights. The provisions do not stipulate that laws which pre-date the Constitution cannot receive the additional protection which the fundamental rights offer. (Para 84)

Words and Phrases - Words ‘incorporation’ and ‘establishment’ cannot be used interchangeably. They connote different meanings. ‘Incorporation’ signifies the legal existence of the institution. In contrast, ‘establishment’ signifies the founding or bringing into existence of the institution. (Para 94)

**Central Organisation for Railway Electrification vs ECI SPIC SMO MCML (JV)
2024 INSC 857 - Arbitration - Unilateral Clause**

Arbitration and Conciliation Act -The principle of equal treatment of parties applies at all stages of arbitration proceedings, including the stage of appointment of arbitrators-. The Arbitration Act does not prohibit PSUs from empanelling potential arbitrators. However, an arbitration clause cannot mandate the other party to select its arbitrator from the panel curated by PSUs- A clause that allows one party to unilaterally appoint a sole arbitrator gives rise to justifiable doubts as to the independence and impartiality of the arbitrator. Further, such a unilateral clause is exclusive and hinders equal participation of the other party in the appointment process of arbitrators; In the appointment of a three-member panel, mandating the other party to select its arbitrator from a curated panel of

potential arbitrators is against the principle of equal treatment of parties. In this situation, there is no effective counterbalance because parties do not participate equally in the process of appointing arbitrators. The process of appointing arbitrators in CORE (supra) is unequal and prejudiced in favour of the Railways- Unilateral appointment clauses in public-private contracts are violative of Article 14 of the Constitution- The principle of express waiver contained under the proviso to Section 12(5) also applies to situations where the parties seek to waive the allegation of bias against an arbitrator appointed unilaterally by one of the parties. After the disputes have arisen, the parties can determine whether there is a necessity to waive the nemo judex rule; and g. The law laid down in the present reference will apply prospectively to arbitrator appointments to be made after the date of this judgment. This direction applies to three-member tribunals.

Constitution of India - Article 142 -Doctrine of Prospective Overruling -A decision of this Court has retrospective effect unless expressly given a prospective effect. Commercial relations are structured on the basis of law. A change in law may have the effect of distorting established rights and commercial bargains between parties To avoid large-scale social and economic disruption, this Court can exercise its discretionary jurisdiction under Article 142 to give prospective effect to its decisions. The application of the doctrine of prospective overruling results in the application of the law declared by this Court to cases arising in future. (Para 166)

Arbitration and Conciliation Act - Section 11 - Principle of minimum judicial interference- At the Section 11 stage, a referral court only has to determine the existence of arbitration agreement. The validity of the arbitration clause providing for the procedure for appointment of arbitrators will require the referral court to enter into a detailed consideration of evidence and render a finding as to law and facts. This issue should be left to be decided by the arbitral tribunal in view of the doctrine of competence-competence. The arbitral tribunal is competent to rule on its jurisdiction, including the issue of validity of the arbitration clause for violating the equality principle under the Arbitration Act. (Para 165)

Rajive Raturi vs Union of India 2024 INSC 858 -Right of Persons with Disabilities Rules

Constitution of India - Article 21 -Right to dignity and the right to a meaningful life under Article 21 necessitate conditions that enable PWDs to enjoy the same freedoms and choices as others. Thus, the right to accessibility is foundational, enabling PWDs to exercise and benefit from other rights enshrined in Part III of the Constitution- **Rights of Persons with Disabilities Act 2016** - a. Accessibility is not a standalone right; it is a prerequisite for PWDs to exercise other rights meaningfully; and b. Accessibility requires a two-pronged approach. One focuses on ensuring accessibility in existing institutions/ activities often through retrofitting and the other focuses on transforming new infrastructure and future initiatives. (Para 27-43)

Right of Persons with Disabilities Rules, 2017 - Rule 15 -Several of the guidelines prescribed in Rule 15, appear to be recommendatory guidelines, under the garb of mandatory rules. Rule 15(1) is thus ultra vires the scheme and legislative intent of the RPWD Act which creates a mechanism for mandatory compliance. Creating a minimum floor of accessibility cannot be left to the altar of “progressive realization”. The Union Government is, accordingly, directed to delineate mandatory rules, as required by Section 40, within a period of three months from the date of this Judgment. This exercise may involve segregating the non-negotiable rules from the expansive guidelines already prescribed in Rule 15. The Union Government must conduct this exercise in consultation with all stakeholders, and NALSAR- CDS is directed to be involved in the process. It is clarified that progressive compliance with the standards listed in the existing Rule 15(1) and the progress towards the targets of the Accessible India Campaign must continue unabated. However, in addition, a baseline of non-negotiable rules must be prescribed in Rule 15-. Once these mandatory rules are prescribed, the Union of India, States and Union Territories are directed to ensure that the consequences prescribed in Sections 44, 45, 46 and 89 of the RPWD Act, including the holding back of completion certificates and imposition of fines are implemented in cases of non- compliance with Rule 15. (Para 75-78)

Crystal Transport Private Limited vs A Fathima Fareedunisa 2024 INSC 859 - Partnership Act

Partnership Act 1932 -Section 37 -If a partner is carrying on business with the assets of the firm, till a final settlement is made, the outgoing partner, would have the right to seek for accounts and a share in the profits which might be derived from his share in the assets of the firm. (Para 21)

Lifeforce Cryobank Sciences Inc vs Cyroviva Biotech Pvt. Ltd 2024 INSC 860 - S 11(6) Arbitration Act

Arbitration and Conciliation Act 1996 - Section 11(6) - At the stage of consideration of a prayer under Section 11(6) of the 1996 Act the Court has to confine itself to the examination of the existence of an arbitration agreement (vide sub-section (6-A) of Section 11)- It would not be appropriate to delve deep into the issue as it could well be considered by the arbitrator on the basis of evidence led by the parties.

Siddamsetty Infra Projects Pvt. Ltd. vs Katta Sujatha Reddy 2024 INSC 861 - SC Rules - Review - S 52 TP Act - Lis Pendens - Contract Law - Specific Performance

Transfer of Property Act 1882 - Section 52 -The following conditions ought to be fulfilled for the doctrine of lis pendens to apply: a. There must be a pending suit or proceeding; b. The suit or proceeding must be pending in a competent court; c. The suit or proceeding must not be collusive⁹ ; d. The right to immovable property must be directly and specifically in question in the suit or proceeding; e. The property must be transferred by a party to the litigation; and f. The alienation must affect the rights of any other party to the dispute the doctrine of lis pendens that Section 52 of the Transfer of Property Act encapsulates, bars the transfer of a suit property during the pendency of litigation. The only exception to the principle is when it is transferred under the authority of the court and on terms imposed by it. Where one of the parties to the suit transfers the suit property (or a part of it) to a third-party, the latter is bound by the result of the proceedings even if he did not have notice of the suit or proceeding- The doctrine of lis pendens kicks in at the stage of “institution” and not at the stage when notice is issued by this Court. (Para 46-49)

Supreme Court Rules 2013 - Order XLVII - Code of Civil Procedure 1908 -

Order XLVII Rule 1- Principles on the exercise of review jurisdiction : a. Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC; b. Error on the face of record must be an error which must strike one on a mere perusal and must not on a long drawn process; c. The power of review must not be exercised on the ground that the decision was erroneous on merits; d. The phrase “any other sufficient reason” means a reason that is analogous to the grounds specified in Order 47 Rule 1 CPC; and e. The mere possibility of two views on the subject cannot be a ground for review. (para 18-19)

Justice Shailendra Singh vs Union of India 2024 INSC 862 - HC Judges - Conditions of Service - Retiral Dues

Constitution of India 1950 - Article 221 - (i) The High Courts are constitutional institutions and upon appointment as judges of the High Court, all judges, irrespective of the source from which they are drawn, partake the character of holders of constitutional offices in equal measure; (ii) Neither Article 221(1) of the Constitution which empowers Parliament to determine the salaries of the Judges of the High Court nor Article 221(2) which empowers Parliament to determine the allowances and rights in respect of the leave of absence and pension permits discrimination between judges of the High Court based on the source from which they are drawn; (iii) Article 217 of the Constitution specifies distinct sources of recruitment for judges of the High Court from the district judiciary or, as the case may be, the Bar. But once appointed to the High Court, all judges form one homogenous class of constitutional office holders iv) Judicial independence is a part of the basic structure of the Constitution and there is an intrinsic relationship between financial independence of judges and judicial independence; (v) The significance of provisions pertaining to the guarantee of service conditions, while in service and post retiral benefits for judges is evidenced by the fact that the salaries and allowances of sitting judges and the pensions of retired judges are in the nature of a charge on the Consolidated Fund of the State and the Consolidated Fund of India respectively; (vi) Any determination of the service benefits of sitting judges of the High Court and the retiral benefits which are payable to them including pension, must take place on the basis of the fundamental

principle of non-discrimination between judges of the High Court who constitute one homogenous group; and (vii) All judges of the High Court, irrespective of the source from which they are drawn, are entrusted with the same constitutional function of discharging duties of adjudication under the law. Once appointed as judges of the High Court, their birthmarks stand obliterated and any attempt to make distinction between judges, either for the purpose of determining their conditions of service while in service or any form of retiral dues would be unconstitutional. (Para 34)

In Re Manoj Tibrewal Akash - Road Widening Projects 2024 INSC 863-Demolition - Bulldozer Justice

Bulldozer Justice- Justice through bulldozers is unknown to any civilized system of jurisprudence. There is a grave danger that if high handed and unlawful behaviour is permitted by any wing or officer of the state, demolition of citizens' properties will take place as a selective reprisal for extraneous reasons. Citizens' voices cannot be throttled by a threat of destroying their properties and homesteads. The ultimate security which a human being possesses is to the homestead. The law does not undoubtedly condone unlawful occupation of public property and encroachments. There are municipal laws and town-planning legislation which contain adequate provisions for dealing with illegal encroachments. Where such legislation exists the safeguards which are provided in it must be observed- The state must follow due process of law before taking action to remove illegal encroachments or unlawfully constructed structures. Bulldozer justice is simply unacceptable under the rule of law. If it were to be permitted the constitutional recognition of the right to property under Article 300A would be reduced to a dead letter. Officials of the state who carry out or sanction such unlawful action must be proceeded against for. (Para 29)

Road widening Project - Before acting in pursuance of a road widening project, the State or its instrumentalities must : (i) Ascertain the existing width of the road in terms of official records/maps; (ii) Carry out a survey/demarcation to ascertain whether there is any encroachment on the existing road with reference to the existing records/maps; (iii) If an encroachment is found, issue a proper, written notice to the encroachers to remove the encroachment; (iv) In the event that the noticee raises an objection with regard to the

correctness or the validity of the notice, decide the objection by a speaking order in due compliance with the principles of natural justice; (v) If the objection is rejected, furnish reasonable notice to the person against whom adverse action is proposed and upon the failure of the person concerned to act, proceed in accordance with law, to remove the encroachment unless restrained by an order of the competent authority or court; and (vi) If the existing width of road including the State land adjoining the road is not sufficient to accommodate the widening of the road, steps must be taken by the State to acquire the land in accordance with law before undertaking the road widening exercise. (Para 30)

Sonu Choudary vs State Of NCT Of Delhi 2024 INSC 864 - Ss 442,452 IPC - House Trespass

Indian Penal Code 1860 - Section 452,442 - In order to convict a person for the offence under Section 452, it has to be proved beyond reasonable doubt that the accused had committed a house trespass within the meaning of Section 442, on he having made preparation for causing hurt to any person, or putting him under fear etc. The "house trespass" being an essential ingredient for convicting a person under Section 452, it has to be proved by the prosecution that the accused committed the house trespass and criminal trespass by entering into or unlawfully remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, as contemplated in Section 442 IPC - In this case, the incident had taken place in a restaurant- Therefore it cannot be said to be either a place used for human dwelling or for worship or for the custody of the property. (Para 9-10)

Shyam Kumar Inani vs Vinod Agrawal 2024 INSC 865 - Limitation Act - Sale Agreement

Limitation Act 1963 - Article 54- Second part of Article 54 of the Schedule to the Limitation Act would be applicable once there was no date fixed for performance in the Agreement to Sell. (Para 5)

Transfer of Property Act 1882- Section 52 - Sale deeds executed during the pendency of the suit - While such transfers are not void ab initio, they are subject to the doctrine of

lis pendens and cannot prejudice the plaintiffs' rights under the prior Agreement to Sell. The transferees acquire the property subject to the outcome of the pending litigation and cannot defeat the plaintiffs' claim for specific performance. (Para 34.7)

Possession - A purchaser who has paid the full consideration and received the original title deeds from the seller would have taken possession under normal circumstances. Any possession taken by any other party thereafter would be unauthorised and illegal. (Para 32)

Sale agreement - The absence of explicit boundary details does not render the sale agreement vague or unenforceable, when the property can be clearly identified from the information provided. (Para 34.6)

In Re: Directions In The Matter Of Demolition Of Structures 2024 INSC 866

Demolition of Structures - Directions issued: A. NOTICE i. No demolition should be carried out without a prior show cause notice returnable either in accordance with the time provided by the local municipal laws or within 15 days' time from the date of service of such notice, whichever is later. ii. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question. iii. The time of 15 days, stated herein above, shall start from the date of receipt of the said notice. iv. To prevent any allegation of backdating, we direct that as soon as the show cause notice is duly served, intimation thereof shall be sent to the office of Collector/District Magistrate of the district digitally by email and an auto generated reply acknowledging receipt of the mail should also be issued from the office of the Collector/District Magistrate. The Collector/DM shall designate a nodal officer and also assign an email address and communicate the same to all the municipal and other authorities in charge of building regulations and demolition within one month from today. v. The notice shall contain the details regarding: a. the nature of the unauthorized construction. b. the details of the specific violation and the grounds of demolition. c. a list of documents that the notice is required to furnish along with his reply. d. The notice should also specify the date on which the personal hearing is fixed and the designated authority before whom the hearing will take place; vi. Every municipal/local

authority shall assign a designated digital portal, within 3 months from today wherein details regarding service/pasting of the notice, the reply, the show cause notice and the order passed thereon would be available B. PERSONAL HEARING i. The designated authority shall give an opportunity of personal hearing to the person concerned. ii. The minutes of such a hearing shall also be recorded. C. FINAL ORDER i. Upon hearing, the designated authority shall pass a final order. ii. The final order shall contain: a. the contentions of the notice, and if the designated authority disagrees with the same, the reasons thereof; b. as to whether the unauthorized construction is compoundable, if it is not so, the reasons therefore; c. if the designated authority finds that only part of the construction is unauthorized/non compoundable, then the details thereof. d. as to why the extreme step of demolition is the only option available and other options like compounding and demolishing only part of the property are not available. D. AN OPPORTUNITY OF APPELLATE AND JUDICIAL SCRUTINY OF THE FINAL ORDER. i. We further direct that if the statute provides for an appellate opportunity and time for filing the same, or even if it does not so, the order will not be implemented for a period of 15 days from the date of receipt thereof. The order shall also be displayed on the digital portal as stated above. ii. An opportunity should be given to the owner/occupier to remove the unauthorized construction or demolish 92 the same within a period of 15 days. Only after the period of 15 days from the date of receipt of the notice has expired and the owner/ occupier has not removed/demolished the unauthorized construction, and if the same is not stayed by any appellate authority or a court, the concerned authority shall take steps to demolish the same. It is only such construction which is found to be unauthorized and not compoundable shall be demolished. iii. Before demolition, a detailed inspection report shall be prepared by the concerned authority signed by two Panchas. E. PROCEEDINGS OF DEMOLITION i. The proceedings of demolition shall be video-graphed, and the concerned authority shall prepare a demolition report giving the list of police officials and civil personnel that participated in the demolition process. Video recording to be duly preserved. ii. The said demolition report should be forwarded to the Municipal Commissioner by email and shall also be displayed on the digital portal- The authorities hereinafter shall strictly comply with the aforesaid directions issued by us. It will also be informed that violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution. . The officials should also be informed that if

the demolition is found to be in violation of the orders of this Court, the officer/officers concerned will be held responsible for restitution of the demolished property at his/their personal cost in addition to payment of damages- These directions will not be applicable if there is an unauthorized structure in any public place such as road, street, footpath, abutting railway line or any river body or water bodies and also to cases where there is an order for demolition made by a Court of law.(Para 92-94)

Constitution of India - Article 21 -The right to shelter is one of the facets of Article 21. Depriving innocent people of their right to life by removing shelter from their heads, in our considered view, would be wholly unconstitutional- If the persons are to be dishoused, then for taking such steps the concerned authorities must satisfy themselves that such an extreme step of demolition is only available and other options including compounding and demolition of only part of the house property are not available. (Para 76-86)

Constitution of India - Article 21 -Even the incarcerated individuals, whether accused, undertrial, or convicts, have certain rights, as any other citizen. They have a right to dignity and cannot be subjected to any cruel or inhuman treatment. The punishment awarded to such persons has to be in accordance with law. Such punishment cannot be inhuman or cruel -The State and its officials cannot take arbitrary and excessive measures against the accused or for that matter even against the convicts without following the due process as sanctioned by law - When the right of an accused or a convict is violated on account of illegal or arbitrary exercise of power by the State or its officials or on account of their negligence, inaction, or arbitrary action, there has to be an institutional accountability. One of the measures for redressing the grievance for violation of a right would be to grant compensation. At the same time, if any of the officers of the State has abused his powers or acted in a totally arbitrary or mala fide manner, he cannot be spared for such an illegal, arbitrary, mala fide exercise of power. (Para 55-62)

Rule of Law -A safeguard against the arbitrary use of the State power. It ensures that the actions of the Government and its authorities are governed by established legal principles, rather than arbitrary discretion. Whenever the citizens in the form of mobs have broken the law to vandalize or to declare threats, the Court has cast an obligation on the State to

prevent such threats or assaults. This obligation underscores the State's responsibility to maintain law and order and protect citizens from unlawful actions that undermine the rule of law itself- The rule of law provides a framework and value system to 'rein in the arbitrary exercise of state power and to prevent the abuse of power, to ensure predictability and stability, to make sure that individuals know that their lives, their liberty, their property will not be taken away from them arbitrarily and abusively'- The processes enshrined in constitutional law, criminal law and procedure are facets of the rule of law and thus serve to regulate the exercise of executive power. (Para 29-33)

Constitution of India - Doctrine of separation of powers- Our Constitution has earmarked separate areas for exercise of powers and for discharge of duties to the three organs of the democracy, viz., the Executive, the Legislature, and the Judiciary. The Legislature is empowered to enact the laws within the framework of the Constitution; the Executive is entrusted with the powers and is expected to discharge its duties in accordance with the provisions of the Constitution and the laws as enacted by the competent Legislature. The adjudicatory function is entrusted to the Judiciary. In several judgments, this Court has reiterated the principle governing the separation of powers. (Para 34)

Quotable Quotes

It is a dream of every person, every family to have a shelter above their heads. A house is an embodiment of the collective hopes of a family or individuals' stability and security.

No one is above the law of the land; that everybody is equal before the law. (Para 15)

The executive cannot replace the judiciary in performing its core functions. (Para 44)

If the executive acts as a judge and inflicts a penalty of demolition on a citizen on the ground that he is an accused, it violates the principle of 'separation of powers'. (Para 53)

The chilling sight of a bulldozer demolishing a building, when authorities have failed to follow the basic principles of natural justice and have acted without adhering to the principle of due process, reminds one of a lawless state of affairs, where "might was right". (Para 72)

As is well known, a pious father may have a recalcitrant son and vice versa. Punishing such persons who have no connection with the crime by demolishing the house where they live in or properties owned by them is nothing but an anarchy and would amount to a violation of the right to life guaranteed under the Constitution. (Para 76)

Depriving innocent people of their right to life by removing shelter from their heads would be wholly unconstitutional. (Para 78)

It is not a happy sight to see women, children and aged persons dragged to the streets overnight. (Para 90)

Tinku vs State Of Haryana 2024 INSC 867 - Article 14 Constitution - Compassionate Appointment

Compassionate Appointment - This right is not a condition of service of an employee who dies in harness, which must be given to the dependent without any kind of scrutiny or undertaking a process of selection. It is an appointment which is given on proper and strict scrutiny of the various parameters as laid down with an intention to help a family out of a sudden pecuniary financial destitution to help it get out of the emerging urgent situation where the sole bread earner has expired, leaving them helpless and maybe penniless. Compassionate appointment is, therefore, provided to bail out a family of the deceased employee facing extreme financial difficulty, but for employment, the family will not be able to meet the crisis. This shall in any case be subject to the claimant fulfilling the requirements as laid down in the policy, instructions, or rules for such a compassionate appointment - In a case where there is no policy, instruction, or rule providing for an appointment on compassionate grounds, such an appointment cannot be granted - Three years as has been laid down from the date of death of the employee for putting forth a claim by a defendant, which, includes attainment of majority as per the 1999 policy instructions issued by the Government of Haryana cannot be said to be in any case unjustified or illogical. (Para 12-15)

Constitution of India - Article 14 - The very idea of equality enshrined in Article 14 is a concept clothed in positivity based on law. It can be invoked to enforce a claim having the sanctity of law. No direction can, therefore, be issued mandating the State to perpetuate

any illegality or irregularity committed in favor of a person, an individual, or even a group of individuals which is contrary to the policy or instructions applicable. Similarly, passing of an illegal order wrongfully conferring some right or claim on someone does not entitle a similar claim to be put forth before a court nor would the court be bound to accept such a plea. The court will not compel the authority to repeat that illegality over again. If such claims are entertained and directions issued, that would not only be against the tenets of justice but would negate its ethos resulting in the law being a causality culminating in anarchy and lawlessness. The Court cannot ignore the law, nor can it overlook the same to confer a right or a claim that does not have legal sanction. Equity cannot be extended, and that too negative to confer a benefit or advantage without legal basis or justification. (Para 11)

Ramachandra Reddy (D) vs Ramulu Ammal (D) 2024 INSC 868 - Contract Act - Consideration - Settlement Deed- S 100 CPC - Second Appeal

Indian Stamp Act 1899 - Section 2 (24)- Indian Contract Act 1872 - Section 2 - Settlement - 'Consideration' need not always be in monetary terms. It can be in other forms as well. [In this case, High Court held that the deed in question was a gift deed and not one of settlement, as the element of 'adequate consideration' was missing and instead, the transfer was effected out of love and affection- Setting aside HC judgment, SC observed: High Court has erred in taking such a constricted view of 'consideration', especially taking note of the fact that this settlement was between the members of a family.] (Para 15)

Code Of Civil Procedure 1908 - Section 100 - Second Appeal - A substantial question of law, which is sine qua non for the maintainability of a second appeal, shall be so, if:- (a) Not previously settled by law of land or a binding precedent. b) Material bearing on the decision of case; and (c) New point raised for the first time before the High Court is not a question involved in the case unless it goes to the root of the matter. Therefore, it will depend on facts of each case. (Para 16.3)

XYZ vs State Of Gujarat 2024 INSC 869 - S 482 CrPC - Quashing On Settlement

Code of Criminal Procedure 1973 - Section 482 - Constitution of India - Article

226 - When petitions are filed before the High Court for quashing criminal proceedings of non-compoundable offences on the ground of settlement, the High Court must satisfy itself that there is a genuine settlement between the victim and the accused. Without the Court being satisfied with the existence of a genuine settlement, the petition for quashing cannot proceed further. If the Court is satisfied about the existence of a genuine settlement, the other question to be considered is whether in the facts of the case, the power of quashing deserves to be exercised. Even if an affidavit of the victim accepting the settlement is on record, in cases of serious offences and especially against women, it is always advisable to procure the presence of the victim either personally or through video conference so that the Court can properly examine whether there is a genuine settlement and that the victim has no subsisting grievance- When illiterate persons affirm such affidavits by putting their thumb impressions, usually, the affidavit must bear an endorsement that the contents of the affidavits were explained to the person affirming the same. After noticing the absence of such an endorsement, the High Court should direct such persons to personally remain present before the Court. (Para 7)

Life Insurance Corporation Of India vs Om Parkash 2024 INSC 870 - Service Law - Termination

Service Law - High Court granted relief to employee on the ground that the termination order was passed without affording a reasonable opportunity or conducting an inquiry into the charge of absence from duty- Allowing appeal filed by LIC, SC observed: The Court overlooked that it was a case of the respondent abandoning his services without informing his employer about his whereabouts. Subsequently, it came to light that he joined the FCI on 09.05.1997. Such conduct of the respondent could not have been condoned by the employer and therefore, in our assessment, treating the respondent to have abandoned his service and taking appropriate action against him, in terms of the LIC Staff Regulation, cannot be faulted. It is also necessary for us to say that as the delinquent was guilty of suppression of the fact of his employment with the FCI, he was disentitled to equitable relief from the High Court in exercise of powers under Article 226 of the Constitution.

**Ganpati Bhikarao Naik Vs Nuclear Power Corporation Of India Limited 2024
INSC 871 - Article 226 Constitution- Labour Court**

Constitution of India - Article 226 - Labour Court - When Labour Court reached the factual conclusion, after due consideration of the material evidence, such factual finding should not normally be disturbed by a Writ Court without compelling reason. (Para 12)

Summary: The appellant, as a family member of a land-loser, whose land was acquired for the Kaiga Atomic Power Project, had secured the job as the son-in-law, of the land-loser - Central Government Industrial Tribunal-cum-Labour Court in the Reference from the evidence of the witnesses concluded that the appellant had married the daughter of the land-loser - High Court set aside the Labour Court order holding that the appellant had misrepresented that he is the son-in-law of the land-loser - Allowing appeal, SC observed: Relevant materials reflecting the marriage was ignored by the Writ Court. The Court also failed to appreciate that the Labour Court reached the factual conclusion, after due consideration of the material evidence. Such factual finding of the Labour Court should not normally be disturbed by a Writ Court without compelling reason.

Gurmeet Singh vs State Of Punjab 2024 INSC 872 - Service Law - ACP Scheme -Proficiency Step-up Scheme

Service Law - High Court dismissed writ petitions preferred by the appellants for grant of benefits under the Proficiency Step-up Scheme, 1988 and Assured Career Progression Scheme, 1998, by accounting for their entire service period including that in the work charged establishment - Allowing appeal, SC observed: The fundamental distinction in the present case is that the Policy Circular whereby, the services of the appellants were regularised, gave a clear mandate that the services of the work charge employees would be regularised, and the past services of such employees would be treated as qualifying service for pensionary and all other consequential benefits. The High Court seems to have overlapped the Assured Career

Progression Scheme (ACPS), 1998 and the Proficiency Step-up Scheme, 1988 for denying relief to the appellants which is not justifiable by any stretch of imagination.

Satyendra Singh vs State Of Uttar Pradesh 2024 INSC 873 - Disciplinary Proceedings - Ex-Party Inquiry

Disciplinary Proceedings - Recording of evidence in a disciplinary proceeding proposing charges of a major punishment is mandatory- Even in an ex-parte inquiry, it is sine qua non to record the evidence of the witnesses for proving the charges- mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses.

State Bank Of India vs Navin Kumar Sinha 2024 INSC 874 - Disciplinary Proceedings

Disciplinary Proceedings - A departmental proceeding is not initiated merely on issuance of a show cause notice. It is initiated only when a chargesheet is issued because that is the date of application of mind on the allegations leveled against an employee by the competent authority- A subsisting disciplinary proceeding i.e. one initiated before superannuation of the delinquent officer may be continued post superannuation by creating a legal fiction of continuance of service of the delinquent officer for the purpose of conclusion of the disciplinary proceeding- But no disciplinary proceeding can be initiated after the delinquent employee or officer retires from service on attaining the age of superannuation or after the extended period of service- Where the disciplinary proceeding itself is without jurisdiction, upholding the same on the specious plea that it was not challenged on the ground of lack of jurisdiction would be tantamount to giving imprimatur to a patently illegal proceeding. (Para 22-31)

State Of Haryana vs Amin Lal (D) 2024 INSC 875 - Adverse Possession - Revenue Records

Adverse Possession - State cannot claim adverse possession over the property of its own citizens - Allowing the State to appropriate private property through adverse possession

would undermine the constitutional rights of citizens and erode public trust in the government. (Para 10-11) - Adverse possession requirespossession that is continuous, open, peaceful, and hostile to the true owner for the statutory period. (Para 12)

Revenue Records - Revenue records are public documents maintained by government officials in the regular course of duties and carry a presumption of correctness under Section 35 of the Indian Evidence Act, 1872. While it is true that revenue entries do not by themselves confer title, they are admissible as evidence of possession and can support a claim of ownership when corroborated by other evidence. (Para 8.2)

Dr. Rajiv Verghese vs Rose Chakkrammankil Francis 2024 INSC 876 - Indian Divorce Act - Maintenance

Indian Divorce Act, 1869- High Court reduced maintenance to Rs.80,000 - Allowing appeal filed by wife, SC observed: During the pendency of the divorce petition, the wife is also entitled to enjoy the same amenities of life as she would have been entitled to in her matrimonial home- Husband directed to pay a sum of Rs.1,75,000 per month as interim maintenance. (Para 11)

Siddique vs State Of Kerala 2024 INSC 877 - Anticipatory Bail

Code of Criminal Procedure 1973 - Section 438 - Anticipatory Bail Granted - Allowing appeal, SC observed: Considering the fact that the complainant had lodged the complaint almost eight years after the alleged incident, which had taken place in 2016 and the fact that she had also posted the post on facebook somewhere in 2018, making allegations against about 14 people, including the appellant with regard to the alleged sexual abuse, as also the fact that she had not gone to the Justice Hema Committee constituted by the High Court of Kerala for ventilating her grievance, we are inclined to accept the present appeal, subject to certain conditions mentioned hereinafter.

Sunny @ Santosh Dharmu Bhosale Vs State Of Maharashtra 2024 INSC 878 - Ss 302,304 IPC

Indian Penal Code 1860 - Section 302 -304 - Partly allowing appeal filed by accused, SC observed: Medical evidence would show that the injuries caused are with the bamboo stick, which is commonly available in a village. The possibility of the deceased following the appellant and an altercation taking place between them and in a sudden fight in the heat of passion the appellant assaulting the deceased cannot be ruled out - Appellant is entitled to benefit of doubt. The conviction of the appellant under Section 302 IPC, therefore, deserves to be altered to one under Part I of Section 304 IPC.

Prashant Vs State Of NCT Of Delhi 2024 INSC 879 - S 376 IPC - Rape By Promise To Marriage

Indian Penal Code 1860 - Section 376 - A mere breakup of a relationship between a consenting couple cannot result in initiation of criminal proceedings- What was a consensual relationship between the parties at the initial stages cannot be given a color of criminality when the said relationship does not fructify into a marital relationship. (Para 19)

Bharti Airtel Ltd. vs The Commissioner Of Central Excise, Pune 2024 INSC 880 - CENVAT Rules - Mobile Towers

CENVAT Rules - Rule 2(k) - The mobile tower and prefabricated buildings (PFBs) are “goods” and not immovable property - As these goods are used for providing mobile telecommunication services, they would also qualify as “inputs” under Rule 2(k) for the purpose of credit benefits under the CENVAT Rules

Immovable Property - Merely because certain articles are attached to the earth, it does not ipso facto render these immovable properties. If such attachment to earth is not intended to be permanent but for providing support to the goods concerned and make their functioning more effective, and if such items can still be dismantled without any damage or without bringing any change in the nature of the goods and can be moved to market and sold, such goods cannot be considered immovable- **Principles to determine the nature of the property:** 1. Nature of annexation: This test ascertains how firmly a property is attached to the earth. If the property is so attached that it cannot be removed or

relocated without causing damage to it, it is an indication that it is immovable. Page 50 of 76 2. Object of annexation: If the attachment is for the permanent beneficial enjoyment of the land, the property is to be classified as immovable. Conversely, if the attachment is merely to facilitate the use of the item itself, it is to be treated as movable, even if the attachment is to an immovable property. 3. Intendment of the parties: The intention behind the attachment, whether express or implied, can be determinative of the nature of the property. If the parties intend that the property in issue is for permanent addition to the immovable property, it will be treated as immovable. If the attachment is not meant to be permanent, it indicates that it is movable. 4. Functionality Test: If the article is fixed to the ground to enhance the operational efficacy of the article and for making it stable and wobble free, it is an indication that such fixation is for the benefit of the article, such the property is movable. 5. Permanency Test: If the property can be dismantled and relocated without any damage, the attachment cannot be said to be permanent but temporary and it can be considered to be movable. 6. Marketability Test: If the property, even if attached to the earth or to an immovable property, can be removed and sold in the market, it can be said to be movable. (Para 11.8)

MR Ajayan Vs State Of Kerala 2024 INSC 881 - S 195 CrPC - Article 136 Constitution

Code Of Criminal Procedure 1973 - Section 195 - The protection intended by the section against a private person filing a frivolous complaint is taken care of when the High Court finds that the matter was required to be gone into in public interest. Such direction cannot be rendered futile by invoking Section 195 to such a situation. Once the High Court directs investigation into a specified offence mentioned in Section 195, bar under Section 195(1)(a) cannot be pressed into service- there is no distinction between a judicial or administrative order by a “Court to which that Court is subordinate.” (Para 22-29)

Code Of Criminal Procedure 1973 - Section 195- i. The procedure prescribed under Section 195 Cr.P.C. is mandatory in nature. ii. The Section curtails the general right of a person and the general right of a Magistrate to register a complaint when the offences enumerated thereunder are committed. iii. The Section deals with three distinct categories of offences: (1) contempt of lawful authority of public servants, (2) offence against public

justice, and (3) offence relating to documents given in evidence. iv. Broadly, the scheme of the Section requires that the offence should be such which has a direct bearing on the discharge of lawful duties of a public servant or has a direct correlation with the proceedings in a Court of justice, affecting the administration of justice.v. The provision only creates a bar against taking cognizance of an offence in certain specified situations except upon complaint by the Court. vi. To attract the bar under Section 195(1)(b), the offence should have been committed when the document was in "custodia legis" or in the custody of the Court concerned. vii. The bar under Section 195(1)(b)(ii) cannot be thought to be applied when the forgery of a document has happened prior to its production in Court. The bar only applies in case the enumerated offence takes place after the production of the document or in evidence in any Court. viii. High Courts can exercise jurisdiction and power enumerated under Section 195 on an application being made to it or suo-motu, whenever the interest of justice so demands. ix. In such a case, where the High Court as a superior Court directs a complaint to be filed in respect of an offence covered under Section 195(1)(b)(i), the bar for taking cognizance, will not apply.

Code Of Criminal Procedure 1973 - Section 386- The appellate Court may direct a retrial only in "exceptional" circumstances to avert a miscarriage of justice- The following are some instances, not intended to be exhaustive, of when the Court could order a retrial on the ground of miscarriage of justice: (a) The trial court has proceeded with the trial in the absence of jurisdiction; (b) The trial has been vitiated by an illegality or irregularity based on a misconception of the nature of the proceedings; and (c) The prosecutor has been disabled or prevented from adducing evidence as regards the nature of the charge, resulting in the trial being rendered a farce, sham or charade

Constitution of India - Article 136 - An appeal by a private individual can be entertained, both sparingly and after due vigilance. (Para 17)

Shambhu Chauhan Vs Ram Kirpal @ Chirkut 2024 INSC 882 - Consolidation of Holdings Act - Article 226 Constitution

Consolidation of Holdings Act, 1953 - Section 48 -Deputy Director of Consolidation, being a Revisional Authority, had jurisdiction to interfere with the finding

on facts of the subordinate authority only when the said findings are perverse or not supported by any evidence on record or contrary to law. (Para 7-10)

Constitution of India - Article 226 - while exercising the jurisdiction under Article 226 of the Constitution of India, the High Court cannot exercise such jurisdiction to reappreciate the entire evidence or finding of fact unless the concerned authority below acted beyond its jurisdiction or such findings suffer from error apparent on the face of the record or such finding beset with surmises or conjectures. (Para 17)

Kallakuri Pattabhiramaswamy (D) Vs Kallakuri Kamaraju 2024 INSC 883 - S 14 HSA

Hindu Succession Act 1956 - Section 14 - Property given in lieu of maintenance would solidify into absolute ownership by action of Section 14(1) of HSA, 1956. In other words, the right of maintenance on its own is apposite for such property to transfer into her sole, unquestionable, and absolute right -Hindu Women's right to maintenance is not by virtue of statute, but is found in Shastric Hindu law; maintenance has to be proper, appropriate and adequate, giving the woman so maintained the ability to continue to live the life, similar to what she once lived; and that the very right to receive maintenance is sufficient title to enable the ripening of possession into full ownership if she is in possession of the property in lieu of maintenance. (Para 9-12)

R. Kandasamy (D) vs T.R.K. Sarawathy 2024 INSC 884 - Specific Performance Suit

Specific Relief Act 1963 - Specific Performance Suit - In a fact scenario where the vendor unilaterally cancels an agreement for sale, the vendee who is seeking specific performance of such agreement ought to seek declaratory relief to the effect that the cancellation is bad and not binding on the vendee. This is because an agreement, which has been canceled, would be rendered non-existent in the eyes of law and such a non-existent agreement could not possibly be enforced before a court of law. (Para 41)

Code of Civil Procedure 1908 - Section 9 - A jurisdictional fact is one on existence or non-existence of which depends assumption or refusal to assume jurisdiction by a court,

tribunal or an authority-An issue of maintainability of a suit strikes at the root of the proceedings initiated by filing of the plaint as per requirements of Order VII Rule 1, CPC. If a suit is barred by law, the trial court has absolutely no jurisdiction to entertain and try it. However, even though a given case might not attract the bar envisaged by section 9, CPC, it is obligatory for a trial court seized of a suit to inquire and ascertain whether the jurisdictional fact does, in fact, exist to enable it (the trial court) to proceed to trial and consider granting relief to the plaintiff as claimed. No higher court, much less the Supreme Court, should feel constrained to interfere with a decree granting relief on the specious ground that the parties were not put specifically on notice in respect of a particular line of attack/defense on which success/failure of the suit depends, more particularly an issue touching the authority of the trial court to grant relief if the 'jurisdictional fact' imperative for granting relief had not been satisfied. It is fundamental that assumption of jurisdiction/refusal to assume jurisdiction would depend on the existence of the jurisdictional fact. Irrespective of whether the parties have raised the contention, it is for the trial court to satisfy itself that adequate evidence has been led and all facts including the jurisdictional fact stand proved for relief to be granted and the suit to succeed. This is a duty the trial court has to discharge in its pursuit for rendering substantive justice to the parties, irrespective of whether any party to the lis has raised or not. If the jurisdictional fact does not exist, at the time of settling the issues, notice of the parties must be invited to the trial court's *prima facie* opinion of non-existent jurisdictional fact touching its jurisdiction. However, failure to determine the jurisdictional fact, or erroneously determining it leading to conferment of jurisdiction, would amount to wrongful assumption of jurisdiction and the resultant order liable to be branded as *ultra vires* and bad- Any failure or omission on the part of the trial court to frame an issue on maintainability of a suit touching jurisdictional fact by itself cannot trim the powers of the higher court to examine whether the jurisdictional fact did exist for grant of relief as claimed, provided no new facts were required to be pleaded and no new evidence led. (Para 44-47)

Contract Law - Interpretation -If there be admissible two constructions of a document, one of which will give effect to all the clauses therein while the other will render one or more of them nugatory, it is the former that should be adopted on the principle expressed in the maxim "ut res magis valeat quam pereat"- If, in fact, there is a conflict

between the earlier clause and the later clauses and it is not possible to give effect to all of them, it is the earlier clause that must override the later clauses and not vice versa. (Para 27)

Ramachandran Vs Vijayan 2024 INSC 885 - Marumakkathayam Law - Partition

Marumakkathayam law- Whether a female who, at the time of partition did not have any heirs, retains such property as her own or as *tharwad* property ? - SC Upheld the minority view taken in *Mary Cheriyen v. Bhargavi Pillai Bhasura Devi* 1967 SCC OnLine Ker 68 : If at the time of partition the female is single, she continues to hold the property as her own, even if she has children in the future- in order for a *thavazhi* to be formed, there has to be at least one female and her successive generation, either male or female, in the generation immediately succeeding and thereafter progeny of the female line.

Partition - Partition is an act by which the nature of the property is changed, reflecting an alteration in ownership. (Para 33)

Constitution of India - Article 136 - Concurrent findings of fact are not to be generally interfered with unless special circumstances are shown warranting such interference. The scenarios in which exercise of power under Article 136 of the Constitution of India would be proper, non-exhaustively, can be culled out as thus: Interference in concurrent findings has been termed justified if the finding - a) recorded does not emanate from the pleadings; b) is foreign to or entirely divorced from the evidence on record; c) is reached on the basis of the evidence which is irrelevant or extraneous and material evidence is ignored affecting its sanctity; d) runs contrary to any provision of law; e) is such that a reasonable judicial mind could not have arrived at it and/or the same is arbitrary; f) arrived at is perverse and the soundness of reason is compromised. Apart from the above-mentioned scenarios, a Court would also be justified in interfering with findings concurrent in nature if it is of the view that they cause undue hardship to the parties. Additionally, when the findings are such that the conscience of the court is shocked, interference would be called for- The following overarching principles should always be considered prior to delving into such exercise: The power has to be used sparingly and only when grave injustice is being caused

to the parties of the dispute; The burden of proof to show that concurrent findings are unjust, warranting interference by this Court is on the appellant. Interference would not be warranted merely because in a given set of facts, a view different from the one which stands taken by the courts below, is possible. It is not within the realm of practicality that all possibilities be mapped out, as to when invocation of this power would be felicitous. The court has to take such a call having employed its wisdom, reason and judicial thought. (Para 54-56)

K.S. Muralidhar Vs Subbulakshmi 2024 INSC 886 - Motor Accident Compensation - Pain & Suffering

Motor Accident Compensation - Pain and Suffering - The concept of just compensation rests on the principle of restitutio ad integrum which means restoration to the original condition, as far as possible, taking the person to whom damages are awarded, to a position as if the incident or in this case, the accident, had never occurred. While this is a well-recognized and positive principle of law, we must also recognize its limitations. The award of compensation, however much it may be, does not give back to the person who affected their life but only alleviates the worry of being able to secure the required amenities. (Para 2) A person's understanding of oneself is shaken or compromised at its very root at the hands of consistent suffering. (Para 13)

Randeep Singh @ Rana Vs State Of Haryana 2024 INSC 887 - Ss 25-27 Evidence Act

Indian Evidence Act 1872 - Section 25-27 - There is a complete prohibition on even proving such confessions made by the accused to a police officer while in custody- Such confessions are not admissible in the evidence except to the extent to which Section 27 is applicable. If such inadmissible confessions are made part of the depositions of the prosecution witnesses, then there is every possibility that the Trial Courts may get influenced by it. (Para 16)

Criminal Trial - The brutality of the offense does not dispense with the legal requirement of proof beyond a reasonable doubt- The Courts can convict an accused only if his guilt is

proved beyond a reasonable doubt on the basis of legally admissible evidence. There cannot be a moral conviction.

Sonu Agnihotri Vs Chandra Shekhar 2024 INSC 888 - Personal Criticism Of Judges In Judgments

Practice and Procedure - Personal criticism of Judges or recording findings on the conduct of Judges in judgments must be avoided- The superior courts exercising such powers can set aside erroneous orders and expunge uncalled and unwarranted observations. While doing so, the superior courts can legitimately criticize the orders passed by the Trial Courts or the Appellate Courts by giving reasons. There can be criticism of the errors committed, in some cases, by using strong language. However, such observations must always be in the context of errors in the impugned orders. While doing so, the courts have to show restraint, and adverse comments on the personal conduct and caliber of the Judicial Officer should be avoided. There is a difference between criticizing erroneous orders and criticizing a Judicial Officer. The first part is permissible. The second category of criticism should best be avoided- Judicial officers should not be condemned unheard- The High Court Judges, after noticing improper conduct on the part of the Judicial Officer, can always invite the attention of the Chief Justice on the administrative side to such conduct. Whenever action is proposed against a judicial officer on the administrative side, he gets the full opportunity to clarify and explain his position. But if such personal adverse observations are made in a judgment, the Judicial Officer's career gets adversely affected. (Para 14-16)

Quotable Quotes - The Judges are human beings. All human beings are prone to committing mistakes. To err is human- We must remember that when we sit in constitutional courts, even we are prone to making mistakes- no court can be called a "subordinate court". Here, we refer to "subordinate" courts only in the context of appellate, revisional or supervisory jurisdiction.

Ajay Protech Pvt. Ltd. vs General Manager 2024 INSC 889 - Arbitration Act

Arbitration and Conciliation Act 1996 - Section 29A- an application for extension can be filed either before or after the termination of the Tribunal's mandate upon expiry of the statutory and extendable period.- Referred to Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Ltd- The meaning of 'sufficient cause' for extending the time to make an award must take color from the underlying purpose of the arbitration process. The primary objective in rendering an arbitral award is to resolve disputes through the agreed dispute resolution mechanism as contracted by the parties. Therefore, 'sufficient cause' should be interpreted in the context of facilitating effective dispute resolution. (Para 7-16)

State Of Punjab Vs Ferrous Alloy Forgings P Ltd 2024 INSC 890 - Registration Act - Article 226 Constitution - Alternate Remedy

Indian Registration Act - Section 17, 89 -A sale certificate issued to the purchaser in pursuance of the confirmation of an auction sale is merely evidence of such title and does not require registration under Section 17(1) of the Registration Act. It is not the issuance of the sale certificate which transfers the title in favor of the auction purchaser. The title is transferred upon successful completion of the sale and its confirmation by the competent authority after all the objections against the sale have been disposed of- Sale certificate issued by the authorized officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the sale certificate is forwarded by the authorized officer to the registering authority. However, a perusal of Articles 18 and 23 respectively of the first schedule to the Stamp Act respectively makes it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of payment of stamp duty, etc. would arise. (Para 17-20)

Constitution of India - Article 226 - Alternate Remedy itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law - When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular

statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. However, this rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion and if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

Rajneesh Kumar Vs Ved Prakash 2024 INSC 891 - Limitation Act -Delay Condonation - Negligence Of Lawyer

Limitation Act 1963 - Section 5 -Tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court - Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief. (Para 10)

Didde Srinivas vs State SHO, Podduru Police Station 2024 INSC 892

Indian Penal Code 1860 - Section 451 -Even an intention to commit an offence punishable with imprisonment' coupled with house-trespass would constitute the offence punishable under Section 451, IPC. (Para 5)

Dr Balram Singh vs Union Of India 2024 INSC 893 - Preamble - Socialist & Secular Insertion

Constitution of India - Preamble - Dismissed writ petitions seeking to challenge the insertion of the words 'socialist' and 'secular' in the Preamble to the Constitution of India by the Constitution (Forty-second Amendment) Act in 1976 **-Secularism** -The expression secularism in the Indian context is a term of the widest possible scope. The State maintains no religion of its own, all persons are equally entitled to freedom of conscience along with the right to freely profess, practice, and propagate their chosen religion, and all citizens, regardless of their religious beliefs, enjoy equal freedoms and rights. However, the 'secular'

nature of the State does not prevent the elimination of attitudes and practices derived from or connected with religion, when they, in the larger public interest impede development and the right to equality. In essence, the concept of secularism represents one of the facets of the right to equality, intricately woven into the basic fabric that depicts the constitutional scheme's pattern.- **Socialism** - The word 'socialism', in the Indian context should not be interpreted as restricting the economic policies of an elected government of the people's choice at a given time. Neither the Constitution nor the Preamble mandates a specific economic policy or structure, whether left or right. Rather, 'socialist' denotes the State's commitment to be a welfare State and its commitment to ensuring equality of opportunity. India has consistently embraced a mixed economy model, where the private sector has flourished, expanded, and grown over the years, contributing significantly to the upliftment of marginalized and underprivileged sections in different ways. In the Indian framework, socialism embodies the principle of economic and social justice, wherein the State ensures that no citizen is disadvantaged due to economic or social circumstances. The word 'socialism' reflects the goal of economic and social upliftment and does not restrict private entrepreneurship and the right to business and trade, a fundamental right under Article 19(1)(g). (Para 3-5)

Constitution of India - Article 368 - The power to amend Constitution unquestionably rests with the Parliament. This amending power extends to the Preamble. Amendments to the Constitution can be challenged on various grounds, including violation of the basic structure of the Constitution. The fact that the Constitution was adopted, enacted, and given to themselves by the people of India on the 26th day of November, 1949, does not make any difference. The date of adoption will not curtail or restrict the power under Article 368 of the Constitution. The retrospectivity argument, if accepted, would equally apply to amendments made to any part of the Constitution, though the power of the Parliament to do so under Article 368, is incontrovertible and is not challenged. (Para 2)

State Of Andhra Pradesh Vs Dr. Rao, V.B.J. Chelikani 2024 INSC 894 - Land Allotment - Constructive Res Judicata

Land Allotment - Writ Petitions challenged the allotment of land parcels, vide several State Government Memoranda, within the Greater Hyderabad Municipal Corporation limits. The land was allocated to Cooperative Societies composed of members of various groups, including Members of Parliament , Members of both houses of the State Legislature, officers of All India Services, Judges of the Supreme Court and High Court, State Government employees, defence personnel, journalists and individuals from weaker sections of society- SC Quashed GoMs to the extent they classify MPs, MLAs, officers of the AIS/State Government, Judges of the Constitutional Courts, and journalists as a separate class for allotment of land at the basic rate- Government servants, elected legislators, Judges in the Supreme Court and High Court, and prominent journalists do not belong to the “weaker” or per se deserving sections of our society, warranting special State reservations to land allotment- Judges of the Supreme Court and the High Court, MPs, MLAs, officers of the AIS, journalists etc. cannot be treated as a separate category for allotment of land at a discounted basic value in preference to others. The object of the policy perpetuates inequality. The policy differentiates and bestows largesse to an advantaged section/group by resorting to discrimination and denial. It bars the more deserving, as well as those similarly situated, from access to the land at the same price. It promotes social-economic exclusion, to favour a small and privileged section/group. The policy does not meet the equality and fairness standards prescribed by the Constitution.

Constitution of India - Article 14 - While the power to distribute and redistribute public assets and resources lie within the State's discretion, such discretion is not absolute. Article 14 and the logic of equality impose fetters on the exercise of this discretionary power. Therefore, it cannot be questioned or contested that state policy and executive action must satisfy the rigours of Article 14.- the mere fact that a policy caters

Res Judicata - Constructive res judicata will have limited application to public interest litigation. (Para 35)

Manjit Singh Vs Darshana Devi - 2024 INSC 895 - S. 19(b) Specific Relief Act - Good Faith

Specific Relief Act 1963 - Section 19(b) - Section 19 (b) is an exception from the general rule and the onus is on the subsequent purchaser to prove that he purchased the property in good faith and also bona fide purchaser for value- In order to come to a conclusion that an act was done in good faith it must have been done with due care and attention and there should not be any negligence or dishonesty. Each aspect is a complement to the other not an exclusion of the other.

Payal Sharma vs State of Punjab 2024 INSC 896 - S 498A IPC - S 482 CrPC

Code of Criminal Procedure 1973 - Section 482 -Indian Penal Code 1860 - Section 498A - Court has duty to consider the contentions that there is lack of specific allegations against the accused concerned to constitute the offence(s) alleged against a relative or that the implication was nothing but an over implication to pressurise the family of the husband to yield to the demands. The Courts cannot refrain from discharging the obligation to consider such contentions. (Para 20)

Code of Criminal Procedure 1973 - Section 482 - A petition could be filed under Section 482, Cr.P.C., for quashing the chargesheet even before framing of the charges and that it would not be in the interest of justice to reject the application merely on the ground that the accused concerned could argue legal and factual issues at the time of framing of charges. (Para 18)

Indian Penal Code 1860 - Section 498A - When relatives not residing in the same house where the alleged victim resides, the courts shall not stop consideration by merely looking into the question where the accused is a person falling within the ambit of the expression ‘relative’ for the purpose of Section 498-A, IPC, but should also consider whether it is a case of over implication or exaggerated version solely to implicate such person(s) to pressurise the main accused -The term ‘relative’ has not been defined in the statute and, therefore, it must be assigned a meaning as is commonly understood. Hence, normally, it can be taken to include, father, mother, husband or wife, son, daughter, brother, sister, nephew, niece, grandson or granddaughter of any individual or the spouse of any person. To put it shortly, it includes a person related by blood, marriage or adoption- normally against a person who is not falling under any of the aforesaid

categories when allegations are raised, the Court concerned owes an irrecusible duty to see whether such implication is over implication and/or whether the allegations against such a person is an exaggerated version. (Para 9-11)

Indian Penal Code 1860 - Section 417,420 -Cheating simpliciter is punishable under Section 417, IPC. To bring home an offence under Section 415 punishable under Section 417, IPC, there must be (1) deception of any person; (2) that person must have been fraudulently or dishonestly induced – (i) to deliver any property to any person, or (ii) to consent with any person relating to any property; or (2)(a) that person must have been induced intentionally to do or omit to do anything which he would not do or omit, if he were not so deceived, and which act or omission causes or likely to cause damage or harm to that person in body, mind, reputation or property- The difference between Section 417 and Section 420, IPC, is that where in pursuance of the deception, no property passes, the offence is one of cheating punishable under Section 417, IPC, but where, in pursuance of the deception, property is delivered, the offence is punishable under Section 420, IPC- When the ingredients to attract the offence punishable under Section 417, IPC are not satisfied there cannot be any question of such allegations/accusations attracting Section 420, IPC, for the simple reason that to bring a case within the ambit of Section 420, IPC, not only cheating is simpliciter but also by dishonest inducement of that person sought to be deceived to deliver any property must have delivered that property or made alteration or destruction of any valuable security.. (Para 14-15)

Mahesh Damu Khare Vs State Of Maharashtra 2024 INSC 897 - S 376 IPC - Rape - Promise To Marry

Indian Penal Code 1860 - Section 375.376,90- The longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact- There is a worrying trend that consensual relationships going on for prolonged period, upon turning sour, have been sought to be criminalised by invoking criminal jurisprudence- In a situation where physical relationship is maintained for a prolonged period knowingly by the woman, it cannot be said with certainty that the said

physical relationship was purely because of the alleged promise made by the appellant to marry her. Thus, unless it can be shown that the physical relationship was purely because of the promise of marriage, thereby having a direct nexus with the physical relationship without being influenced by any other consideration, it cannot be said that there was vitiation of consent under misconception of fact- There may be occasions where a promise to marry was made initially but for various reasons, a person may not be able to keep the promise to marry. If such promise is not made from the very beginning with the ulterior motive to deceive her, it cannot be said to be a false promise to attract the penal provisions of Section 375 IPC, punishable under Section 376 IPC. (Para 20-27)

Kali Charan vs State Of U.P. 2024 INSC 898- Land Acquisition- Yamuna Expressway

Land Acquisition -Appeals before SC raised this issue: Whether the present acquisition is part of the integrated development plan of the 'Yamuna Expressway' undertaken by YEIDA? SC Held: The present acquisition forms part of the integrated development plan for the Yamuna Expressway initiated by YEIDA. As observed in the case of Nand Kishore, the development of land parcels for industrial, residential, and recreational purposes is complementary to the construction of the Yamuna Expressway. The objective of the acquisition is to integrate land development with the Yamuna Expressway's construction, thereby promoting overall growth serving the public interest. Consequently, the Expressway and the development of adjoining lands are considered to be inseparable components of the overall project.

Sangram Sadashiv Suryavanshi Vs State Of Maharashtra 2024 INSC 899 - Bail - Expeditious Disposal

Code of Criminal Procedure 1973 - Section 439 -Bail - In the ordinary course, the Constitutional Courts should refrain from fixing a time-bound schedule for the disposal of cases pending before any other Courts- Practice of High Courts while rejecting the bail applications, in a routine manner, the High Courts are fixing a time-bound schedule for the

conclusion of the trials: Such directions adversely affect the functioning of the Trial Courts as in many Trial Courts, there may be older cases of the same category pending. Every court has criminal cases pending which require expeditious disposal for several reasons, such as the requirement of the penal statutes, long incarceration, age of the accused, etc. Only because someone files a case in our Constitutional Courts, he cannot get out of turn hearing. Perhaps after rejecting the prayer for bail, the Courts want to give some satisfaction to the accused by fixing a time-bound schedule for trial. Such orders are difficult to implement. Such orders give a false hope to the litigants. If in a given case, in law and on facts, an accused is entitled to bail on the ground of long incarceration without the trial making any progress, the Court must grant bail. Option of expediting trial is not the solution.

Bail - Appellant is accused of possessing six counterfeit currency notes of Rs.500/- each - He has been incarcerated for two and a half years- In appeal, SC observed: The counter affidavit filed by the State shows that there are no antecedents. The trial is not likely to conclude in a reasonable time. Therefore, in the facts of the case, the appellant deserves to be enlarged on bail following the well-settled rule that bail is rule and jail is an exception.

C. Selvarani Vs Special Secretary- Cum- District Collector 2024 INSC 900 - Religious Conversion - Scheduled Caste Certificate

Constitution of India - Article 25 - Religious Conversion - India is a secular country. Every citizen has a right to practise and profess a religion of their choice as guaranteed under Article 25 of the Constitution. One converts to a different religion, when he/she is genuinely inspired by its principles, tenets and spiritual thoughts. However, if the purpose of conversion is largely to derive the benefits of reservation but not with any actual belief on the other religion, the same cannot be permitted, as the extension of benefits of reservation to people with such ulterior motive will only defeat the social ethos of the policy of reservation- The Court cannot test or gauge the sincerity of religious belief; or where there is no question of the genuineness of a person's belief in a certain religion, the court cannot measure its depth or determine whether it is an intelligent conviction or ignorant and superficial fancy. But, a Court can find the true intention of men lying behind their acts and can certainly find from the circumstances of a case whether a pretended

conversion was really a means to some further end (Para 10) [In this case, the Court found that appellant professes Christianity and actively practices the faith by attending church regularly. Despite the same, she claimed to be a Hindu and seeks for Scheduled Caste community certificate for the purpose of employment, SC observed: Such a dual claim made by her is untenable and she cannot continue to identify herself as a Hindu after baptism. Therefore, the conferment of Scheduled caste communal status to the appellant, who is a Christian by religion, but claims to be still embracing Hinduism only for the purpose of availing reservation in employment, would go against the very object of reservation and would amount to fraud on the Constitution]

Constitution of India - Article 341- Constitution (Pondicherry) Scheduled Castes Order, 1964 - Only such castes which have been mentioned in the Schedule appended to the S.C. Order, 1964, shall be deemed to be Scheduled Castes with respect to the Union Territory of Pondicherry; and that, a person, who is professing Hinduism, Sikhism or Buddhism, shall be deemed to be a member of the Scheduled Caste. The Schedule appended to the S.C. Order, 1964, mentions 15 castes, in which, the Valluvan Caste finds place at Sl.No.13 and it is hence, recognized as a Scheduled Caste- The converts to Christianity from Scheduled Caste irrespective of generation of conversion would fall under the OBC category as per G.O. Ms. No. 9/2001-Wel(SW-II), dated 19.02.2001 of the Government of Puducherry and the Central List of OBC's for Puducherry vide No.12011/14/2004-BCC dated 12.03.2007. (Para 8)

Sonam Lakra vs State of Chhattisgarh 2024 INSC 901 - Writ Jurisdiction - Alternate Remedy

Female Sarpanches - Concern expressed about recurring instances of administrative authorities and village panchayat members colluding to exact vendettas against female Sarpanches. Such instances highlight a systemic issue of prejudice and discrimination. (Para 14) [In this case, the Court while allowing appeal of a female sarpanch, observed: *Classic case of administrative imperiousness, resulting in the removal of an elected Sarpanch—a young woman dedicated to serving her remote village in Chhattisgarh. Rather than recognizing her commitment and supporting her vigor for the village's*

development, the authorities unjustly penalized her for baseless and unwarranted reasons.]

Constitution of India - Article 226 -High Court, while exercising jurisdiction under Article 226 of the Constitution has the vast discretion to entertain a writ petition, even if alternate remedies may exist, especially in cases where the Executive has blatantly and brazenly misused its power to weaken democratic values at the grass root level. (Para 16)

Nitin Mahadeo Jawale vs Bhaskar Mahadeo Mutke 2024 INSC 902 - Delay Condonation - Written Statement

Code of Civil Procedure 1908- Delay of 4½ years in filing the written statement- In this case, High Court allowed the petition filed by the original plaintiff and set aside the order passed by Trial Court condoning the delay - Dismissing SLP, SC observed: *Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance-The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.*

Hetram @ Babli vs State Of Rajasthan 2024 INSC 903 - S 319 CrPC

Code Of Criminal Procedure 1973- Section 319 -In a given case, if power under Section 319 is sought to be exercised before cross- examination of material witnesses, the Court cannot postpone the consideration of the prayer under Section 319 of the CRPC on the ground that the cross-examination of the witnesses is yet to be recorded- But if an application under Section 319 of the CRPC is made after the cross- examination of witnesses, it will be unjust to ignore the same. The power under Section 319 of the CRPC cannot be exercised when there is no case made out against the persons sought to be implicated. (Para 8-9)

Indore Vikas Praadhikaran vs Shri Humud Jain Samaj Trust 2024 INSC 904 - Judicial Review - Tender Matters

Constitution of India -Article 226 - Tender Matters - While exercising power of judicial review, the Court does not sit as an appellate Court over the decision of the government but merely reviews the manner in which the decision was made- The bidder has no right in the matter of bid except of fair treatment and cannot insist for further negotiation.

Vijaya Singh Vs State Of Uttarakhand 2024 INSC 905 - S 164 CrPC

Code Of Criminal Procedure - Section 164 - A statement under Section 164 CrPC cannot be discarded at the drop of a hat and on a mere statement of the witness that it was not recorded correctly. For, a judicial satisfaction of the Magistrate, to the effect that the statement being recorded is the correct version of the facts stated by the witness, forms part of every such statement and a higher burden must be placed upon the witness to retract from the same. To permit retraction by a witness from a signed statement recorded before the Magistrate on flimsy grounds or on mere assertions would effectively negate the difference between a statement recorded by the police officer and that recorded by the Judicial Magistrate. (Para 31)- A statement under Section 164, although not a substantive piece of evidence, not only meets the test of relevancy but could also be used for the purposes of contradiction and corroboration. A statement recorded under Section 164 CrPC serves a special purpose in a criminal investigation as a greater amount of credibility is attached to it for being recorded by a Judicial Magistrate and not by the Investigating Officer. A statement under Section 164 CrPC is not subjected to the constraints attached with a statement under Section 161 CrPC and the vigour of Section 162 CrPC does not apply to a statement under Section 164 CrPC. Therefore, it must be considered on a better footing. However, relevancy, admissibility and reliability are distinct concepts in the realm of the law of evidence. Thus, the weight to be attached to such a statement (reliability thereof) is to be determined by the Court on a case-to-case basis and the same would depend to some extent upon whether the witness has remained true to the statement or has resiled from it, but it would not be a conclusive factor. For, even if a witness has retracted from a statement, such retraction could be a result of manipulation and the Court has to examine the circumstances in which the statement was recorded, the reasons stated

by the witness for retracting from the statement etc. Ultimately, what counts is whether the Court believes a statement to be true, and the ultimate test of reliability happens during the trial upon a calculated balancing of conflicting versions in light of the other evidence on record. (Para 28)

Criminal Trial - Mere presence of minor variations is not fatal to the case of the prosecution. It is so because a natural testimony is bound to have variations. The question is whether the variations or contradictions could be termed as fatal to the case of the prosecution. The said question needs to be answered in light of the other evidence on record by examining whether the oral testimonies have found corroboration from other evidence or have remained isolated testimonies.

Government Of West Bengal Vs Dr. Amal Satpathi 2024 INSC 906 - Service - Promotion

Constitution of India - Article 14,16 - While right to be considered for promotion is a fundamental right, there is no absolute/fundamental right to the promotion itself. (Para 19,21)

Service Law - Promotion - West Bengal Service Rules- Rule 54(1)(a) - promotion cannot be retrospectively granted after retirement, as it requires the actual assumption of duties and responsibilities of the promotional post. (Para 18)- Promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself. (Para 18-19, 21)

Suresh Chandra Tiwari Vs State Of Uttarakhand 2024 INSC 907 - S 27 Evidence Act - Ss 302,304 IPC

Indian Penal Code 1860 - Section 300-302,304 -When there were multiple injuries on the body of the deceased apart from two incised wounds on the head with underlying fracture of occipital bone of the skull- whosoever committed the crime had clear intention to kill the deceased. (Para 40)

Indian Evidence Act - Section 106- Last Seen Theory - The circumstance of deceased being last seen alive in the company of the deceased is a vital link in the chain of other circumstances but on its own strength it is insufficient to sustain conviction unless the time-gap between the deceased being last seen alive with the accused and recovery of dead body of the deceased is so small that possibility of any other person being the author of the crime is just about impossible. Where the time-gap is large, intervening circumstances including act by some third person cannot be ruled out. In such a case, adverse inference cannot be drawn against the accused merely because he has failed to prove as to when he parted company of the deceased- if two or more persons are seen walking on a public street, either side by side, or behind one another, it is not such a circumstance from which it may be inferred with a degree of certainty that those were together or in company of each other. Quite often on a public path a person may happen to walk side by side a stranger for a considerable distance without even talking to him. Likewise, a person may exchange pleasantries with another person walking on the path, but that by itself is not sufficient to infer that the two are in company of each other. (Para 26- 27)

Criminal Trial - Motive on its own cannot make or break the prosecution case. (Para 25)

Criminal Trial - Circumstantial Evidence -(i) the circumstances from which the conclusion of guilt is to be drawn should be fully established; (ii) the circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; (iii) the circumstances taken cumulatively should form a chain so far complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused; (iv) the circumstances should be consistent only with the hypothesis regarding the guilt of the accused; and (v) they must exclude every possible hypothesis except the one which is sought to be proved.- in a case based on circumstantial evidence where two views are possible, one pointing to the guilt and the other to his innocence, the accused is entitled to the benefit of one which is favorable to him- the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions. Therefore, even if the prosecution evidence generates strong suspicion against the accused, it cannot be a substitute for proof. (Para 19-22)

Kamaruddin Dastagir Sanadi State Of Karnataka 2024 INSC 908 - S 306 IPC - Broken Relationship - Abetment Of Suicide

Indian Penal Code-1860 - Section 306- Broken relationship which by itself would not amount to abetment to suicide- simply because the accused-appellant refused to marry her, would not be a case of instigating, inciting or provoking the deceased to commit suicide. (Para 30-31)

Indian Penal Code-1860 - Section 306,107- Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a particular thing and without the positive act on part of the accused there would be no instigation. It has also been observed that to convict a person for abetment of suicide under Section 306 IPC, there has to be a clear mens rea on the part of the accused to abet such a crime and it requires an active act or a direct act leading to the commission of suicide-Even in cases where the victim commits suicide, which may be as a result of cruelty meted out to her, discord and differences in domestic life are quite common in society and that the commission of such an offence largely depends upon the mental state of the victim. Surely, until and unless some guilty intention on the part of the accused is established, it is ordinarily not possible to convict him for an offence under Section 306 IPC. (Para 23-25)

X vs State Of Rajasthan 2024 INSC 909 - Bail - Serious Offences

Code of Criminal Procedure 1973 - Section 439- **Bail-** Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in

ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed. (Para 14-16)

Ramakant Ambalal Choksi vs Harish Ambalal Choksi 2024 INSC 910- CPC -TP Act- Interim Injunction - Lis Pendens

Code of Civil Procedure 1908 - Order XXXIX Rule 1 -Transfer Of Property Act 1882 - Section 52 -Notwithstanding the Rule of lis pendens in Section 52 of the T. P. Act, there can be occasion for the grant of injunction restraining pendente lite transfers in a fit and proper case- if the doctrine of lis pendens as enacted in Section 52 of the T. P. Act was regarded to have provided all the panacea against pendente lite transfers, the Legislature would not have provided in Rule 1 for interim injunction restraining the transfer of suit property. (Para 45)

Code of Civil Procedure 1908 - Order 43 Rule an appellate court, even while deciding an appeal against a discretionary order granting an interim injunction, has to: a. Examine whether the discretion has been properly exercised, i.e. examine whether the discretion exercised is not arbitrary, capricious or contrary to the principles of law; and b. In addition to the above, an appellate court may in a given case have to adjudicate on facts even in such discretionary orders. .The appellate court in an appeal from an interlocutory order granting or declining to grant interim injunction is only required to adjudicate the validity of such order applying the well settled principles governing the scope of jurisdiction of appellate court under Order 43 of the CPC which have been reiterated in various other decisions of this Court. The appellate court should not assume unlimited jurisdiction and should guide its powers within the contours laid down in the *Wander Ltd. v. Antox India P. Ltd- Perversity - stringent*. The emphasis is now more on perversity rather than a mere error of fact or law in the order granting injunction pending the final adjudication of the suit- The wrong finding should stem out on a complete misreading of evidence or it should be based only on conjectures and surmises. Safest approach on perversity is the classic approach on the reasonable man's inference on the facts. To him, if the conclusion on the facts in evidence made by the court below is possible, there is no perversity. If not, the finding is perverse. Inadequacy of evidence or a different reading of evidence is not perversity. (Para 21-32,37)

Code of Civil Procedure 1908 - Order XXXIX Rule 1 -Interim Injunction - It would not be appropriate for any court to hold a mini-trial at the stage of grant of temporary injunction- The burden is on the plaintiff, by evidence aliunde by affidavit or otherwise, to prove that there is “a prima facie case” in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition precedent for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the court would result in “irreparable injury” to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that “the balance of convenience” must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus, the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. (Para 34)

**Chaudhary Charan Singh Haryana Agricultural University vs Monika 2024
INSC 911 - Constitution - Social Justice - Public Appointment**

Constitution of India- Preamble - Article 39- Social Justice - State instrumentalities have the duty to promote the welfare of the people by securing and

protecting, as effectively as it may, a social order, in which justice – social, economic and political – shall inform all the institutions of national life and endeavour to eliminate inequalities in status, facilities and opportunities. Whenever a conflict arises between the powerful and the powerless, social justice commands the Courts to lean in favour of the weaker and poorer sections where the scales are evenly balanced. (Para 27)

Public Appointments- Even though the modalities for engagement of two individuals for executing similar nature of work could differ, there can be no quarrel that none can gain experience without being asked to work. One vital difference in working on a sanctioned post as a permanent employee and being employed in the exigencies of administration without having a right to post is that in the former, the appointee enjoys procedural safeguards bringing in a sense of security of service in him while in the latter the individual concerned may not have any such sense of security. But, in case, both perform the work of clerks, the experience gained would not be much at a variance subject, of course, that the job requirement is not too different. It would also be relevant to bear in mind stipulations in the advertisement if, at all, they call for any special requirement for marks to be secured for experience, viz. previous service rendered on a sanctioned post or if salary, as is specified, has to be received for service rendered in order to be eligible to apply. (Para 20)- The state policy, specifying that the individual must have worked on a post equal to or higher than the advertised posts in any of the enumerated departments to secure marks for experience, also reflects the state's belief that the experience in such departments is directly relevant to the advertised posts. (Para 23)

Varghese George @ Jomon (D) Vs United India Insurance Co. Ltd. 2024 INSC 912

Motor Accident Compensation - Appeal against HC order reducing compensation - Allowing appeal, SC held: The award of the Tribunal is restored assessing the compensation at ₹51,58,458/-.

**Benzo Chem Industrial Private Limited Vs Arvind Manohar Mahajan 2024
INSC 914- NGT - Imposing Penalty Without Notice**

Environmental Law NGT imposed penalty on the appellant for non-compliance with the environment requirement- Allowing appeal, SC observed: The generation of revenue would have no nexus with the amount of penalty to be ascertained for environmental damages. NGT found the appellant to be guilty of violations, the least that was expected from the NGT is to give a notice to the appellant before imposing such a heavy penalty- With deep anguish we have to say that the methodology adopted by the learned NGT for imposing penalty is totally unknown to the principles of law.

Anek Singh Vs State Of Uttar Pradesh 2024 INSC 915 - Land Acquisition

Land Acquisition- Allowing appeal, SC observed: Respondents have not disputed the position that the land is just across the road facing Gate No.9 of the Mathura refinery. 9. In that view of the matter, we find that the impugned orders are not sustainable in law. 10. The impugned order dated 30.04.2019 is quashed and set aside and the appeals are allowed. The respondents are directed to pay compensation to the appellants @ Rs.15/- per sq. mtr.

**Commnr.Of Intermediate Education Vs Y. Kumar Swamy 2024 INSC 916 -
Contempt - Personal Presence Direction**

Contempt of Court - The personal presence of the Government Officers should not be casually directed by the Courts, inasmuch as they are required to be on field for performing their official duties. [SC set aside contempt notice issued by HC directing the officer of the Government to remain personally present on the very first day].

Shivaji vs Parwatibai 2024 INSC 917 - CPC - Second Appeal

Code of Civil Procedure 1908- Section 100 - Second appeal decided by High Court even without giving notice to the appellant herein- Questions of law were framed during the dictation of the order and the appellant herein did not have an opportunity of being heard- Practice deprecated.

Code of Civil Procedure 1908- Section 100 - Second appeal decided by High Court even without giving notice to the appellant herein- Questions of law were framed during the dictation of the order and the appellant herein did not have an opportunity of being heard- Practice deprecated.

Bijay Agarwal vs Medilines 2024 INSC 918- Ss 138,148,141 Negotiable Instruments Act

Negotiable Instruments Act, 1881 – Section 138,141, 148 – Merely because an officer of a company concerned is the authorised signatory of the cheque concerned by itself will not make such an officer ‘drawer of the cheque’ under Section 148, NI Act, so as to empower the Appellate Court, in an appeal against conviction for an offence under Section 138, NI Act, to direct to deposit compensation of any sum under Section 148(1), of the NI Act. (Para 16)

Negotiable Instruments Act, 1881 – Section 148 – An Appellate Court in an appeal against conviction under Section 138, NI Act, could not place a condition to deposit an amount invoking the power under Section 148(1), NI Act, mechanically without considering whether the case falls within exceptional circumstances. (Para 17)

Negotiable Instruments Act, 1881 – Section 138,141, 143A -The primary liability for an offence under Section 138 lies with the company and the company’s management is vicariously liable only under specific conditions provided in Section 141 and for the purpose of Section 143A of the NI Act and a signatory merely authorised to sign on behalf of the company would not become the ‘drawer’ of the cheque and, therefore, could not be directed to pay interim compensation under Section 143A. (Para 13)

Ashok Vs State Of Uttar Pradesh 2024 INSC 919 – Legal Aid – S 313 CrPC – Role Of Legal Aid Lawyers & Public Prosecutors

Constitution of India -Article 21 – Code of Criminal Procedure – Sections 303-304- The right to get legal aid is a fundamental right of the accused, guaranteed by Article 21 of the Constitution- When an accused has either not engaged an advocate or does not have sufficient means to engage an advocate, it is the trial court’s duty to inform the

accused of his right to obtain free legal aid, which is a right covered by Article 21 of the Constitution of India-**Role of the Public Prosecutor and appointment of legal aid lawyers** :

It is the duty of the Court to ensure that proper legal aid is provided to an accused; When an accused is not represented by an advocate, it is the duty of every Public Prosecutor to point out to the Court the requirement of providing him free legal aid. The reason is that it is the duty of the Public Prosecutor to ensure that the trial is conducted fairly and lawfully;. Even if the Court is inclined to frame charges or record examination-in-chief of the prosecution witnesses in a case where the accused has not engaged any advocate, it is incumbent upon the Public Prosecutor to request the Court not to proceed without offering legal aid to the accused; It is the duty of the Public Prosecutor to assist the Trial Court in recording the statement of the accused under Section 313 of the CrPC. If the Court omits to put any material circumstance brought on record against the accused, the Public Prosecutor must bring it to the notice of the Court while the examination of the accused is being recorded. He must assist the Court in framing the questions to be put to the accused. As it is the duty of the Public Prosecutor to ensure that those who are guilty of the commission of offence must be punished, it is also his duty to ensure that there are no infirmities in the conduct of the trial which will cause prejudice to the accused; An accused who is not represented by an advocate is entitled to free legal aid at all material stages starting from remand. Every accused has the right to get legal aid, even to file bail petitions – At all material stages, including the stage of framing the charge, recording the evidence, etc., it is the duty of the Court to make the accused aware of his right to get free legal aid. If the accused expresses that he needs legal aid, the Trial Court must ensure that a legal aid advocate is appointed to represent the accused; in all the cases where there is a possibility of a life sentence or death sentence, only those learned advocates who have put in a minimum of ten years of practice on the criminal side should be considered to be appointed as amicus curiae or as a legal aid advocate. Even in the cases not covered by the categories mentioned above, the accused is entitled to a legal aid advocate who has good knowledge of the law and has an experience of conducting trials on the criminal side. It would be ideal if the Legal Service Authorities at all levels give proper training to the newly appointed legal aid advocates not only by conducting lectures but also by allowing the newly appointed legal aid advocates to work with senior members of the Bar in a requisite number of trials; h. The State Legal Services Authorities shall issue directions to the Legal

Services Authorities at all levels to monitor the work of the legal aid advocate and shall ensure that the legal aid advocates attend the court regularly and punctually when the cases entrusted to them are fixed; It is necessary to ensure that the same legal aid advocate is continued throughout the trial unless there are compelling reasons to do so or unless the accused appoints an advocate of his choice; j. In the cases where the offences are of a very serious nature and complicated legal and factual issues are involved, the Court, instead of appointing an empanelled legal aid advocate, may appoint a senior member of the Bar who has a vast experience of conducting trials to espouse the cause of the accused so that the accused gets best possible legal assistance; The right of the accused to defend himself in a criminal trial is guaranteed by Article 21 of the Constitution of India. He is entitled to a fair trial. But if effective legal aid is not made available to an accused who is unable to engage an advocate, it will amount to infringement of his fundamental rights guaranteed by Article 21; If legal aid is provided only for the sake of providing it, it will serve no purpose. Legal aid must be effective. Advocates appointed to espouse the cause of the accused must have good knowledge of criminal laws, law of evidence and procedural laws apart from other important statutes. As there is a constitutional right to legal aid, that right will be effective only if the legal aid provided is of a good quality. If the legal aid advocate provided to an accused is not competent enough to conduct the trial efficiently, the rights of the accused will be violated. (Para 23)

Code of Criminal Procedure 1973 – Section 313- In a given case, the witnesses may have deposed in a language not known to the accused. In such a case, if the material circumstances appearing in evidence are not put to the accused and explained to the accused, in a language understood by him, it will cause prejudice to the accused. (Para 15)

Rohit Kochhar Vs Vipul Infrastructure Developers Ltd. 2024 INSC 920 – S 16 CPC – S 22 Specific Relief Act

Code of Civil Procedure 1908 – Section 16(d) – Specific Relief Act 1963 – Section 22 –Absence of a specific prayer seeking transfer of possession would not have any bearing on the character of the suit, which is one covered by Section 16(d) of the CPC. (Para 33)

Code of Civil Procedure 1908 – Section 16 Proviso – The proviso to Section 16 would be applicable to a case where the relief sought by plaintiff can be obtained through the personal obedience of the defendant, that is, the defendant has not to go out of the jurisdiction of the court at all for the purpose of the grant of relief. (Para 21)

Interpretation of Statutes – An interpretation which gives rise to the possibility of misuse of law cannot be allowed. (Para 34)

Specific Relief Act 1963 – Sections 22 and 28 – Plaintiff can seek the relief of possession, partition, etc. simultaneously along with the prayer for specific performance. (Para 29)

Code of Civil Procedure 1908 – Section 16 -Actions against res or property should be brought in the forum where such res is situate. A court within whose territorial jurisdiction the property is not situate has no power to deal with and decide the rights or interests in such property – A court has no jurisdiction over a dispute in which it cannot give an effective judgment. (Para 16)

Union Of India Vs Saroj Devi 2024 INSC 921 – Army – Liberalised Family Pension

Summary: Tribunal allowed the application filed by widow of late soldier of Indian Army and directed that she be granted LFP and ex- gratia lumpsum amount payable in case of battle casualties dying in harness- Dismissing appeal, SC observed: respondent ought not to have been dragged to this Court, and the decision- making authority of the appellants ought to have been sympathetic to the widow of a deceased soldier who died in harness- Directed the appellants to pay the costs quantified as Rs.50,000/- to the respondent.

Oachira Parabrahma Temple Vs G. Vijayanathakurup 2024 INSC 922

Summary: Directions issued for smooth conduct of election under the aegis of a new Administrative Head/ Administrator, for the smooth and effective administration of the subject temple and the institutions thereunder.

Wadla Bheemaraidu Vs State Of Telangana 2024 INSC 923- S 27 Evidence Act – Circumstantial Evidence

Indian Evidence Act 1872 – Section 27 -Information under Section 27 IEA which leads to discovery of an incriminating material/evidence must be proved by the Investigating Officer as being voluntary and uninfluenced by threat, duress or coercion. The Investigating Officer is also required to prove the contents of the information/confessional memo to the extent they relate to the facts discovered.

Criminal Trial – Circumstantial Evidence-in a case based purely on circumstantial evidence, the prosecution is under an obligation to prove each and every link in the chain of incriminating circumstances beyond all manner of doubt and that the circumstances so relied upon by the prosecution should point unequivocally towards the guilt of the accused and should be inconsistent with the guilt of anyone else or the innocence of the accused. Only in the event of the complete/unbroken chain of circumstances being proved by cogent and clinching evidence which does not admit of any other inference, otherwise that of the guilt of the accused, the conviction can be recorded. (Para 20)

Irfan Khan Vs State (NCT of Delhi) 2024 INSC 924- Arms Act – FIR Quashed

Summary: The appellant seeks quashment of the proceedings of the criminal case arising from FIR lodged against him for the offences punishable under Sections 25, 54 and 59 of the Arms Act, 1959 – Allowing appeal, SC quashed criminal proceedings and observed: On going through the allegations as set out in the charge-sheet supra, there is not even a whisper that the appellant was carrying the buttondar knife of the dimensions stated above, for the purpose of sale or test.

Deepak Kumar Vs Devina Tewari 2024 INSC 925 – S 19 Contempt of Courts Act

Contempt of Courts Act 1971- Section 19- Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 – Referred to Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal Nanda

Grasim Industries Limited vs The State Of Madhya Pradesh 2024 INSC 926

National Green Tribunal – Practice and Procedure – NGT is a tribunal constituted under the National Green Tribunal Act of 2010. A tribunal is required to arrive at its decision by fully considering the facts and circumstances of the case before it. It cannot outsource an opinion and base its decision on such an opinion.

R. Shama Naik vs G. Srinivasiah 2024 INSC 927 – Specific Performance – Readiness & Willingness

Specific Relief Act 1963 - Section 16 - The plaintiff is obliged not only to make specific statement and averments in the plaint but is also obliged to adduce necessary oral and documentary evidence to show the availability of funds to make payment in terms of the contract in time -Fine distinction between readiness and willingness to perform the contract - Both the ingredients are necessary for the relief of specific performance. While readiness means the capacity of the plaintiff to perform the contract which would include his financial position, willingness relates to the conduct of the plaintiff. (Para 10-12)

State Of Karnataka Vs Chandrashe 2024 INSC 928 - Prevention Of Corruption Act

Prevention of Corruption Act - Section 20(3) - Triviality of the gratification, - The act sought or performed, and the amount demanded cannot be considered in isolation to each other. The value of gratification is to be considered in proportion to the act to be done or not done, to forbear or to not forebear, favour or disfavour sought, so as to be trivial to convince the Court, not to draw any presumption of corrupt practice. It is also not necessary that only if substantial amount is demanded, the presumption can be drawn. The overall circumstances and the evidence will also have to be looked into- The first two limbs under sub- sections (1) and (2) of Section 13 make it clear that adequacy of consideration is irrelevant to draw the presumption. That apart, sub-section (3) only grants a discretion to Court to decline from drawing any presumption if the amount is so trivial so that such inference of corruption is not fairly possible in the facts of the case. Therefore, it is not a

rule but an exception available to the Court to exercise its discretionary power in the facts and circumstances of the case. (Para 23)

Prevention of Corruption Act - Section 20,13, 7- When the two basic facts viz., 'demand' and 'acceptance' of gratification have been proved, the presumption under Section 20 can be invoked to the effect that the gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the Act. However, such presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the same.

BPTP Limited Vs Terra Flat Buyers Association 2024 INSC 929 - Settlement-Consumer Case

Summary: As per the settlement in a consumer complaint, the appellants are required to pay the amount received from each of the complainants along with interest @ 9% per annum- whether the actual amount should be paid or it should be paid after deducting the TDS, as per the provisions of the Income Tax Act? Partly allowing appeal, SC observed: In the peculiar facts and circumstances of the case, we direct that the payment of interest should be made without deducting TDS.

Kabir Shankar Bose vs State Of West Bengal 2024 INSC 930 – Ordering CBI Investigation

Constitution of India – Article 32,226- The power to transfer an inquiry or a trial is exercised through the intervention of the constitutional courts in exceptional circumstances and the constitutional courts are expected to use the said extraordinary power sparingly, cautiously and in exceptional situation where it becomes necessary to provide credibility and instil confidence in the investigation or where the incident may have national or international ramifications or where it is necessary for doing complete justice and enforcing fundamental rights- Such Transfer not be ordered by the court in a routine/perfunctory manner or merely for the reason that one party makes allegations against the other. [In this case, SC directed State to handover the investigation to the CBI]

S. N. Dubey vs Raman Khandelwal 2024 INSC 931 – National Green Tribunal

National Green Tribunal – Practice of the NGT of basing its judgment on outsourced

material deprecated- A tribunal is expected to carefully consider the material placed before it and the contentions raised on behalf of both the parties. It cannot discharge its function by merely relying on a report of the Court Commissioner without even considering the stand of the parties before it. (Para 16)

State of Madhya Pradesh vs Ramkumar Choudhary 2024 INSC 932 – Limitation -Delay Condonation

Limitation Act 1963 – Section 5 -Where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the Court within limitationh-The discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression ‘sufficient cause’ cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party. (Para 5)- It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation – Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. (Para 7)

Limitation Act 1963 – Section 5 . Though the Government adopts systematic approach

in handling the legal issues and preferring the petitions/applications/appeals well within the time, due to the fault on the part of the officials in merely communicating the information on time, huge revenue loss will be caused to the Government exchequer- States directed to streamline the machinery touching the legal issues, offering legal opinion, filing of cases before the Tribunal / Courts, etc., fix the responsibility on the officer(s) concerned, and penalize the officer(s), who is/are responsible for delay, deviation, lapses, etc., if any, to the value of the loss caused to the Government. (Para 6)

Nalin Choksey vs Commissioner Of Customs, Kochi 2024 INSC 933 – Customs Act- Vehicle Owner- Motor Vehicles Act

Customs Act – Section 2(26) – Motor Vehicles Act – Section 2(30) – when a motor vehicle stands registered in the name of a person, he would be the owner of the said motor vehicle.- Section 49 of the Motor Vehicles Act deals with the necessity for registration -There is no ownership in law on a person if his name has not been entered in the registration certificate concerning the vehicle .

Bastiram vs Rajasthan State Road Transport Corporation 2024 INSC 934 – Labour Law

Summary: Appeal filed by workman who was dismissed from service- Disposing appeal, SC held: Appellant- workman held entitled to a compensation of ₹2,00,000/- to resolve the entire controversy in hand.

Nutan Bharti Gram Vidyapith vs Government Of Gujarat 2024 INSC 935

Summary: Claim regarding liability of the appellant-private college to pay retiral benefits to the respondent-employee- Allowing appeal, SC observed: It cannot be opined that it's conduct was such that it should be burdened with the retiral benefits of delinquent employee- the State, shall be liable to pay retiral dues to respondent- employee.

Hare Ram Yadav vs State Of Bihar 2024 INSC 936 – Criminal Trial – Relatives As Witnesses

Criminal Trial – Merely because the witnesses are relatives, cannot be a ground to discard the testimony of such witnesses. The only requirement is that the testimonies of such witnesses have to be scrutinized with greater caution and circumspection. (Para 10)

Summary: Appeal against conviction under Section 302 IPC – Partly allowed – Conviction altered to Part 1 of Section 304 IPC

Kunhimuhammed @ Kunheethu State Of Kerala 2024 INSC 937 – S 300 IPC – Right Of Private Defense

Indian Penal Code 1860 – Section 300 – An intention to cause such injuries that are sufficient in the ordinary course of nature to cause death qualifies as murder, and even if ingredients other than intention to cause murder are proved, mere knowledge of the result of fatal actions is enough to ascribe culpability to the accused person. (Para 25.8) – The act of causing injuries with knife to vital parts is reflective of the knowledge that causing such injuries is likely to cause death in the ordinary course. (Para 25.16) – Intent can be inferred from the nature and severity of injuries, as well as the choice of weapon and the manner of its use. The use of a lethal weapon and the deliberate targeting of vital parts of the body are strong indicators of such intent. (Para 25.17)

Indian Penal Code 1860 – Section 304 – To bring the accused'sact under section 304, IPC in light of the offence being committed in exercise of private defense and thereby exceeding the power given under the law, that is under exception 2 to section 300, IPC – the ingredients therein must be proved. The ingredients for this exception are: 1. The accused must be free from fault in bringing about the encounter; 2. There must be an impending peril to life or of great bodily harm, either real or apparent; 3. Injuries received by the accused; 4. The injuries caused by the accused-5.he accused did not have time or opportunity to take recourse to public authorities. (Para 26.1) – The number of injuries on the accused side by itself may not be sufficient to establish right of private defense -An overall view of the case has to be taken to check whether a case for private defense is made out from the evidence on record. (Para 26.5)

PJ Dharmaraj vs Church Of South India 2024 INSC 938 – AICTE – UGC Regulations

Service Law – CSIIT is an affiliated Institute of JNT University. Its teachers cannot have their age of retirement more than that of the teachers of the affiliating University. It would create a serious anomaly, discrimination and inequality.(Para 9) AICTE and UGC regulations are applicable only to those who qualify as teachers and are discharging classroom teaching duties.(Para 10)

Srusti Academy Of Management Vs State Of Odisha 2024 INSC 939 – Natural Justice

Principle of Natural Justice – Any order inviting adverse civil consequences cannot be passed without adherence to the principles of natural justice. (Para 5)

Orissa Professional Educational Institutions (Regulation of Admission & Fixation of Fee) Act, 2007– Fee Structure Committee reduced the fees that the appellant(s) could charge to the students – Allowing appeal, SC observed: The said revision was made without giving an opportunity of being heard to the appellant – For the next academic session, the Fee Structure Committee as well as State Government would determine the fee structure by following the procedure as set out under Sections 6 and 7 of the Act and the law laid down by this Court. Needless to state that till the fees for the next academic session are redetermined, the appellant(s) would continue to charge the fees which existed before passing the impugned judgment and order.

Basudev Dutta Vs State Of West Bengal 2024 INSC 940 – Administrative Law – Foreigners Act

Administrative Law – and every notice must specify the grounds on which the administrative or quasi-judicial authority intends to proceed; if any document is relied upon to form the basis of enquiry, such document must be furnished to the employee; it is only then a meaningful reply can be furnished; and the failure to furnish the documents referred and relied in the notice would vitiate the entire proceedings as being arbitrary and

in violation of the principles of natural justice; and before taking any adverse decision, the aggrieved person must be given an opportunity of personal hearing. (Para 12.2-12.6)

Foreigners Act, 1946 – Section 9 – The onus of proving citizenship of a person is upon that person who claims to be a citizen of the country. In order to establish one's citizenship, normally he may be required to give evidence of his date of birth, place of birth, name of his parents, their place of birth and citizenship. Sometimes the place of birth of his grandparents may also be relevant. All these facts would necessarily be within the personal knowledge of the person concerned and not of the authorities of the State'- Referred to Sarbananda Sonowal v. Union of India.

Prakash Bhalotia (D) vs Indra Chandra Goyal (D) 2024 INSC 941 - Tenancy Laws

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act - In a suit seeking eviction on the ground of arrears of rent, if the rent is not paid during the pendency, it can be a ground for directing eviction for nonpayment of the rent. (Para 22)- Once a revision petition is entertained by the High Court, whichever be the party invoking the revisional jurisdiction, it acquires jurisdiction to call for and examine the records of the authority subordinate to it. Any illegality, irregularity or impropriety coming to its notice is capable of being corrected by it by passing such appropriate order or direction as the law requires and justice demands. (Para 24)

Lt. Col. Suprita Chandel vs Union Of India 2024 INSC 942 – Writ Jurisdiction – Declaration of Law -Similarly Situated

Constitution of India – Article 32,226- When a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court – In exceptional cases where the court has expressly prohibited the extension of the benefit to those who have not approached the court till then or in cases where a grievance in personam is redressed, the matter may acquire a different dimension, and the department may be justified in denying the relief to an individual who claims the

extension of the benefit of the said judgment. (Para 14-16)

National Highway Authority Of India Vs G Athipathi 2024 INSC 943 – Service Law

Service Law - CAT allowed the Original Application filed by the respondent and directed the appellant to count the respondent's deputation service period from 21.05.2008 to 13.06.2014 for promotion to the post of Deputy General Manager (Technical) and to promote him as Deputy General Manager (Technical) with effect from 27.10.2017 with all consequential benefits. The appellant was further directed to consider his case for promotion to the post of General Manager (Technical) as per rules.case, respondent no.1 was absent from the service of the appellant not for any of the above specific purposes, but on a permanent basis i.e., being sent back to his parent department - Allowing appeal, SC observed: Unfortunately, to our mind, the 'etc.' in 'fulfilling administrative formalities e.g. submission/ acceptance of technical resignation / retirement etc' would not cover situation of respondent no.1. Obviously, respondent no.1 cannot take advantage of a saving provision for such deputationists who, for some period, had to go back but for the purposes of returning to the appellant, which have been incorporated in the Minutes supra.decision taken by the appellant not to grant promotion to the respondent no.1 needs to be upheld.

Kirpal Singh Vs Government Of India 2024 INSC 944 – S 34 Arbitration Act – S 14 Limitation Act

Arbitration and Conciliation Act 1996 – Section 34,37 – Limitation Act 1963 – Section 14 – The provisions of Section 14 of the Limitation Act would be applicable to an application submitted under Section 34 of Arbitration Act for setting aside an arbitral award – Referred to Consolidated Engineering Enterprises vs. Principal Secretary, Irrigation Department 2008 (7) SCC 169 – When the substantive remedies under Sections 34 and/or 37 of the Arbitration Act are by their very nature limited in their scope due to statutory prescription6, it is necessary to interpret the limitation provisions liberally, or else, even that limited window to challenge an arbitral award will be lost. The remedies under Sections 34 and 37 are precious. Courts of law will keep in mind the need to secure

and protect such a remedy while calculating the period of limitation for invoking these jurisdictions. (Para 9-11)

Tej Bhan (D) Vs Ram Kishan (D) 2024 INSC 945 – S 14 Hindu Succession Act – Referred To Larger Bench

Hindu Succession Act 1956 - Section 14 -Re: V. Tulasamma & Ors. v. Sesha Reddy: There are atleast 18 judgments from this Court comprising decisions from two and three Judge benches that are varying and sometimes inconsistent with the view taken in Tulsamma's case- Almost four decades after the judgment in Tulsamma, we have two streams of thoughts. While the first applies principles in Tulsamma as an inviolable principle steadfastly holding that property possessed by a Hindu female before or after the commencement of the Act shall be held by her as a full owner. The other seems to be evolving from case to case, influenced by, i) the method and manner by which the Hindu female is possessed of the property, ii) the instrument through which the right is acquired, and iii) the time at which such possession takes place, to mention a few- The issue is of utmost importance as it affects the rights of every Hindu female, her larger family and such claims and objections that may be pending consideration in almost all original and appellate courts across the length and breadth of the country. It is absolutely necessary that there must be clarity and certainty in the position of law that would govern proprietary interests of parties involving interpretation of Section 14- the Registry to place our order along with the appeal paper book before the Hon'ble Chief Justice of India for referring the matter to an appropriate larger bench.

Leela Agrawal Vs Sarkar 2024 INSC 946 – S 58(c) TP Act – Mortgage By Conditional Sale

Transfer of Property Act – Section 58(c) -The ingredients of a mortgage by conditional sale under Section 58(c) of the Act are as follows: (i) The mortgagor ostensibly sells the mortgaged property to the mortgagee. (ii) Such ostensible sale is subject to any one of the following conditions: • On default of payment of the mortgage- money on a certain date, the sale shall become absolute; or • On payment of the mortgage-money on a

certain date, the sale shall become void; – The use of the term “mortgage with condition to sell” and references to the mortgagee as “mortgagee with condition purchaser” indicate that the mortgagor ostensibly sold the property to the mortgagee, satisfying the first ingredient- The permissive possession of the suit land by the plaintiff does not negate the nature of the transaction. (Para 14-27)

State Of Maharashtra Vs Pradeep Yashwant Kokade 2024 INSC 947- Writ Petition - Delay In Death Penalty Executions

Constitution Of India - Article 32,226 -Undue, unexplained and inordinate delay in execution of the sentence of death will entitle the convict to approach this Court under Article 32. However, this Court will only examine the nature of the delay caused and circumstances that ensued after the judicial process finally confirmed the sentence and will have no jurisdiction to reopen the conclusions reached by the Court while finally maintaining the sentence of death. This Court, however, may consider the question of inordinate delay in the light of all circumstances of the case to decide whether the execution of sentence should be carried out or should be commuted to imprisonment for life- A convict can invoke even the jurisdiction of a High Court under Article 226 of the Constitution in the event there is an inordinate and unexplained delay in the execution of the death sentence, post- confirmation of the sentence-Keeping a convict in suspense while considering his mercy petitions by the Governor or the President for an inordinately long time will certainly cause agony to him/her. It creates adverse physical conditions and psychological stress on the convict. Therefore, this Court, while exercising its jurisdiction under Article 32 read with Article 21 of the Constitution, must consider the effect of inordinate delay in disposal of the clemency petition by the highest Constitutional authorities and cannot excuse the agonising delay caused only on the basis of the gravity of the crime- No hard and fast rule can be laid down as regards the length of delay, which can be said to be inordinate. It all depends on the facts of the case. The terms “undue” or “inordinate” cannot be interpreted by applying the rules of mathematics. The Courts, in such cases, deal with human issues and the effect of the delay on individual convicts. What delay is inordinate must depend on the facts of the case;(Para 42)

Constitution Of India - Article 72,161 -It is the duty of the Executive to promptly process the mercy petitions invoking Articles 72 or 161 of the Constitution and forward the petitions along with requisite documents to the concerned constitutional functionary without undue delay. (Para 42)

Code Of Criminal Procedure 1973 -Section 413 , 414 - After the order of rejection of mercy petitions is communicated to a convict, the sword of Damocles cannot be kept hanging on him for an inordinately long time. This can be very agonising, both mentally and physically. Such inordinate delay will violate his rights under Article 21 of the Constitution. In such a case, this Court will be justified in commuting the death penalty into life imprisonment. (Para 42)

Code Of Criminal Procedure 1973 -Section 413 , 414 -Before issuing the warrant, the Sessions Court must satisfy itself that the order of death sentence has attained finality and the review/curative or mercy petitions, if filed, have been finally rejected. Before issuing a warrant, the Sessions Court has to issue notice to the convict so that even the convict can state whether any other proceedings are pending before the Courts or Constitutional authorities. In a given case, the convict may not be interested in pursuing remedies. The Sessions Court can verify this aspect after issuing a notice to the convict. The Sessions Court, in such a case, must appraise the convict of the remedies available and, if required, provide legal aid to enable the convict to take recourse to such remedies. After the convict has been made aware of the remedies available, reasonable time be granted to the convict to consider, weigh and even consult a member of his family or friend to finally take a decision on adopting remedies as the possibility of thinking logically and rationally may be impeded or hampered because of the situation being faced by the convict. The Sessions Court can issue a warrant only after providing such reasonable time to the convict and after satisfying itself that the convict has taken a conscious decision of not pursuing the available remedies. The reasonable time can be of seven days. The Sessions Court can direct the counselling of the convict if it is not satisfied that the decision is a well-informed, considered and conscious decision. If such a procedure is followed, it enables the convict to take recourse to the available legal remedy. Moreover, if an order of issue of warrant of execution is passed after notice to the convict, it enables the convict to challenge the order of issuing a warrant of execution. But after the convict exhausts all remedies, including filing mercy petitions or after the Sessions Court is satisfied that the

convict has taken a conscious decision of not availing the remedies, the execution warrant must be issued without any delay. It is the responsibility of the trial court to take up and conclude the proceedings of issuing a warrant of execution as expeditiously as possible. The trial court must give necessary out of turn priority. (Para 25)

Mercy petitions - Directions issued to all the State Governments and Union Territories. (Para 43)

Death Sentence - There is no right vested in the victim to insist on imposing capital punishment. (Para 37)

State Of UP vs Northern Coal Fields 2024 INSC 948 -Coal Bearing Areas (Acquisition and Development) Act

Coal Bearing Areas (Acquisition and Development) Act, 1957- Sections 10,11 –
The rights conferred under sub-section (2) of Section 10 are limited in nature as compared to sub-section (1) and such a distinction must be appreciated when determining the nature of acquisition by the Central Government. It must be noted that such a contrast in rights under Section 10(1) and (2) is rooted solely in the fact if the rights under any mining lease are granted to any person at the time of acquisition by the Central Government or not. The Central Government shall acquire the character of a deemed lessee of the State Government only if a mining lease granted by the State Government in favour of any person existed already before the Central Government acquired the land and rights over it. No relationship of a lessor and lessee shall come into existence between the State Government and the Government Company if there did not exist any mining lease under the Mineral Concession Rules, at the relevant point of time, when such right is being vested in the Government Company. Simply put, when there is no pre-existing lease at the time of acquisition by the Central Government and the rights are subsequently vested in a Government Company, then such Government Company does not become a deemed lessee of the State Government.

Birma Devi Vs Subhash 2024 INSC 949 – S 22 Specific Relief Act

Specific Relief Act 1963 – Section 22 -Referred to Babu Lal v. Hazari Lal Kishori Lal reported in (1982) 1 SCC 525- Section 22, which was introduced by the legislature to avoid multiplicity of proceedings, allows the plaintiff to amend the plaint to include a claim for the relief of possession, partition, etc. at any stage of the proceeding- The expression “any stage of the proceeding” includes the stage of execution of the decree by the executing court [In this case, HC held that even if no decree for possession has been sought and the suit for specific performance is decreed, the Executing Court is under an obligation to see that the possession of the suit property as decreed is handed over to the decree-holder- SC dismissed SLP]

Muthupandi vs State 2024 INSC 950 – Ss. 279 304A IPC

Indian Penal Code 1860 – Section 279, 304A – Appeal against concurrent conviction under Sections 279 and 304A of IPC – Partly allowing appeal, SC observed: The incident is of the year 2013. Eleven years have elapsed since the incident occurred. The appellant has been on bail throughout. It also emerges from the case of the prosecution that the witnesses and the deceased were negotiating about 70 cattle on the road. While we do not absolve the appellant from the act of rash and negligent driving, we certainly want to keep the above factors in mind while considering the sentence. The appellant has deposited a sum of Rs. 1,00,000/- to be payable to the mother of the deceased who is the sole legal heir- SC set aside the sentence of three months simple imprisonment and fine imposed -the amount of Rs. 1,00,000/- deposited in this Court along with interest be paid to mother of the deceased.

Banwari vs Haryana State Industrial And Infrastructure Development Corporation Limited 2024 INSC 951 – S 28A Land Acquisition Act

Land Acquisition Act 1894 -Section 28A – The conditions which are required to be satisfied for invoking the provisions of Section 28-A(1): (i) An award has been made by the

Court under Part III of the Act after coming into force of Section 28-A; (ii) By the said Award, the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference; (iii) The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates; (iv) The person moving the application did not move the application under Section 18; (v) The application is moved within three months from the date of the award on the basis of which redetermination of amount of compensation is sought; and (vi) Only one such application can be moved under Section 28-A for redetermination of the compensation by the applicant – The limitation for moving the application under Section 28-A will begin to run only from the date of the award on the basis of which redetermination of the compensation is sought.

Central Bureau Of Investigation vs Jagat Ram 2024 INSC 952 – S 19
Prevention Of Corruption Act – Sanction

Prevention of Corruption Act – Section 19 – Under sub-section 3(a) of Section 19, no finding, sentence or order by a Special Judge shall be reversed by a court of appeal on the ground of absence, error, omission or irregularity in the sanction- However, such a restraint against reversal or alteration is always subject to the opinion of the court that failure of justice has in fact been occasioned thereby. Sub-section (4) of Section 19 further provides that while construing whether the absence, error, omission or irregularity has occasioned or resulted in failure of justice, the court will examine the fact that whether an objection could and should have been raised at an earlier stage in the proceedings-The meaning behind the text of the phrase ‘failure of justice’ must be understood in the context of the object behind the larger public policy on sanction for prosecution-The substantial principle of requiring a sanction for prosecution and at the same time the principle in not negating the sentence or order of a court of competent jurisdiction are both incorporated in the Prevention of Corruption Act and the Criminal Procedure Code. The Court balances these values by the measure of whether failure of justice has in fact been occasioned.

Dara Lakshmi Narayana Vs State Of Telangana 2024 INSC 953- 498A IPC – Misuse

Indian Penal Code 1860 – Section 498A – The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State- Growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife- Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife – Caution against prosecuting the husband and his family in the absence of a clear *prima facie* case against them- A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family member.(Para 25-28)

State Of Odisha vs Dilip Kumar Mohapatra 2024 INSC 954 – Public Appointments – Article 14 Constitution

Public appointments – Even if in some cases appointments have been made by mistake, or wrongly, that does not confer any right on another person.(Para 20)

Constitution of India -Article 14– Article 14 does not envisage negative equality, and if the State committed the mistake, it cannot be forced to perpetuate the same mistake. (Para 20)

Nusrat Parween vs State Of Jharkhand 2024 INSC 955 – S 106 Evidence Act – Murder Case

Indian Evidence Act 1872 – Section 106 – In cases based on circumstantial evidence, the accused's failure to provide a reasonable explanation as required under Section 106 of the Evidence Act can serve as an additional link in the chain of circumstantial evidence – but only if the prosecution has already established other essential ingredients sufficient to shift the onus on to the accused. However, if the prosecution fails to establish a complete chain of circumstances in the first place, then the accused's failure to discharge the burden under Section 106 of the Evidence Act becomes irrelevant. (Para 17)

Criminal Trial – Motive – Proof of motive is not sine qua non in a case of murder. However, in a case based purely on circumstantial evidence, motive if properly established, assumes great significance and would definitely provide an important corroborative link in the chain of incriminating circumstances and strengthen the case of prosecution. (Para 9)

– Circumstantial Evidence – Conviction on a charge of murder may be based purely on circumstantial evidence, provided that such evidence is deemed credible and trustworthy. In cases involving circumstantial evidence, it is crucial to ensure that the facts leading to the conclusion of guilt are fully established and that all the established facts point irrefutably to the accused person's guilt. The chain of incriminating circumstances must be conclusive and should exclude any hypothesis other than the guilt of the accused. In other words, from the chain of incriminating circumstances, no reasonable doubt can be entertained about the accused person's innocence, demonstrating that it was the accused and none other who committed the offence- Referred to Sharad Birdhichand Sharda v. State of Maharashtra. (Para 7)

Jayanandan vs Suresh Kumar 2024 INSC 956 – Amendment Of Written Statement

Summary: Allowing appeal, SC observed: A decree granted by the Trial Court could not have been set aside merely because there was an amendment to the Written Statement made by the first defendant and in the absence of any evidence being let in support of the claim made- any averment made in a plaint or Written Statement must be supported by

evidence.

Chaduranga Kanthraj Urs Vs P. Ravi Kumar 2024 INSC 957- Contempt Of Court Act

Contempt of Courts Acts 1971 – In order to punish a contemnor, it has to be established that disobedience of the order is ‘wilful’. It means knowingly-intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It would exclude casual, accidental, bonafide or unintentional acts or genuine inability and would also not include involuntary or negligent actions. The deliberate conduct of a person means that he knows what he is doing and intends to do the same- If two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable-The weapon of contempt will not be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. The paramount consideration is given to maintain court’s dignity and majesty of law- Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the orders in relation to which contempt has been alleged. That the Court hearing a contempt petition ought to restrict the scope of its enquiry to such directions which are explicit in the judgment or orders of which contempt has been alleged.The civil contempt would mean a wilful disobedience of a decision of this Court. What would be relevant is the “wilful disobedience”. Hence, knowledge of having acted in disregard to an order is sine qua non for being proceeded with if there is a deliberate, conscience and intentional act then the jurisdiction can be clutched- Court exercising contempt jurisdiction would not enter into question which have not been dealt with and decided in the judgment or order, violation of which is complained by the applicant. This Court will consider whether the direction issued in the judgment or order is complied in true sense or in its letter and spirit and would not embark upon the journey of examining as to what the judgment or order should have contained. The primary concern would be as to whether there has been deliberate default or if there is any ambiguity in the directions issued therein, in which event it would be better to direct the parties to approach the court which disposed of the matter for clarification instead of clutching the contempt jurisdiction- A theoretical implementation would not amount to compliance. The

implementation of the order should be substantial and said order/s should clearly reflect the intention of the authorities of its bonafides, as otherwise it has to be necessarily held that the act of State and its officers are not bonafide but tainted or malafide. Lex non cogit ad impossibilia- Law does not compel a person to do the impossible-Unless an order is absolutely impossible to be executed or carried out, the authorities cannot be heard to contend that financial burden would be a hurdle to implement the orders of this Court. If at all, there were any such hurdles, it was always open to authorities to approach this Court to seek appropriate orders and an attempt made in that regard had also failed.

Ajay Kumar Jain vs State Of Uttar Pradesh 2024 INSC 958 – Writ Petition – Miscellaneous Application

Constitution of India – Article 32 and 226 -No miscellaneous application is maintainable in a writ petition to revive proceedings in respect of subsequent events- When proceedings stand terminated by final disposal of the writ petition be it under Article 32 of the Constitution or Article 226 of the Constitution before the High Court, it is not open to the Court to re-open the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. If this principle is not followed, there would be confusion and chaos and the finality of the proceedings would cease to have any meaning- The Registry shall not circulate any miscellaneous application filed in a disposed of proceedings unless and until there is a specific averment on oath that the filing of the miscellaneous application has been necessitated as the order passed in the main proceedings being executory in nature and have become impossible to be implemented because of subsequent events or developments. 19. The Registry shall insist from every applicant who intends to file any miscellaneous application in a disposed of proceedings for such a declaration as above on solemn affirmation.

Chandigarh Administrator vs Manjit Kumar Gulati 2024 INSC 959 – Chandigarh Lease Hold of Sites and Building Rules

Summary: High Court quashed order of resumption of the plot – Allowing appeal, SC observed: ere was no document whatsoever produced by the said alleged tenant to show

that it was the tenant of the original allottees – Manjit Kumar Gulati and Ors. When the original allottees themselves had failed to comply with the conditions of auction sale, and when the allotment itself made in favour of the said allottees was cancelled by the Statutory Authority after following the due process of law, i.e., by issuing show cause notice before cancellation of allotment, and when number of opportunities of hearing were given to the allottees to clear the outstanding dues, there was no question of serving any notice to the so called tenant, M/s. Mohit Medicos, especially when there was nothing on record to suggest that M/s. Mohit Medicos was the tenant of the original allottees – Manjit Kumar Gulati and Ors. The High Court had completely lost sight of the said factual aspects of the matter while allowing the writ petitions filed by the respondents – allottees and the so called tenant – M/s. Mohit Medicos.

Jayedepsinh Pravinsinh Chavda Vs State Of Gujarat 2024 INSC 960 – S 306,498A IPC – Harassment- Abetment Of Suicide

Indian Penal Code 1860 – Section 306 – Mere harassment, by itself, is not sufficient to find an accused guilty of abetting suicide. The prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of mens rea cannot simply be presumed or inferred; it must be evident and explicitly discernible. Without this, the foundational requirement for establishing abetment under the law is not satisfied, underscoring the necessity of a deliberate and conspicuous intent to provoke or contribute to the act of suicide. (Para 18)

Indian Penal Code 1860 – Section 498A – ‘Cruelty’ simpliciter is not enough to constitute the offence, rather it must be done either with the intention to cause grave injury or to drive her to commit suicide or with intention to coercing her or her relatives to meet unlawful demands- The following ingredients to constitute the offence under section 498-A, IPC: i. The woman must be married; ii. She must be subjected to cruelty or harassment; and iii. Such cruelty or harassment must have been done either by husband of the woman or by the relative of her husband. (Para 9-11)

Parvin Kumar Jain Vs Anju Jain 2024 INSC 961 -Article 142 Constitution- Irretrievable Breakdown Of Marriage – Permanent Maintenance

Constitution of India – Article 142 -A marriage can be dissolved by this Court on the ground of irretrievable breakdown when the relationship is so strained that the marriage has succumbed to the long standing differences between the parties and it has become impossible to save such a relationship. When the Court is convinced that there is no scope for the marriage to survive and no useful purpose, emotional or practical, would be served by continuing the soured relationship, and it finds that the marriage is completely dead, then it can exercise its inherent power under Article 142 of the Constitution of India to dissolve the marriage. (Para 25)

Permanent Maintenance- There cannot be strict guidelines or a fixed formula for fixing the amount of permanent maintenance. The quantum of maintenance is subjective to each case and is dependent on various circumstances and factors. The Court needs to look into factors such as income of both the parties; conduct during the subsistence of marriage; their individual social and financial status; personal expenses of each of the parties; their individual capacities and duties to maintain their dependents; the quality of life enjoyed by the wife during the subsistence of the marriage; and such other similar factors -It is also necessary to ensure that the amount of permanent alimony should not penalize the husband but should be made with the aim of ensuring a decent standard of living for the wife- It is also equitable and only obligatory for a father to provide for his children, especially when they have the means and the capacity to do the same.

Akanksha Arora vs Tanay Maben 2024 INSC 962- Ss 482, 397 CrPC - Criminal Revision

Code of Criminal Procedure 1973 - Section 482,397 - Availability of alternative remedy of criminal revision under Section 397 CrPC, by itself, cannot be a good ground to dismiss an application under Section 482 CrPC- nomenclature of a petition is immaterial and for doing substantive justice, the High Court can always convert a petition under Section 482 CrPC to a revision under Section 397 CrPC and vice versa. (Para 7-10)

Code of Criminal Procedure 1973 - Section 482-The inherent powers should not invade areas set apart for specific powers conferred under CrPC but there is no total ban on the exercise of inherent powers where abuse of process of Court or other extraordinary

situation warrants exercise of inherent jurisdiction. The limitation is self-restraint, nothing more. (Para 9)

Baby Sakshi Greola vs Manzoor Ahmad Simon 2024 INSC 963 – Motor Accident Compensation

Motor Accident Compensation Claims- Courts or tribunals assessing compensation in a case of 100% disability, especially where there is mental disability also, should take a liberal view of the mater when awarding compensation- While awarding this amount, courts are not only taking into account physical disability but also mental disability and various other factors.

Motor Accident Compensation Claims- Claims tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor be invested in long term Fixed Deposits at least till the date of the minor attaining majority. However, the expenses incurred by guardian or next friend may be allowed to be withdrawn. (Para 56)

Summary: Appeal allowed - Motor Accident Compensation enhanced.

PND Prasad vs Billa Satish 2024 INSC 964 – CrPC – Reinvestigation & Continuation Of Investigation

Code of Criminal Procedure 1973 - Metropolitan Magistrate, in an order observed: "the investigating agency is directed to reconsider the case and to ascertain the true facts"- HC set aside this order observing that Trial Court could not have directed for a reinvestigation of the matter; that no such powers are envisaged for the Trial Court - Allowing appeal, SC observed: The choice of expression by the Metropolitan Magistrate may not have been appropriate. However, the meaning of the said expression could be discerned as a direction for a continuation of the investigation, having regard to the material on record- Magistrate directed to indicate the consequence of the said order and to conclude the proceedings in accordance with law by following the procedure envisaged in law on the protest petition.

Naresh Kumari vs Chameli 2024 INSC 965 – S 127 TP Act – Gift

Transfer of Property Act 1882 – Section 127- Although Section 127 of TPA permits an onerous gift but a gift which is conditioned upon perpetual rendering of services without any remuneration would amount to a “begar” or forced labour, even slavery and therefore it is not just wrong or illegal but even unconstitutional, being violative of fundamental rights of the donees. (Para 16)

Constitution of India – Article 14,21 and 23- Article 14 and 21 and more particularly Article 23 prohibits forced labour. (Para 16)

Transfer of Property Act 1882 – Section 123- Under TPA a valid gift can be made without giving immediate possession to the donee- delivery of possession is not an essential requirement for the gift to be valid under provisions of TPA. (Para 16)

Dushyant Janbandhu Vs Hyundai Autoever India Pvt. Ltd. 2024 INSC 966 – S 11(6) Arbitration Act

Arbitration and Conciliation Act 1996 – Section 11(6) -Disputes related to non-payment of wages and legality and propriety of termination that were anyway pending before the statutory authorities are non-arbitrable. (Para 17)

Summary- HC allowed a petition filed under Section 11(6) – Allowing appeal, SC observed Section 11(6) petition has two facets. The first relates to disputes that were anyway pending before the statutory authorities, and they related to non-payment of wages and legality and propriety of termination which are non-arbitrable. The second facet relates to the alleged violation of clause 19 relating to non- disclosure obligation, which was not raised in the show cause notice, inquiry report, chargesheet and termination order and as such is non-existent.

Gurmeet Kaur vs Devender Gupta 2024 INSC 967 – S 197 CrPC – Sanction

Code of Criminal Procedure 1973 – Section 197- HC dismissed petition seeking quashing of complaint filed against a public servant – Allowing appeal, SC observed: When there was no prior order of sanction passed under Section 197 of the CrPC, the initiation of the complaint itself, is non est.

Code of Criminal Procedure 1973 – Section 197 – For the purpose of application of Section 197, a sine qua non is that the public servant is accused of any offence which had been committed by him in “discharge of his official duty”- Section 197 of the CrPC would not apply to a case if a public servant is accused of any offence which is de hors or not connected to the discharge of his or her official duty. (Para 22)

Arjun Ratan Gaikwad State Of Maharashtra 2024 INSC 968 – Preventive Detention – Public Order & Law & Order

Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug- Offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons Engaged in Black-Marketing of Essential Commodities Act, 1981– Distinction between a public order and law and order- Every breach of peace does not lead to public disorder. When a person can be dealt with in exercise of powers to maintain the law and order, unless the acts of the proposed detainee are the ones which have the tendency of disturbing the public order a resort to preventive detention which is a harsh measure would not be permissible. As to whether a case would amount to threat to the public order or as to whether it would be such which can be dealt with by the ordinary machinery in exercise of its powers of maintaining law and order would depend upon the facts and circumstances of each case. For example, if somebody commits a brutal murder within the four corners of a house, it will not be amounting to a threat to the public order. As against this, if a person in a public space where a number of people are present creates a ruckus by his behaviour and continues with such activities, in a manner to create a terror in the minds of the public at large, it would amount to a threat to public order. Though, in a given case there may not be even a physical attack – [Referred to: Ram Manohar Lohia v. State of Bihar (1966) 1 SCR 709 : 1965 INSC 175 ; Ameena Begum v. State of Telangana (2023) 9 SCC 587] (Para 13-15)

Mendar Singh @ Vijay Singh vs State Of Bihar 2024 INSC 969

Code Of Criminal Procedure – Cancellation of Bail – When there was not even an

allegation by the Investigating Agency that the accused has violated any of the conditions which were imposed while granting bail or that he was misusing the liberty granted to him, it was not correct to recall the earlier order granting bail.

Navratan Lal Sharma vs Radha Mohan Sharma 2024 INSC 970 – Order XXIII
Rule 3,3A CPC – Recall Application

Code Of Civil Procedure – Order XXIII Rule 3 & 3A – Only the court that entertains the petition of compromise can determine its legality, at the time of recording the compromise or when it is questioned by way of a recall application. No other remedy is available to the party who is aggrieved by the compromise decree as an appeal and fresh suit are not maintainable under the CPC- when there is a statutory remedy available to a litigant, there is no question of a court granting liberty to avail of such remedy as it remains open to the party to work out his remedies in accordance with law.

Code Of Civil Procedure - Order XXIII Rule 3 & 3A - Only the court that entertains the petition of compromise can determine its legality, at the time of recording the compromise or when it is questioned by way of a recall application. No other remedy is available to the party who is aggrieved by the compromise decree as an appeal and fresh suit are not maintainable under the CPC- when there is a statutory remedy available to a litigant, there is no question of a court granting liberty to avail of such remedy as it remains open to the party to work out his remedies in accordance with law.

Proposed Vaibhav Cooperative Housing Society Limited vs State Of Maharashtra 2024 INSC 971 – Land Allotment

Land Revenue (Disposal of Government Land) Rules, Maharashtra, 1971- Land is a precious material resource of the community and therefore the least which is required from the State is transparency in its distribution. [In this case, the court held that there has been a complete arbitrariness in the allotment in favour of MRCHS] (Para 12)

Dechamma I.M. @ Dechamma Koushik State Of Karnataka 2024 INSC 972- S 498A IPC- Girl Friend – Relative

Indian Penal Code 1860 – Section 498A – A girlfriend or even a woman with whom a man has had romantic or sexual relations outside of marriage could not be construed to be a relative – [Referred to ***U. Suvetha v. State***] (Para 10)

Tarun Dhameja Vs Sunil Dhameja 2024 INSC 973 – Arbitration Clause Interpretation

Arbitration and Conciliation Act 1996 – An Arbitration clause states that if any dispute arises, the arbitration shall be optional and the Arbitrator will be appointed by the partners with their mutual consent – This means that the arbitration clause can be invoked by an aggrieved party who wants to take recourse to arbitration. To this extent there is mutual agreement. Thereupon, the arbitrator can be appointed by mutual consent of all parties. This does not obliterate or write off the arbitration clause. In terms of the Arbitration and Conciliation Act, where parties cannot agree upon a common name as to who will act as an arbitrator, the court can appoint the arbitral tribunal. The arbitration clauses have to be read in a pragmatic manner.

George vs State Of Tamil Nadu 2024 INSC 974 – Criminal Trial – Interested Witness

Criminal Trial – A conviction could be based on the sole testimony of a witness.– The principle that falsus in uno, falsus in omnibus is not applicable in Indian criminal jurisprudence. (Para 11)- Merely because a witness is an interested witness, it cannot be a ground to discard the testimony of such a witness. However, the testimony of such a witness has to be scrutinized with greater caution and circumspection. (Para 13)

Partha Chatterjee vs Directorate Of Enforcement 2024 INSC 975 – Bail – Official Status Of Accused

Bail – An accused person's official status should not be grounds for denying bail, it also cannot constitute a special consideration to grant bail if otherwise no case is made out to provide such relief. Official positions, regardless of their stature, lose their relevance for

the purpose of exercising judicial discretion judiciously- The grant of bail must be determined based on the unique circumstances of each case, balanced against settled factors such as the gravity of the offence, the nature of the allegations, likelihood of interference with the ongoing investigation, the possibility of evidence tampering, threat or influence over the material witnesses, the societal impact of such release, and the risk of the accused absconding among others. (Para 14-15)

Constitution of India – Article 21 – Prolonged incarceration of an accused awaiting trial unjustly deprives them of their right to personal liberty. Even statutory embargoes on the grant of bail must yield when weighed against the paramount importance of the right to life and liberty under Article 21 of the Constitution, particularly in cases where such incarceration extends over an unreasonably long period without conclusion of trial- A suspect cannot be held in custody indefinitely and that undertrial incarceration should not amount to punitive detention. (Para 13,17)

Bharti Arora vs State Of Haryana 2024 INSC 976- Ss 36A, 58,69 NDPS Act

Narcotic Drugs and Psychotropic Substances Act 1985 -Section 36-A(5), 58 - For convicting a person under Section 58 of the NDPS Act, he/she must be tried summarily- Special Judge could not have conducted the proceedings against the present appellant for the offence punishable under Section 58 of the NDPS Act inasmuch as such proceedings could have been conducted only by a Magistrate. (Para 24-26)

NDPS Act 1985 - Section 69 - Anything done with due care and attention, which is not mala fide, is presumed to have been done in good faith- There should not be personal ill will or malice, no intention to malign and scandalise- Good faith and public good are though a question of fact, they are required to be proved by adducing evidence. Whether the performance of duty acting in good faith either done or purported to be done in the exercise of the powers conferred under the relevant provisions can be protected under the immunity clause or not, would depend upon the facts of each case and cannot be a subject matter of any hypothesis- For availing such immunity, the act has to be official and not private- ‘Good faith’ means, that which is founded on genuine belief and commands a loyal performance- The provisions of immunity clauses are made to protect the officers on the presumption that the acts performed in good faith were free from malice or ill will- The act

which may appear to be wrong or a decision which may appear to be incorrect was not necessarily a malicious act or decision -The presumption of good faith therefore could be dislodged only by cogent and clinching material and so long as such a conclusion was not drawn, a duty in good faith should be presumed to have been done or purported to have been done in exercise of the powers conferred under the statute- There has to be material to attribute or impute an unreasonable motive behind an act to take away the immunity clause.[Referred to General Officer Commanding, Rashtriya Rifles v. Central Bureau of Investigation] (Para 27-31)

R. Manohara Murthy vs Assistant Commissioner And Land Acquisition Officer 2024 INSC 977 – Land Acquisition

Summary: The Reference court redetermined the market value at the rate of Rs. 35,000/- per acre- The High Court allowed the first appeal by redetermining the compensation at the rate of Rs 66,000/- per acre – Allowing appeal, SC held that the appellant would be entitled to compensation at the rate of Rs. 90,000/- per acre along with all statutory benefits.

CELIR LLP vs Sumati Prasad Bafna 2024 INSC 978- TP Act - Lis Pendens - Contempt of Court

Transfer of Property Act 1882 -Section 52- Doctrine of Lis Pendens – Although Section 52 does not render a transfer pendente lite void yet the court while exercising contempt jurisdiction may be justified to pass directions either for reversal of the transactions in question by declaring the said transactions to be void or proceed to pass appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or anyone claiming under him. (Para 180)

Contempt of Courts Act – Merely because there is no prohibitory order or no specific direction issued the same would not mean that the parties cannot be held guilty of contempt- Any contumacious conduct of the parties to bypass or nullify the decision of the

court or render it ineffective, or to frustrate the proceedings of the court, or to ensure any undue advantage therefrom would amount to contempt. Attempts to sidestep the court's jurisdiction or manipulate the course of litigation through dishonest or obstructive conduct or malign or distort the decision of the courts would inevitably tantamount to contempt sans any prohibitory order or direction to such effect. Mere conduct of parties aimed at frustrating the court proceedings or circumventing its decisions, even without an explicit prohibitory order, constitutes contempt. Such actions interfere with the administration of justice, undermine the respect and authority of the judiciary, and threaten the rule of law. (Para 200-201)

Om Prakash Yadav Vs Niranjan Kumar Upadhyay 2024 INSC 979- S 197 CrPC – Sanction

Code of Criminal Procedure 1973 – Section 197– When a police official is said to have lodged a false case, he cannot claim that sanction for prosecution under Section 197 CrPC was required since it can be no part of the official duty of a public official to lodge a bogus case and fabricate evidence or documents in connection with the same- duty. The mere fact that an opportunity to register a false case was furnished by the official duty would certainly not be sufficient to apply Section 197 CrPC. Allowing so, would enable the accused to use their status as public servants as a facade for doing an objectionable, illegal and unlawful act and take undue advantage of their position. (Para 67)

Code of Criminal Procedure 1973 – Section 197– (i) There might arise situations where the complaint or the police report may not disclose that the act constituting the offence was done or purported to be done in the discharge of official duty. However, the facts subsequently coming to light may establish the necessity for sanction. Therefore, the question whether sanction is required or not is one that may arise at any stage of the proceeding and it may reveal itself in the course of the progress of the case. (ii) There may also be certain cases where it may not be possible to effectively decide the question of sanction without giving an opportunity to the defence to establish that what the public servant did, he did in the discharge of official duty. Therefore, it would be open to the accused to place the necessary materials on record during the trial to indicate the nature of his duty and to show that the acts complained of were so interrelated to his duty in order to obtain protection under Section 197 CrPC (iii) While deciding the issue of sanction, it is not

necessary for the Court to confine itself to the allegations made in the complaint. It can take into account all the material on record available at the time when such a question is raised and falls for the consideration of the Court. (iv) Courts must avoid the premature staying or quashing of criminal trials at the preliminary stage since such a measure may cause great damage to the evidence that may have to be adduced before the appropriate trial court. (Para 74) In cases, where there is a legitimate doubt as regards whether sanction for prosecution under Section 197 CrPC is required or not, the progress of the trial must not be hampered or unnecessarily delayed. (Para 84)

Code of Criminal Procedure 1973 – Section 197- (i) The object behind the enactment of Section 197 CrPC is to protect responsible public servants against institution of possibly false or vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or purporting to act in their official capacity. It is to ensure that the public servants are not prosecuted for anything which is done by them in the discharge of their official duties, without any reasonable cause. The provision is in the form of an assurance to the honest and sincere officers so that they can perform their public duties honestly, to the best of their ability and in furtherance of public interest, without being demoralized. (ii) The expression “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty” in Section 197 CrPC must neither be construed narrowly nor widely and the correct approach would be to strike a balance between the two extremes. The section should be construed strictly to the extent that its operation is limited only to those acts which are discharged in the “course of duty”. However, once it has been ascertained that the act or omission has indeed been committed by the public servant in the discharge of his duty, then a liberal and wide construction must be given to a particular act or omission so far as its “official” nature is concerned. (iii) It is essential that the Court while considering the question of applicability of Section 197 CrPC truly applies its mind to the factual situation before it. This must be done in such a manner that both the aspects are taken care of viz., on one hand, the public servant is protected under Section 197 CrPC if the act complained of falls within his official duty and on the other, appropriate action be allowed to be taken if the act complained of is not done or purported to be done by the public servant in the discharge of his official duty. (iv) A public servant can only be said to act or purport to act in the discharge of his official duty, if his act is such that it lies within the scope and range

of his official duties. The act complained of must be integrally connected or directly linked to his duties as a public servant for the purpose of affording protection under Section 197 CrPC. Hence, it is not the duty which requires an examination so much as the “act” itself.

(v) One of the foremost tests which was laid down in this regard was – whether the public servant, if challenged, can reasonably claim that, what he does, he does in virtue of his office. (vi) Later, the test came to be re-modulated. It was laid down that there must be a reasonable connection between the act done and the discharge of the official duty and the act must bear such relation to the duty such that the accused could lay a reasonable, but not a pretended or fanciful claim, that his actions were in the course of performance of his duty. Therefore, the sine qua non for the applicability of this section is that the offence charged, be it one of commission or omission, must be committed by the public servant either in his official capacity or under the color of the office held by him such that there is a direct or reasonable connection between the act and the official duty. (vii) If in performing his official duty, the public servant acts in excess of his duty, the excess by itself will not be a sufficient ground to deprive the public servant from protection under Section 197 CrPC if it is found that there existed a reasonable connection between the act done and the performance of his official duty. (viii) It is the “quality” of the act that must be examined and the mere fact that an opportunity to commit an offence is furnished by the official position would not be enough to attract Section 197 CrPC. (ix) The legislature has thought fit to use two distinct expressions “acting” or “purporting to act”. The latter expression means that even if the alleged act was done under the color of office, the protection under Section 197 CrPC can be given. However, this protection must not be excessively stretched and construed as being limitless. It must be made available only when the alleged act is reasonably connected with the discharge of his official duty and not merely a cloak for doing the objectionable act. (x) There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down such a rule. However, a “safe and sure test” would be to consider if the omission or neglect on the part of the public servant to commit the act complained of would have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, the protection under Section 197 CrPC can be granted since there was every connection with the act complained of and the official duty of the public servant. (xi) The provision must not be abused by public servants to

camouflage the commission of a crime under the supposed color of public office. The benefit of the provision must not be extended to public officials who try to take undue advantage of their position and misuse the authority vested in them for committing acts which are otherwise not permitted in law. In such circumstances, the acts committed must be considered dehors the duties which a public servant is required to discharge or perform.

(xii) On an application of the tests as aforesaid, if on facts, it is *prima facie* found that the act or omission for which the accused has been charged has a reasonable connection with the discharge of his official duty, the applicability of Section 197 CrPC cannot be denied. Any misuse or abuse of powers by a public servant to do something that is impermissible in law like threatening to provide a tutored statement or trying to obtain signatures on a blank sheet of paper; causing the illegal detention of an accused; engaging in a criminal conspiracy to create false or fabricated documents; conducting a search with the sole object of harassing and threatening individuals, amongst others, cannot fall under the protective umbrella of Section 197 CrPC. (Para 65-66)

Code of Criminal Procedure 1973 – Section 161- A statement recorded under Section 161 CrPC does not constitute substantive evidence and can only be utilized for the limited purpose of proving contradictions and/or omissions as envisaged under Section 145 of the Evidence Act, 1872. (Para 77)

Urban Improvement Trust Vs Vidhya Devi 2024 INSC 980- Article 300A Constitution – Land Acquisition – Delay & Laches

Constitution of India – Article 226,300A – The right to property is enshrined in the Constitution and requires that procedural safeguards be followed to ensure fairness and non-arbitrariness in decision-making especially in cases of acquisition by the State. Therefore, the delay in approaching the court, while a significant factor, cannot override the necessity to address illegalities and protect right to property enshrined in Article 300A. The court must balance the need for finality in legal proceedings with the need to rectify injustice. The right of an individual to vindicate and protect private property cannot be brushed away merely on the grounds of delay and laches. (Para 51)

Irfan Akbani vs State Of Madhya Pradesh 2024 INSC 981 – Admission – BDS Course

Summary: Regulatory Authority cancelled admission of the appellants was affirmed by the Appellate Authority – HC passed interim order permitting them to continue – Writ petition was dismissed – Allowing appeal, SC observed: The principle of negative equality would not be applicable while considering the grant of relief under Article 226 of the Constitution of India. However, the fact remains that similarly circumstanced students, who have passed their BDS Course from the State of Madhya Pradesh have got their Post Graduate Degrees (MDS Course)- It is commonly known that there is a dearth of super specialty doctors even in the field of dental science. If the admission of the appellants is not regularized the education undertaken by them would go in waste. Therefore, in the peculiar facts and circumstances of the case, we are inclined to allow the appeal and quash and set aside the impugned order passed by the High Court as well as the orders passed by the Regulatory Authority and the Appellate Authority.

Shubra P Kandpal vs State Of Uttarakhand 2024 INSC 982 – FIRs Quashed

Summary: Quashing FIRs, SC observed: We find that this is a fit case wherein, in order to give an end to the criminal proceedings between the parties, who are employees of an educational institution, the proceedings can be quashed by this Court by invoking its powers under Article 142 of the Constitution of India.

Indore Development Authority vs Hemant Mandovra 2024 INSC 983 – Final Relief In Interlocutory Application

Summary: NCDRC confirmed the interim order granted by State Commission the appellant to handover possession of the plot in question to the respondent within three weeks from the date the amount is paid along with interest to the Indore Development Authority- Allowing appeal, SC observed: Final relief could not have been granted by the State Commission on an interlocutory application filed in the matter.

Union Of India Vs Rohit Nandan 2024 INSC 984 – Caste Claim

Summary: HC allowed writ petition challenging the order of the Central Administrative Tribunal dismissing Original Application filed by respondent against the decision of the Government disentitling his claim under the Scheduled Caste category – Allowing appeal, SC directed that the respondent will continue to be of the OBC Category, belonging to Tanti caste and shall not to be treated as Scheduled Caste as per the notification of State Government dated 02.07.2015.

Municipal Corporation Of Greater Mumbai Vs Vivek V. Gawde 2024 INSC 985 – Art. 226.227 Constitution – Civil Court Order – Writ Petion

Constitution of India - Article 226 - Orders passed by a civil court cannot be challenged in a writ petition under Article 226 of the Constitution. (Para 14)

Constitution of India - Article 227 - A mere wrong decision is not enough to attract the jurisdiction of the High Court under Article 227. (Para 18)

Mumbai Municipal Corporation Act, 1888 - Section 105H - Even in the absence of regulations being framed under section 105H of the Act, the proceedings for eviction can be continued by the Inquiry Officer by adhering to principles of natural justice. The said provision cannot be construed as placing an embargo on the Inquiry Officer to proceed until regulations were framed. Much of the utility in ensuring that public premises are made free of unauthorised occupants would be lost on such technical pleas based raised and examined on a provision of law which is not imperative in terms. (Para 34)

Limitation Act 1963 - Section 3- Mumbai Municipal Corporation Act, 1888 - Section 3, scope whereof is relatable to proceedings like suits, appeals and applications before judicial fora, could not have been attracted to eviction proceedings before the Inquiry Officer which, though obliging the Inquiry Officer to discharge quasi-judicial functions in course thereof, yet, are basically administrative in character. (Para 25)

Ankush Vipan Kapoor vs National Investigation Agency 2024 INSC 986 – NIA Act

National Investigation Agency Act - Section 8 -Accused who may have committed a non-scheduled offence having a connection with a Scheduled Offence can be investigated

by the NIA in respect of a non-scheduled offence-While investigating the accused of a Scheduled Offence, any other accused could also be investigated on the strength of Section 8 provided the following condition precedents are applicable: (i) the NIA is of the opinion that during an investigation, any other accused who is alleged to have committed an offence having a connection with the Scheduled Offence has also to be investigated. In other words, there is a connection between the Scheduled Offence under investigation and any other offence committed by any other accused; (ii) a report by the NIA is submitted incorporating the aforesaid opinion to the Central Government; (iii) the Central Government on consideration of such a report, in exercise of its suo motu powers under sub-section (5) of Section 6 read with Section 8 of the NIA Act directs the investigation to be carried out in respect of any other accused also; and (iv) the said investigation of any other accused must be carried out jointly as far as practicable with the investigation of the accused already under progress owing to the connection between the Scheduled Offence and any other offence. (Para 7) NIA can only widen its investigation to a non-scheduled offence only ‘while investigating any Scheduled Offence’. Importantly, the NIA has not been given unbridled power to initiate investigation of a connected and non- scheduled offence in the absence of an investigation of any Scheduled Offence. (Para 7.17)

Interpretation of Statutes -National Investigation Agency Act - Section 8 - The word “the” used before a noun “accused” in Section 8 of the NIA Act has a particularizing effect, as opposed to “a” or “an”. However, “a” and “the” sometimes have to be interchangeably interpreted having regard to the context in which it is found and in order to give it a contextual connotation so as to advance the object and purpose of the provision. (Para 7.11)

National Investigation Agency Act - Section 6, 8 - the Act, especially Section 6 of the NIA Act, is offence-centric and not accused-centric. The Act revolves around effective investigation of Scheduled Offences. Similarly, the central concern of Section 8 of the NIA Act is defining the scope of offences that can be investigated by the NIA and on what basis and not who are the accused. (Para 7.16)

Sambhubhai Raisangbhai Padhiyar vs State Of Gujarat 2024 INSC 987 – Death Sentence Commuted – S 106 Evidence Act – S 53A CrPC – Ss 29,30 POCSO

Indian Evidence Act 1872 – Section 106 -If the accused is last seen with the deceased and particularly in a case of this nature when the time gap between the last seen stage and occurrence of death is so short, the accused must offer a plausible explanation as to how he parted company with the deceased and the explanation offered must be satisfactory. Section 106 of the Evidence Act mandates that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. It is on this principle that this Court has repeatedly held that if an accused fails to offer an explanation, he fails to discharge the burden cast upon him under Section 106 and if he fails to offer a reasonable explanation that itself provides an additional link in the chain of circumstances. (Para 21)

Code Of Criminal Procedure 1973 – Section 53A – The lapse or omission (purposeful or otherwise) to carry out DNA profiling, by itself, cannot be permitted to decide the fate of a trial for the offence of rape especially, when it is combined with the commission of the offence of murder as in case of acquittal only on account of such a flaw or defect in the investigation the cause of criminal justice would become the victim. [Quoted from Veerendra v. State of Madhya Pradesh, (2022) 8 SCC 668] (Para 26)

POCSO Act – Section 29,30- The injury on the prepuce of the penis of the accused along with the matching of the blood group coupled with other circumstantial evidence clearly constitute foundational facts for raising presumption under Sections 29 and 30 of the POCSO Act. (Para 28)

Summary: The appellant, was convicted for the kidnapping, sexual assault, and murder of a four-year-old child. The Trial Court sentenced the appellant to death, which was confirmed by the Gujarat High Court. Partly allowing appeal, SC set commuted the death sentence to 25 years of rigorous imprisonment without remission.

North Delhi Municipal Corporation vs S.A. Builders Ltd. 2024 INSC 988 – S 31,33 Arbitration Act – Post Award Interest

Arbitration and Conciliation Act 1996 - Section 31(7) - Post-award interest can be granted by an arbitrator on the interest amount awarded- The includes the principal as

adjudged together with the interest granted.[Referred to Hyder Consulting (UK) Ltd. Vs. Governor, State of Orissa (2015) 2 SCC 189] (Para 41-42)

Arbitration and Conciliation Act 1996 - Section 33 - the period of 30 days as provided in Section 33(1) is not an inflexible period. If the parties agree, the said period can be extended. (Para 45.2)

State Of Uttar Pradesh Vs Suresh Chandra Tewari 2024 INSC 989 – UP Imposition of Ceiling on Land Holdings Act

Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 – Allowing appeal in a matter involving issuance of notice by prescribed Authority, SC observed: Once the entire objection regarding the family settlement, etc. were rejected not only by all the authorities, but also by the High Court and then ultimately by this Court, where the Special Leave Petition itself was withdrawn, there was absolutely no occasion for starting a fresh round of litigation which were nothing less than a ruse and an abuse of the process of law, apart from being barred by Res Judicata.

Rajendra Kumar Barjatya Vs U.P. Avas Evam Vikas Parishad 2024 INSC 990 – Unauthorized Constructions

Unauthorized Constructions - Illegality of unauthorized construction cannot be perpetuated. If the construction is made in contravention of the Acts / Rules, it would be construed as illegal and unauthorized construction, which has to be necessarily demolished. It cannot be legitimized or protected solely under the ruse of the passage of time or citing inaction of the authorities or by taking recourse to the excuse that substantial money has been spent on the said construction. (Para 19)

Disputes relating to unauthorised construction, deviation / violation of building permission, plan, etc-. Directions issued - (i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned. (ii) The builder/developer/owner shall cause to be displayed at

the construction site, a copy of the approved plan during the entire period of construction and the 32 authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records. (iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified. (iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/ occupation certificate. (v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible 33 for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith. (vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building. (vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment. (viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge. (ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for 34 regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90

days as statutorily provided. (x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law. (xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned. (xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.

Deepti Sharma Vs State Of Uttar Pradesh 2024 INSC 991 - Pleadings- Synopsis

Pleadings- Appellant filed a synopsis running into 128 pages- SC observed: *We understand that the appellant is not a trained lawyer, but it is for the Registry to have asked the appellant to trim down the synopsis. A synopsis cannot run into 128 pages!. Let the Registrar (Judicial) take note of this, particularly the cases where litigants are allowed to appear in person.*

Jyoti Limited Vs BSE Limited 2024 INSC 992- S 62 Companies Act – S 9 SARFAESI Act – Listing Of Equity Shares

Companies Act, 2013 – Section 62 ; SARFAESI Act- Section 9- The appellant- Jyoti Limited applied for listing of certain equity shares to the Bombay Stock Exchange¹ but the application to that effect was not accepted for the reason that the appellant had not taken in principle approval from the Stock Exchange and that the appellant had not even taken the approval of the shareholders for the allotment of the shares to the Asset Reconstruction Private Limited – SC held: Section 9 of the SARFAESI Act authorizes RARE to convert portion of the debt into shares of the borrower company but such authority is subject to Section 62 of the Companies Act, 2013 which in turn requires a

resolution of the shareholders of the company. However, when such a proposal is not by the appellant company, the approval of the shareholders may not be necessary- In this case, the proposal was that of the company only. Accordingly, as contemplated by Section 62(1)(c) of the Companies Act, 2013, the approval of the shareholders would be mandatory before the shares are accepted for listing on the BSE.

Rajesh Kumar National Insurance Co. Ltd. 2024 INSC 993- S 21 Consumer Protection Act – Revisional Jurisdiction

Consumer Protection Act, 1986 - Section 21(b) - National Commission could not have interfered with pure finding of fact arrived at by the District and State Commissions while exercising revisional jurisdiction. (Para 13)- the conditions laid down in Section 21(b) are the only parameters under which a revision may be invoked. If a document has already been considered and rejected by the State Commission, a revision does not lie merely because the National Commission has a different view on the same- Even if no patent error, the revisional jurisdiction may be invoked in a case of gross miscarriage of justice- In cases where the courts below have reached findings on facts, the jurisdiction of revision is very limited and must be invoked only when there is a patent illegality in the findings. (Para 15)

Insurance Law - Delay in intimation may be condoned if it is properly explained. (Para 19) - Principles of interpreting and applying exclusionary clauses in insurance policy - Condition merely prescribed that in the event of any accident, the vehicle shall not be left unattended without proper precaution being taken- While interpreting such a clause the Court/Commission or Tribunal will see whether the said obligation has been complied with reasonably or not. The context in which accident occurs and the circumstances that prevailed at the time of accident are extremely important to conclude whether the insured has taken reasonable care or not. (Para 18)

Ayub Khan vs State of Rajasthan 2024 INSC 994 – Bail – Antecedent Chart – Adverse Remarks Against Judicial Officers

Code of Criminal Procedure 1973 – Bail – Directions issued by Rajasthan High Court

in Jugal Kishore vs. State of Rajasthan (2020) 4 RLW 3386 to the Trial Courts to incorporate a chart containing details of the antecedents of the accused who applies for bail- These directions cannot be construed as mandatory directions to Criminal Courts. At the highest, it can be taken as a suggestion which need not be implemented in every case. No Constitutional Court can direct the Trial Courts to write orders on bail applications in a particular manner. (Para 12)

Practice and Procedure – The direction of calling for an explanation from a judicial officer by a judicial order was inappropriate. Explanation of a judicial officer can be called for only on the administrative side. (Para 13) The High Court cannot damage the career of a judicial officer by passing such orders. The reason is that he cannot defend himself when such orders are passed on the judicial side. (Para 18)

Athar Parwez vs Union Of India 2024 INSC 995 – UAPA- Bail – Long Incarceration

Constitution of India - Article 21 - Long incarceration and unlikely likelihood of trial being completed in near future has also been taken as a ground for exercising its constitutional role by the Constitutional Courts to grant bail on violation of Article 21 of the Constitution of India which guarantees trial to be concluded within a reasonable time. Gross delay in conclusion of the trial would justify such invocation leading to a conclusion of violation of Part III the Constitution of India, which may be taken as a ground to release an undertrial on bail. (Para 19)

UAPA 1967 - Section 43D(5)- Restrictions under the statute as in this case, Section 43-D (5) of UAPA, 1967 as well as the powers exercisable under the Constitutional jurisdiction by the Court need to be harmonized- The period of incarceration of an accused could also be a relevant factor to be considered by the constitutional courts not to be merely governed by the statutory provisions. (Para 19-20)

Jaichand (D) vs Sahnulal 2024 INSC 996 – S 100 CPC – Second Appeal – Substantial Question Of Law

Code Of Civil Procedure 1908 – Section 100- In the Second Appeal, the High Court should be satisfied that the case involves a substantial question of law and not mere question of law. Under Section 100, C.P.C., the High Court cannot interfere with the findings of fact arrived at by the first Appellate Court which is the final Court of facts except in such cases where such findings were erroneous being contrary to the mandatory provisions of law, or its settled position on the basis of the pronouncement made by the Apex Court or based upon inadmissible evidence or without evidence – High Court in the Second Appeal can interfere with the findings of the trial Court on the ground of failure on the part of the trial as well as the first appellate Court, as the case may be, when such findings are either recorded without proper construction of the documents or failure to follow the decisions of this Court and acted on assumption not supported by evidence. Under Section 103, C.P.C, the High Court has got power to determine the issue of fact.

In Re: T.N. Godavarman Thirumulpad Vs Union of India 2024 INSC 997 – Environment – Protection Of Sacred Groves/Orans

Environmental Law – Protection of the sacred groves/orans of the Rajasthan-directions issued- suggestions to promote the sustainable conservation of sacred groves and empower the communities associated with their protection.

Geeta Dubey vs United India Insurance Co. Ltd. 2024 INSC 998 – Motor Accident Compensation Claims – S 173 MV Act

Motor Accident Compensation Claims – In claim cases, in case the accident is disputed or the involvement of the vehicle concerned is put in issue, the claimant is only expected to prove the same on a preponderance of probability and not beyond reasonable doubt. (Para 20)

Motor Vehicles Act-Section 173– An appeal under Section 173 of the Motor Vehicles Act, is essentially in the nature of the first appeal like Section 96 of the Civil Procedure

Code. It has been held by this Court that the High Court is under a legal obligation to decide all issues both on facts and law after appreciating the entire evidence. (Para 17)

Pawapuri Rice Mills Bihar State Food And Civil Supplies Corporation Ltd. 2024 INSC 999- Bihar and Orissa Public Demands Recovery Act

Bihar and Orissa Public Demands Recovery Act, 1914 – Section 3(6) – The unaccounted deposit of rice at the depots of FCI certainly comes within the fold of public demand of the state government under section 3(6) of the Act. Therefore, the proceedings under the Act are maintainable before the certificate officer.

Naeem Bano Alias Gaindo vs Mohammad Rahees 2024 INSC 1000 – Art. 254 Constitution – S 106 TP Act

Constitution of India – Article 254 ; Transfer of Property Act 1882 – Section 106 -When any subject is within the scope and ambit of the concurrent list, both the Parliament as well as the State Legislature have the legislative competence to make laws on the said subject- Legislature of State of U.P. amended Section 106 by amendment dated 30.11.1954 by which the words “fifteen days’ notice” in Section 106 of the T.P. Act were substituted by “thirty days’ notice” and the substituted clause prevailed in the State of U.P. However, in view of the amendment made to Section 106 by the Parliament by Act 3 of 2003 with effect from 31.12.2002, the substitution in Section 106 made by the Legislature of the State of U.P. is impliedly repealed and Section 106 as amended with effect from 31.12.2002 by the Parliament, would apply. This is on the strength of the proviso to clause (2) of Article 254 of the Constitution- On the Parliament amending a provision subsequent to a State legislature’s amendment of a provision of law found in the Concurrent List, the Parliamentary amendment would apply. Article 254 is an instance of Parliamentary supremacy. (Para 9.3-9.6)

Jami Venkata Suryaprabha Vs Tarini Prasad Nayak 2024 INSC 1001 - Order XVIII Rule 1 CPC - Right To Begin

Code Of Civil Procedure 1908 - Order XVIII Rule 1 - As a general rule, according to the procedural law, it is the plaintiff who has to prove his claim by positive proof, for the

court has to see whether there is a proof of claim before it needs to enquire, as to the truth or otherwise of the defence. It is open to the plaintiff to say that although he has the right to begin, yet he may rest content with relying upon the averments made in the written statement. Yet evidence need not always be led by the party who has the right to begin and on whom lies the burden of proof; it is open to him to sustain the onus by facts which he may elicit in cross examination of the other party or his witnesses. In order to come to the conclusion, concerning on whom the legal burden of proof rests, in addition to the substantive law, the pleadings of the parties coupled with documents that they produced & the admissions, if any concerning such documents have to be taken into account. (Para 11) Where the defendant admits the facts alleged by the plaintiff but contends that the plaintiff is not entitled to any part of the relief which he seeks, it is the defendant who gets the right to begin. (Para 16) Order XVIII Rule 1 indeed provides for plaintiff's right to begin the evidence but not the court's obligation to ask the plaintiffs to begin first. There is no impediment for the court to call upon either party to lead evidence first, depending upon the facts and circumstances of the case and the nature of the issues framed. Neither party can insist that the other one should be asked to lead it first. It all depends upon what the Court deems proper in the circumstances. Where it finds that defendant's plea strikes of the root of the case, there would be no hitch in asking him/her to prove such plea first which can lead to disposal of the case. There can be no watertight compartmentalisation in matters of justice and all rules of procedure are designed and directed to achieve and secure ends of justice. (Para 18)

Commissioner Of Central Excise, Salem vs Madhan Agro Industries (India) Private Ltd. 2024 INSC 1002- Central Excise Tariff Act – Common Parlance Test

Central Excise Tariff Act, 1985- Pure coconut oil sold in small quantities as 'edible oil' would be classifiable under Heading 1513 in Section III-Chapter 15 of the First Schedule to the Central Excise Tariff Act, 1985, unless the packaging thereof satisfies all the requirements set out in Chapter Note 3 in Section VI-Chapter 33 of the First Schedule to the Central Excise Tariff Act, 1985, read with the General/Explanatory Notes under the corresponding Chapter Note 3 in Chapter 33 of the Harmonized System of Nomenclature,

whereupon it would be classifiable as 'hair oil' under Heading 3305 in Section VI- Chapter 33 thereof.

Central Excise Tariff Act, 1985- First Schedule to the Act of 1985 is based on the HSN, which is an internationally standardized system developed and maintained by the World Customs Organization for classifying products, and unless the intention to the contrary is found within the Act of 1985 itself, the HSN and the Explanatory Notes thereto, being the official interpretation of the Harmonized System at the international level, would be of binding guidance in understanding and giving effect to the headings in the First Schedule. It is only when a different intention is explicitly indicated in the Act of 1985 itself that the HSN would cease to be of guidance. In effect, the legislative intention to depart from the HSN must be clear and unambiguous.

Common parlance test- Words therein must be construed in consonance with their commonly accepted meaning in the trade and their popular meaning. When a word is not explicitly defined or there is ambiguity as to its meaning, it must be interpreted for the purpose of classification in the popular sense, which is the sense attributed to it by those who are conversant with the subject matter that the statute is dealing with. This principle, known as the 'common parlance test', serves as good fiscal policy so as to not put people in doubt or quandary about their tax liability. The test is an extension of the general principle of interpretation of statutes for deciphering the mind of the law-maker but it is subject to certain exceptions – for example, when there is an artificial definition or special meaning attached to the word in the statute itself, whereby the ordinary sense approach would not be applicable – When there is no ambiguity or confusion about the classification of a particular product in the light of the clear heading in the First Schedule to the Act of 1985 and the corresponding entry in the HSN, resort to tools such as the 'common parlance test' would not arise. (Para 39)

Allahabad University Geetanjali Tiwari (Pandey) 2024 INSC 1003- UGC Regulations – Interpretation Of Statutes – Writ Petition – Pleadings

UGC Regulations- High Court held that Reg.10 has no application in relation to

appointment on the post of Assistant Professor – Allowing appeal, SC observed: Once Reg.10 specifically refers to counting of previous regular service, whether national or international, inter alia as Assistant Professor, the Division Bench in the exercise of its judicial review powers could not have held that Reg.10 has no application to one aspiring for appointment as an Assistant Professor. (Para 43)

Interpretation Of Statutes –A situation could arise where plain and literal reading of a statute could lead to a manifest contradiction of the apparent purpose for which the enactment was introduced and, the situation, necessarily compels the court to adopt that construction which would carry out the obvious intention of the legislature. The court would be justified in doing so, but it must be cautious that while it irons out the creases in the material it does not alter the material of which the legislation is woven. (Para 18)

Principle Of ‘Reading down’ – Whenever a court is seized of a question of vires of a primary legislation/ subordinate legislation or a part of it, a presumption of constitutionality is attached to the impugned provision and the courts would ordinarily strive to save the impugned provision from being declared ultra vires; however, there could be situations where the subordinate legislation (like a rule or a regulation) is challenged on the ground of excessive delegation or is itself violative of the enabling/primary legislation under which it is framed or even breaches constitutional guarantees -Reading down of a provision is a subsidiary rule of interpretation of statutes, which the courts tend to employ in situations to save the subordinate legislation like a rule or a regulation, wherever possible and practical, by reading it down by a benevolent interpretation, rather than declaring it as unconstitutional or invalid. However, it has been clarified that it is to be used sparingly, and in limited circumstances. Additionally, it is clear that the act of reading down a provision, must be undertaken only if doing so can keep the operation of the statute “within the purpose of the Act and constitutionally valid”. (Para 27)

Public Appointments – Recruitment – Whenever selection is based solely on the performance of the aspirants in the interview, it is not open to the recruiting authorities to dilute in any manner the norms and standards prescribed by the statutory provisions or executive orders governing recruitment for screening aspirants to be called for interview; however, it is always open to them to prescribe enhanced norms to have the zone of consideration for interview restricted to those aspirants satisfying the enhanced norms or higher criteria. In such cases, however, care has to be taken such that the enhanced norms

or higher criteria are not susceptible to a challenge on the ground of arbitrariness or being contrary to the statutory provisions or executive orders governing recruitment. (Para 30)

Constitution of India – Article 32,226 – Writ Petition – Pleadings – The necessity for appropriate pleadings in a writ petition cannot be overemphasized, particularly when such petitions are mainly decided on affidavit evidence and not witness action- A court cannot in the absence of the requisite pleadings grant relief claimed by a party- while deciding a writ petition on the basis of affidavits, the writ court's enquiry ought to be restricted to the case pleaded by the parties and the evidence that they have placed on record as part of the writ petition or the counter/reply affidavit, as the case may be. Findings of the court have to be based on the pleadings and the evidence produced before it by the parties. It is well-nigh impermissible for the writ court to conjecture and surmise and make out a third case, not pleaded by the parties, based on arguments advanced in course of hearing. (Para 31-37)

Constitution of India – Article 32,226 – The authority to craft subordinate legislation is derived from the enabling/primary legislation and it is imperative that such legislation harmonises with the provisions outlined in the enabling/primary legislation. Thus, grounds for challenging a subordinate legislation to ultimately succeed would, normally, be the same. The only additional ground available is that if the subordinate legislation offends any provision of the enabling/primary legislation, that too would provide room for the courts to hold the impugned provision ultra vires such enactment. (Para 39)

Interpretation of Statutes – Courts cannot add words to a statute or read words into it, which are not there; at the same time, it cannot also read a statute in a manner that results in deletion of words which are there. This is for the simple reason that the court has no power to legislate; hence, it cannot rewrite the legislation. (Para 43)

Sanjeevkumar Harakchand Kankariya Vs Union Of India 2024 INSC 1004 – 7th Schedule Constitution -Court Free – ADRs

Constitution of India - Seventh Schedule - Entry 11A List III cannot govern the refund of court fees when a matter is settled by methods of alternate dispute resolution, in

the face of Entry 3 List II simply by the use of the words “administration of justice” in the former. (Para 21)

Legal Services Authorities Act, 1987 - Section 21; Court Fees Act, 1870 – Section 16- Reference to CFA, 1870 in respect of refund of court fees when the matter is settled by way of an Award of Lok Adalat does not mean that the same shall be extended to the settlement of dispute by mediation for the simple reason that Lok Adalat and mediation are two distinct methods and cannot be equated. (Para 21)

ADR Mechanisms -The settlement of a dispute outside court is a cause for celebration in as much as it translates to early resolution of the dispute inter se the parties and it means also, that there is one less file to add on to already overflowing record rooms of the concerned civil courts. It also cannot be gainsaid that all efforts should be made to encourage the adoption of ADR mechanisms. (Para 14.3)

Constitution of India - Article 254 - Laws made by the Centre would necessarily prevail over the State made laws, should there be any inconsistency between the two, and the laws made by the latter shall be unconstitutional to the extent that they are inconsistent with the Central laws, by virtue of the Doctrine of Repugnancy. (Para 11)

Summary: In this appeal, main issue revolves around the refund of court fees in Maharashtra, where the appellant sought a full refund following mediation that resolved his civil suit. The appellant contested a notification limiting refunds to 50% and argued that the refund should be 100% as per the Court Fees Act, 1870. The Maharashtra Court Fees Act, 1959, however, governed the refund policy, leading to the appeal. The Supreme Court dismissed the appeal, affirming the High Court's decision, and noted the differences between Lok Adalat settlements and other ADR methods.

Tirith Kumar vs Daduram 2024 INSC 1005 – Hindu Succession Act – Tribals – Art. 341,342 Constitution

Hindu Succession Act 1956 -Section 2 -The HSA, 1956, cannot apply to scheduled tribes. (Para 6) **Recommendations:** Look into pathways to secure the right of survivorship to female tribals - Referred to Kamla Neti v. LAO : Central Government to look into the matter and if required, to amend the provisions of the Hindu Succession Act by which the Hindu Succession Act is not made applicable to the members of the Scheduled Tribe. (Para 11)

Constitution of India - Article 341,342 - The lists made under Articles 341 and 342 are to be amended only with the permission of the President. So, naturally, for a tribe to be notified as a scheduled tribe, a notification to that effect has to be issued and vice versa, i.e. for a tribe to be de-notified as well. (Para 4)

Principle of justice, equity and good conscience- discussed. (Para 8)

Summary: A dispute over land ownership within a family from the Sawara tribe, a notified scheduled tribe under Indian law. The appellants, Tirith Kumar and others, challenged the High Court's decision that applied the Hindu Succession Act (HSA) to the case. The Supreme Court upheld the High Court's decision, stating that the HSA does not apply to scheduled tribes unless explicitly directed by the government, as per Section 2(2) of the HSA. The court applied principles of justice, equity, and good conscience to divide the property among the descendants of Mardan, including his daughters, despite the fact that the HSA does not traditionally apply to the tribal community.

Mansoor Saheb (D) vs Salima (D) 2024 INSC 1006 – Muslim Law – Gift – Partition – Mutation Entry

Muslim Law – Mohammedan law- Gift –Three essential elements which are necessary for a valid gift deed. They are: a) The gift has to be necessarily declared by the person giving the gift, i.e., the donor; b) Such a gift has to be accepted either impliedly or explicitly by or on behalf of the donee; and c) Apart from declaration and acceptance, there is also a requirement of delivery of possession for a gift to be valid- Registration of gift is not required under Mohammedan Law and, the unwritten and unregistered gift executed by the donor in favour of donees is valid. (Para 27) Under Mohammedan Law, a gift is to be effected in the manner laid down under the law. If the conditions prescribed by that law are fulfilled, the gift is valid, even though it is not effected by a registered instrument. But if the conditions are not fulfilled, the gift is not valid even though it may have been effected by a registered instrument. Therefore, a valid gift could be made by oral statements as well so long as the three requirements as discussed above are met thereby. This is because registration is not a requirement which obviates the need for a gift to be reduced in writing. (Para 25-28)

Words and Phrases – Partition and Gift – ‘Partition’ and ‘gift’ are two terms that have different requisites, require different circumstances, and bear different consequences. Partition is the division of property among co-owners, whereas gift is a voluntary transfer of existing property made voluntarily without consideration. (Para 31)

Mutation Entry – the purpose of mutation entry is only limited to revenue records. They do not, in any way, translate to or confer any title in regard to the subject matter property. (Para 35)

Interpretation of deeds -The words used in a document have to be understood in their natural meaning with reference to the language employed. While interpreting any document, common or usual meaning is ascribed to the words unless that leads to absurdity. (Para 33)

Islamic Law – Islamic Law has four sources— (i) Quran (ii) Hadith (iii) Ijma and (iv) Qiyas- All Islamic personal law has to derive from these four sources. There is a generally acknowledged division among these four sources as well. The Quran is pre-eminent and deserving of all primacy followed by the other three in that very order. (Para 18)

Mohammedan law- The doctrine of partial partition does not apply to Mohammedan Law as the heirs therein are tenants-in-common. Succession is to a definite fraction of the estate in question- The right of an heir-apparent comes into existence for the first time on the death of the ancestor, and he is not entitled until then to any interest in the property to which he would succeed as an heir if he survived the ancestor. (Para 17)

P. Manikandan vs Central Bureau Of Investigation 2024 INSC 1007-Reinvestigation – Double Jeopardy

Summary: HC, after acquitting the appellant, directed the CBI to re-investigate after considering the relevant material and documents on record- Allowing appeal, SC held: Any benefit accruing from faulty investigation ought to be given to the accused. The necessary corollary thereof being that simply because the investigation was less than satisfactory, the accused should not be subjected to the same once more. (Para 21)

Code of Criminal Procedure 1973- Difference between retrial and reinvestigation.

Retrial implies that the judicial process that starts after the investigation of the crime is complete shall be redone from the start, whereas the latter implies that the police and other investigating authorities are once again required to collect and examine evidence in order to present charges before a Court, so that the trial can commence on such freshly collected evidence. (Para 23) Section 386(b) of Cr.P.C unanimously speak of retrial and not reinvestigation. Section 173(8) of the Cr.P.C provides for further investigation with the permission of the magistrate, but not reinvestigation. Such a concept, as it appears, is only invoked in extraneous circumstances. The mere observation that the investigating authorities may have taken a lackadaisical ethical approach does not warrant the accused being put through the wringer once more for the same offence. (Para 24)

Constitution of India – Article 20(2) – Double Jeopardy – Three conditions: Firstly, there must have been previous proceedings before a court of law or a judicial tribunal of competent jurisdiction in which the person must have been prosecuted. The said prosecution must be valid and not null and void or abortive. Secondly, the conviction or acquittal in the previous proceeding must be in force at the time of the second proceeding in relation to the same offence and same set of facts, for which he was prosecuted and punished in the first proceeding. Thirdly, the subsequent proceeding must be a fresh proceeding, where he is, for the second time, sought to be prosecuted and punished for the same offence and same set of facts. (Para 31)

CBI Investigation – The transfer to CBI must take place in special circumstances, or else the agency, being with limited resources shall be overburdened and rendered ineffective. (Para 27)

Rajeev Kumar Upadhyay Vs Srikant Upadhyay 2024 INSC 1008 – Constitution – Dignity – Witchcraft

Constitution of India – Article 21 – Dignity is an invaluable aspect of Indian Constitutional jurisprudence, and there exists a duty upon the State to take all action to protect the same- Dignity goes to the very core of the existence of an individual in society. Any action which undermines dignity either by an act of another person or that of the State

is potentially going against the spirit of the Constitution of India, which guarantees the security of all persons by ensuring that justice, liberty and equality are avouched for each and every person. By extension, if the dignity of a person is compromised, their human rights, available to them by virtue of them being humans and guaranteed by various enactments, both national and international, are imperilled. (Para 1)

Summary: The case revolves around serious allegations of assault, abuse, and accusations of witchcraft against two women in a rural area-The FIR, dated March 4, 2020, details the abuse against the victims, including assault, stripping in public, and accusations of witchcraft. The police initially charged only one individual, but the court later widened the charges to include all named in the FIR after reviewing the evidence. The Supreme Court criticized the lower courts and authorities for their handling of the case, particularly the High Court's stay of proceedings, and emphasized the need for sensitivity and urgency in such cases-Ultimately, the Supreme Court directed the trial to proceed promptly.

Chandrabhan Rupchand Dakal (D) vs State of Maharashtra Res Judicata 2024 INSC 1009-Land Laws – Res Judicata

Res Judicata- a plea of res judicata can be given effect, it shall be provided that the litigating parties are the same, the subject matter of suits are identical; the matter must be finally decided between the parties and the suit must be decided by a Court of competent jurisdiction- there would be no res judicata in changed circumstances. (Para 16-18)

Summary: The primary issue in these appeals revolves around the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, concerning declarations of surplus land holdings. The appellant's argument centered on the erroneous inclusion of certain lands as surplus, which were allegedly forcibly taken by landlords. The original orders by the District Collector and subsequent tribunals found parts of the appellant's land holdings to exceed ceiling limits, leading to legal disputes over several decades, involving multiple petitions and revisions. Key contentions include:The appellant's claim that lands categorized under "dry crop land" were wrongly included as surplus due to changes in irrigation classifications.A plea against the reopening of past cases based on the principle

of res judicata. Challenges against decisions made in favor of landlords under the Act's Section 19. The Supreme Court dismissed the appeals, finding no merit in the appellant's arguments. The judgment emphasized the finality of previous court decisions, and the lack of sufficient grounds to overturn these in light of res judicata and other legal principles.

State Of Orissa vs Pratima Behera 2024 INSC 1010 – S 239 CrPC – Discharge – S 13 PC Act

Code of Criminal Procedure 1973 – Section 239 – The obligation to discharge the accused under Section 239 arises only when the Magistrate considers the charge against the accused to be groundless- Though at the stage of framing of issue what is to be seen is only whether there is a *prima facie* case to make the accused to stand the trial at the trial, certainly, the presumption of innocence should be in favour of the accused. (Para 8-10) -At the stage of consideration of a petition for discharge what is to be considered whether there is a ‘*prima facie*’ case and certainly, the endeavour cannot be to find whether ‘clinching’ materials are there or not. In the common parlance the word ‘clinch’ means ‘point’ or circumstance that settles the issue – Such meticulous consideration for presence or absence of clinching material is beyond the scope of power of the Court while considering the question of discharge under Section 239, Cr. P.C. as also while considering the question of quashing of charge framed by the Trial Court, while exercising the revisional jurisdiction. It is to be noted that at that stage the materials collected by the prosecution would not mature into evidence and therefore, beyond the question of existence or otherwise *prima facie* case based on materials, the question whether they are clinching or not could not be gone into. (Para 14)

Prevention Of Corruption Act – Section 13 -While considering the question of abetment for commission of offence under Section 13(1)(e) punishable under Section 13(2) of the PC Act, the question is whether there is material(s) or circumstances casting strong

suspicion of the co- accused to have played significant role in negotiating on the figure of amount disproportionately amassed. (Para 15)

Ashok Verma vs State of Chhattisgarh 2024 INSC 1011 – Alibi – S 106 Evidence Act- Murder Cases

Criminal Trial – Alibi -Alibi means ‘elsewhere’- The plea of alibi can be applied only if the ‘elsewhere place’ is far away from the place of occurrence so that it was extremely improbable or impossible for the person concerned to reach the place of occurrence and to participate in the crime on the relevant date and time of occurrence. (Para 10) **The effect of false plea of alibi**– When the accused gave a false plea that he was not present on the spot, his statement would be regarded as additional circumstance against him strengthening the chain of circumstances already found firm. (Para 14)

Indian Evidence Act – Section 101,106- Section 106 is an exception to the general rule laid down in Section 101, that the burden of proving a fact rest on the party who substantially asserts the affirmative of the issues and that this Section is not intended to relieve any person of that duty or burden. (Para 18)

Murder Cases – More often criminals would try to dub a murder as suicidal or accidental death. The identification of the nature of the death is, therefore, always an important medico-legal problem. In that regard, the Courts concerned have to study the total evidence to discern whether death is a case of homicide or suicide or accidental. (Para 7)

Karan Talwar vs State of Tamil Nadu 2024 INSC 1012- S 227 CrPC – S 27 NDPS Act – Discharge

Code of Criminal Procedure 1973 – Section 227 – While calling upon to exercise the power under Section 227, Cr.P.C., the judge concerned has to consider only the record of the case and the documents produced along with the same. If on such consideration the court forms an opinion that there is no sufficient ground to proceed against the accused

concerned, he shall be discharged after recording the reasons therefor. It is also evident from the precedence on the aforesaid question that while exercising the said power, the Court could sift the materials produced along with the final report only for the purpose of considering the question whether there is ground to proceed against the accused concerned. (Para 7) in a case where there is no material at all which could be translated into evidence at the trial stage it would be a miscarriage of justice to make the person concerned to stand the trial. (Para 12) A co-accused's confession containing incriminating matter against a person would not by itself suffice to frame charge against him.- in the absence of any other material on record to connect the accused with the crime, the confession statement of the co-accused by itself cannot be the reason for his implication in the crime. (Para 10)

Ravi Dhingra vs State of NCT of Delhi 2024 INSC 1013 – S 138,141 NI Act – Cheque Bounce Complaint

Negotiable Instruments Act – Section 138,141 – To maintain a complaint and to frame a charge under Section 138 of the NI Act, there must be a specific averment against the person concerned that he was in-charge of, and responsible for the company concerned in the matter of conduct of its business.

Rinku Baheti Vs Sandesh Sharda 2024 INSC 1014 – Women Protection Laws – Misuse – Art. 142 Constitution – Irretrievable Breakdown Of Marriage

Matrimonial Laws – Permanent Alimony – Maintenance -The tendency of parties seeking maintenance or alimony as an equalization of wealth with the other party- The wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per

his own changing status would be putting a burden on his own personal progress. We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper? – If there is a continuing obligation on the husband post-separation, he may seek a reduction in the maintenance amount. Equally, a divorced wife, in the context of receiving monthly maintenance from a former husband can seek enhancement of the same owing to inflation or other circumstances which have adversely affected her status and position such as serious illness or loss of income from a particular source, etc.- The duration of the marriage would also be a relevant factor to be taken into consideration while assessing the permanent alimony to be paid to the wife. (Para 14)

Permanent Alimony – There is no fixed formula for calculating maintenance amount; instead, it should be based on a balanced consideration of various factors. These factors include and are illustrative but are not limited or exhaustive, they are adumbrated as under: i. Status of the parties, social and financial. ii. Reasonable needs of the wife and dependent children. iii. Qualifications and employment status of the parties. iv. Independent income or assets owned by the parties. v. Maintain standard of living as in the matrimonial home.vi. Any employment sacrifices made for family responsibilities. vii. Reasonable litigation costs for a non-working wife. viii. Financial capacity of husband, his income, maintenance obligations, and liabilities. (Para 14.3)

Women Protection Laws – Misuse –The provisions in the criminal law are for the protection and empowerment of women but sometimes are used by certain women more for purposes that they are never meant for. In recent times, the invocation of Sections 498A, 376, 377, 506 of the IPC as a combined package in most of the complaints related to matrimonial disputes is a practice which has been condemned by this Court on several occasions. In certain cases, the wife and her family tend to use a criminal complaint with all the above serious offences as a platform for negotiation and as a mechanism and a tool to get the husband and his family to comply with their demands, which are mostly monetary in nature -The women need to be careful about the fact that these strict provisions of law in their hands are beneficial legislations for their welfare and not means to chastise, threaten, domineer or extort from their husbands. (Para 10)

State Of U.P. Sandeep Agarwal 2024 INSC 1015- Service Law- VRS Applications

Summary: High Court allowed the writ petition and, while quashing the order of termination, passed an order of reinstatement with all the consequential benefits in favour of the respondent- Partly allowing appeal, SC observed: It is true that the conduct of the appellants in not deciding the applications for VRS cannot be supported at all. However, there was no reason for the respondents to take recourse to absenteeism. When the respondents found that their applications were not decided within a reasonable time, they could have adopted remedies in accordance with the law. But, in any event, the appellants ought to have decided the VRS applications within a reasonable time.

T.C. John @ Yohannan (D) Vs V.J. Antony 2024 INSC 1016 – Motor Accident Compensation

Motor Accident Compensation Claims –The appellants-claimants, for the period between 22.06.2016 to 13.07.2023, have been denied interest on the ground that there was delay on the part of the counsel for the appellants-claimants in not supplying the copy of the paper Page 5 of 7 book to the counsel for the insurance company – Partly allowing appeal, SC observed: Once the matter was before the Court, the appellants-claimants should not be deprived of the interest for the period between 22.06.2016 to 13.07.2023. It cannot be said to be the fault on the part of the appellants-claimants, comparable to a fault in filing the appeal beyond the period of limitation.

Siddhant @ Sidharth Balu Taktode vs State Of Maharashtra 2024 INSC 1017 – Bail – Long Incarceration

Bail – While granting bail to an MCOCA Accused, SC observed: If an accused is incarcerated for a period of approximately five years without even framing of charges,

leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. In our view, such a prolonged delay is also not in the interest of the rights of the victim- The trial is being prolonged on the ground that the appellant is not produced before the Trial Judge either physically or virtually- Directed to evolve a mechanism to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons.

S. Gunasekaran vs Under Secretary To Govt. 2024 INSC 1018 – College Admissions

Summary: The appellant was allotted a seat in the M.D. (Endocrinology) in College. He took admission in the College and joined the course – On resignation, the College invoked a clause in the bond and asked the appellant to pay a penalty of Rs.30 Lacs and also directed that till the said amount is paid, his documents would not be released- HC dismissed writ petition by appellant – In appeal, SC held: The appellant has unfortunately acted on the representation made to him in the original prospectus. The later amendment to it has created confusion- the appellant would be liable to pay a penalty of Rs.4,06,749.60, which has already been deposited.

Digambar Vs State Of Maharashtra 2024 INSC 1019 – S 498A, 312-313 IPC – FIR Quashing

Indian Penal Code 1860 – Section 498A- The ingredients for an offence to be made out under Section 498-A of IPC require that there has to be cruelty inflicted against the victim which either drives her to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury or danger to life, limb or health. The second part of this Section refers to harassment with a view to satisfy an unlawful demand for any property or valuable security raised by the husband or his relatives. (Para 18) ‘Cruelty’ must be done with the intention to cause grave injury or drive the victim to commit suicide

or inflict grave injury to herself. (Para 23) – Concerns over the misuse of this Section in matrimonial disputes reiterated (Para 33).

Indian Penal Code 1860 – Section 312,313 -No communication or intimation is alleged by the complainant in the FIR that would even remotely lead to the conclusion that the appellants were aware about the pregnancy of the complainant- It is unusual that when the allegations under Sections 312 and 313 of IPC are levelled against the appellants, such an important fact surrounding her pregnancy and its knowledge to the appellants is not to be found in the FIR. (Para 27)

Code Of Criminal Procedure 1973 – Section 482- When the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute a case against the accused, the High Court would be justified in quashing the proceedings -Where the uncontroverted allegations in the FIR and the evidence collected in support of the same do not disclose any offence and make out a case against the accused, the Court would be justified in quashing the proceedings. (Para 29)

Summary : Allowing appeal, Supreme Court quashed FIR lodged against accused and observed: These facts lead us to conclude that the proceedings were initiated with an ulterior motive of pressurizing the son of the appellant herein to consent to the divorce according to the terms of the complainant and the proceedings were used as a weapon by the complainant in the personal discord between the couple.

Prakash Vs State Of Maharashtra 2024 INSC 1020 – S 306 IPC – Suicide Abetment

Indian Penal Code 1860 – Section 306 IPC – To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide- Precedents discussed – There must be a close proximity between the positive act of instigation by the accused person and the

commission of suicide by the victim. The close proximity should be such as to create a clear nexus between the act of instigation and the act of suicide -If the deceased had taken the words of the appellants seriously, a time gap between the two incidents would have given enough time to the deceased to think over and reflect on the matter. As such, a gap of over a month would be sufficient time to dissolve the nexus or the proximate link between the two acts. (Para 14-34)

Summary– Allowing appeal, SC quashed FIR – in the absence of sufficient material to show that the appellants had intended by their words to push the deceased into such a position that she was left with no other option but to commit suicide, continuation of criminal proceedings against the appellants would result in an abuse of process of law .

Mallavva vs Kalsammanavara Kalamma 2024 INSC 1021 -Order VI Rule 17 – Amendment Of Pleadings – Appellate Stage

Code of Civil Procedure 1908 – Order VI Rule 17 – A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure. The court always gives relief to amend the pleading of the party, unless it is satisfied that the party applying was acting mala fide or that by his blunder, he had caused injury to his opponent which cannot be compensated for by an order of cost -When there are several reliefs claimed in a suit, the limitation period would be that of the main relief, the limitation for ancillary relief being ignored – In a suit for declaration with a further relief, the limitation would be governed by the Article governing the suit for such further relief. In fact, a suit for a declaration of title to immovable property would not be barred so long as the right to such a property continues and subsists. When such right continues to subsist, the relief for declaration would be a continuing right and there would be no limitation for such a suit. The principle is that the suit for a declaration for a right cannot be held to be barred so long as Right to Property subsist. (Para 23-32)

Parswanath Saha vs Bandhana Modak (Das) 2024 INSC 1022 – S 20 Specific Relief Act – Hardship

Specific Relief Act, 1963 – Section 20 (Pre 2019 amendment) – Mere rise in price subsequent to the date of the contract or inadequacy of price is not to be treated as a hardship entailing refusal of specific performance of the contract. Further, the hardship involved should be one not foreseen by the party and should be collateral to the contract. In sum, it is not just one factor or two, that is relevant for consideration. But it is the sum total on various factors which is required to enter into the judicial verdict. (Para 28-29)

Abdul Rejak Laskar vs Mafizur Rahman 2024 INSC 1023 – Section 9 CPC – Order XX Rule 18 CPC – Partition Suits – Assam Land and Revenue Regulation

Civil Procedure Code, 1908 – Section 9 – Whenever a question arises before the civil court whether its jurisdiction is excluded expressly or by necessary implication, the Court naturally feels inclined to consider whether the remedy afforded by an alternative provision prescribed by any special statute is sufficient or adequate. In cases where exclusion of the civil court's jurisdiction is expressly provided for, the consideration as to the scheme of the statute in question and the adequacy or sufficiency of the remedy provided for by it may be relevant but cannot be decisive. Where exclusion is pleaded as a matter of necessary implication such consideration would be very important and in conceivable circumstances might become even decisive. (Para 29) when anything in the CPC is in conflict with anything in the special or local law or with any special jurisdiction or power conferred or in the special form of procedure prescribed by or under any other law, the Code will not (in the absence of any specific provision to the contrary) prevail so as to override such inconsistent provisions. When there is no conflict between the special or local law and the Code, the Code will apply. (Para 34)

Bijoy Kumar Moni Vs Paresh Manna 2024 INSC 1024 -Ss 138,141 Negotiable Instruments Act

Negotiable Instruments Act – Section 138 – It is only the drawer of the cheque who can be held liable for an offence under Section 138 of the NI Act – An authorised signatory acting on behalf of the principal cannot be said to be the “drawer” of the cheque “on an account maintained by him with a banker” under Section 138. (Para 66)

Negotiable Instruments Act – Section 141 – Section 141 of the NI Act will have no application to proprietorship concerns as they are owned by individuals and do not have a separate corporate identity. (Para 67)

Negotiable Instruments Act – Section 138,141 – It is the drawer Company which must be first held to be the principal offender under Section 138 of the NI Act before culpability can be extended, through a deeming fiction, to the other Directors or persons in-charge of and responsible to the Company for the conduct of its business- In the absence of the liability of the drawer Company, there would naturally be no requirement to hold the other persons vicariously liable for the offence committed under Section 138 of the NI Act. (Para 62)

Negotiable Instruments Act – Section 138 – Section 138 of the NI Act does not envisage that only those cases where a cheque issued towards the discharge of the personal liability of the drawer towards the payee gets dishonoured would come within the ambit of the provision. The expression “of any debt or other liability” appearing in Section 138 when read with the Explanation to the provision is wide enough to bring any debt or liability which is legally enforceable within its fold. Thus, the requirement under the provision is that the debt or any other liability has to be legally enforceable and the emphasis is not on the existence of such debt or other liability between the drawer and the payee- Even those cases where a person assumes the responsibility of discharging the debt of some other person, and in furtherance thereof draws a cheque on an account maintained by him, which subsequently gets dishonoured upon being presented before the drawee, would be covered by Section 138 if the payee is able to establish that there was some sort of an arrangement by way of which the debt was assumed by the drawer. (Para 52)

Shri Mukund Bhavan Trust vs Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle 2024 INSC 1025 – Order VII Rule 11 CPC – Rejection Of Plaintiff

Code Of Civil Procedure 1908 – Order VII Rule 11 – When an application to reject the plaint is filed, the averments in the plaint and the documents annexed therewith alone are germane. The averments in the application can be taken into account only to consider whether the case falls within any of the sub-rules of Order VII Rule 11 by considering the averments in the plaint. The Court cannot look into the written statement or the documents filed by the defendants. The Civil Courts including this Court cannot go into the rival contentions at that stage. (Para 12) – Limitation is a mixed question of fact and law and the question of rejecting the plaint on that score has to be decided after weighing the evidence on record. However, in cases like this, where it is glaring from the plaint averments that the suit is hopelessly barred by limitation, the Courts should not be hesitant in granting the relief and drive the parties back to the trial Court. The spirit and intention of Order VII Rule 11(d) of CPC is only for the Courts to nip at its bud when any litigation ex facie appears to be a clear abuse of process. The Courts by being reluctant only cause more harm to the defendants by forcing them to undergo the ordeal of leading evidence. (Para 26)

Code Of Civil Procedure 1908 – Order XXIII Rule 3A – The bar under Order XXIII Rule 3A of CPC is applicable to third parties as well and the only remedy available to them would be to approach the same court. (Para 25)

Transfer of Property Act, 1882 – Section 3 -A registered document is validly executed and is valid until it is declared as illegal. (Para 15) – When a portion of the property has been conveyed by court auction and registered in the first instance and when another portion has been conveyed by a registered sale deed in 1952, there is a constructive notice from the date of registration and the presumption under Section 3 of the Transfer of Property Act, comes into operation. (Para 16)

Mukesh vs State Of Madhya Pradesh 2024 INSC 1026 -Registration Act – Adverse Possession

Registration Act, 1908-Section 17 –To fall under the exception of Section 17(2)(vi) , the following conditions must be satisfied: (i)There must be a compromise decree as per the terms of the compromise without any collusion; (ii)The compromise decree must pertain to the subject property in the suit; and (iii)There must be a pre-existing right over the subject property, and the compromise decree should not create a right afresh. (Para 10)

Revenue records – Revenue records are not documents of title. Any entry therein will not ipso facto confer ownership. (Para 11)

Adverse Possession– Right accrued to a holder in adverse to be treated as a pre-existing right -Continuous and uninterrupted adverse possession would confer right, title and interest and the same can be used as a sword. (Para 11)

Indian Stamp Act, 1899- (as applicable to the State of Madhya Pradesh) -Stamp duty is not chargeable on an order/decree of the Court as the same do not fall within the documents mentioned in Schedule I or I-A read with Section 3. (Para 13)

NOIDA Toll Bridge Company Ltd. vs Federation of NOIDA Residents Welfare Association 2024 INSC 1027 – PIL – Contractual Matters – Administrative Law – Uttar Pradesh Industrial Area Development Act

Uttar Pradesh Industrial Area Development Act, 1976 – Section 6A – ‘Authority’ is empowered to delegate the power to collect taxes or fees levied by it. However, under no circumstances does it authorize the delegation of the power to levy taxes or fees.[SC held that NOIDA overstepped its authority by delegating the power to levy fees to NTBCL through the Concession Agreement and Regulations, exceeding the scope of its powers] (para 46)

Administrative Law -An authority vested with the power to frame subordinate legislation must act within the bounds of that power and refrain from exceeding its limits-The power to delegate must be expressly discernible in the Principal Act itself and in the

absence of such provisions, no circular method can be countenanced to extract such power. (Para 47)

Constitution of India – Article 32,226 – While public interest litigation serves as an effective tool for addressing the grievances of the public, it must be carefully scrutinised to prevent misuse or abuse by those with ulterior motives. Courts must look beyond the surface to assess whether the litigation has been genuinely initiated in the interest of the public or as a result of mischief. The essence of PIL lies in its aim to remedy genuine public wrongs or injuries rather than being driven by personal vendetta or malice.(Para 12)

Constitution of India – Article 32,226 -Articles 32 or 226 are not guided by the provisions of the Limitation Act, 1963, but instead, by the Doctrine of Delay and Laches – The doctrine of delay and laches cannot be applied *stricto sensu* to writ petitions invoking public interest jurisdiction, unless the court is satisfied that the party has not approached it with clean hands – While delay is a material factor, there is no fixed period of limitation for invoking jurisdiction under Article 226 and that each case should be considered on its own facts and circumstances, thus allowing for a more liberal approach when applying this doctrine – The doctrine is not a rigid rule but is rather a practice that is founded on the exercise of sound judicial discretion. (Para 17) An established exception to the defence of delay is the presence of a continuous injury stemming from an ongoing wrong. The plea of delay and laches cannot be raised in a case of a continuing cause of action. (Para 20)

Constitution of India – Article 32,226 – There is no absolute bar on the maintainability of writ petitions, even in matters concerning contracts or monetary claims. where State action is challenged as arbitrary or capricious, courts are justified in intervening through judicial review to determine whether the State has adhered to the principles embodied in Article 14- every State action must prioritise public interest. If a governmental action disproportionately favours a private entity at the expense of public welfare, it is liable to be struck down as invalid. (Para 26-28) Government procedures or policies pioneered in public interest must genuinely serve the public and not merely enrich private entities. When public interest is overshadowed, it does raise concerns as to whether the Government has acted in a manner that appears capricious or arbitrary. It then becomes imperative for the Court to scrutinise whether such actions vitiate the Constitutional mandate of equality. Such procedures, must therefore satisfy the litmus test of due application of mind, fairness, transparency and most pertinently, being bona fide.

(Para 35)

Contract Law – Contracts loaded with terms which are so unfair and unreasonable, that they truly baffle this Court, are undoubtedly opposed to public policy and must be adjudged void – Contracts loaded with terms which are so unfair and unreasonable, that they truly baffle this Court, are undoubtedly opposed to public policy and must be adjudged void. The Court is always cautious when determining if a particular contract or action is opposed to public policy, but in doing so, it cannot shirk from its duty and approve helplessly the interpretation of a Statute or a document or of an action which is certain to subvert the societal goals and endanger the public good – To do so, the Court may invoke the Doctrine of Severability and sever the incurable parts of the contract from the whole. The Court can do so only when the rest of the contract can breathe and survive without the aid of its void covenants. The Court must ask itself whether the parties would have agreed to the valid terms of the agreement if they knew that the invalid terms would be removed. (Para 78)

Summary -Appeal by the Noida Toll Bridge Company Ltd. (NTBCL) challenging a High Court ruling that invalidated clauses in a concession agreement allowing NTBCL to collect tolls on the Delhi-Noida Direct Flyway. The High Court found the agreement's toll provisions and the process for selecting NTBCL to be unconstitutional. The Supreme Court upheld the High Court's decision.

Kamla Devi vs State of Haryana 2024 INSC 1028 – Land Acquisition

Summary: Assessment of Compensation for the land subsisting in village Tauru, District Mewat acquired by the State of Haryana vide notifications dated 11.02.2011 and 10.02.2012 issued under Section 4 and 6 of the Land Acquisition Act, 1894 – Appeal allowed by referring to Horrmal vs State of Haryana.

China Development Bank vs Doha Bank Q.P.S.C. 2024 INSC 1029 – S 5(8),7,14**IBC – Financial Creditor**

Insolvency and Bankruptcy Code – Section 14- Section 14(1) imposes an embargo or prohibition on certain acts. However, it does extinguish the claim- If money advanced is secured by a promissory note or a negotiable instrument, a suit for recovery based on the said documents will not lie once a moratorium comes into force. But, the liability under the documents will continue to exist. In fact, after moratorium, no creditor can recover any dues from the Corporate Debtor. But still, there is a provision for making a claim- Definition of ‘claim’ under Section 3(6) of the IBC. If the right to payment exists or if a breach of contract gives rise to a right to payment, the definition of ‘claim’ is attracted. Even if that right cannot be enforced by reason of the applicability of the moratorium, the claim will still exist. (Para 63-65)

Insolvency and Bankruptcy Code – Section 7, 5(8) – There is no requirement incorporated that a debt becomes financial debt only when default occurs. Under Section 5(7) of the IBC, any person to whom financial debt is owed becomes a Financial Creditor even if there is no default in payment of debt – This definition of ‘default’ becomes relevant only while invoking the provisions of Section 7(1) of the IBC when the CIRP is sought to be initiated by the Financial Creditor. Section 7(1) provides that a Financial Creditor can initiate CIRP against the Corporate Debtor when there is a default on the part of the Corporate Debtor. There is no requirement under Section 5(8) of the IBC that there can be a debt only when there is a default. The moment it is established that the financial debt is owed to any person, he/she becomes a Financial Creditor. (Para 61-62)

Indian Contract Act 1872 – Section 126- Guarantee – A contract becomes a guarantee when the contract is to perform the promise or discharge the liability of a third person in case of default. Thus, when a person enters into a contract to perform or discharge the liability of a third party, the contract becomes a contract of guarantee. (Para 50)

Hypothecation – The process of using an asset as collateral for a loan. It acts as a protection to the lender when the borrower does not repay the loan. (Para 52)

Interpretation of Deeds- Only the title or name of a document cannot be a decisive factor in deciding the nature of the document or the transactions affected by the

document.a sentence or a term in a contract does not determine the real nature of the contract. It is true that the Courts should not rewrite the contract while making an attempt to interpret it. (Para 53)

Dwarika Prasad (D) Vs Prithvi Raj Singh 2024 INSC 1030 – Order IX Rule 13

CPC – Counsel's Fault

Code of Civil Procedure 1908 – Order IX Rule 13 – Courts should not shut out cases on mere technicalities but rather afford opportunity to both sides and thrash out the matter on merits. Further, we cannot let the party suffer due to negligent or fault committed by their counsel. (Para 9) The procedure cannot stand in the way of achieving just and fair outcome. (Para 12)

Director General Vs Balan C 2024 INSC 1031 – Service Law – Transfer

Summary: HC set aside the order transferring the services of the respondent from Thiruvananthapuram to Jammu – Allowing appeal, SC observed:respondent has expressed his willingness to join the post to which he has been transferred -The appellant should release the salary for the period commencing from 27.05.2023 within a period of one month of his joining the transferred post. It is the responsibility of the appellant and the respondent to ensure that no further litigation would ensue on the basis of the salary payable. The appellant also will extend the same care and courtesy that is indicated in the letter dated 01.12.2023 addressed to the respondent.

Shambhu Debnath vs State Of Bihar 2024 INSC 1032 – Anticipatory Bail

Code of Criminal Procedure 1973 – Section 438 – Anticipatory Bail – Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering

whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court. (Para 12)

Summary: Allowing appeal, SC observed: High Court has erred in granting the relief in a cryptic and mechanical manner without considering the materials available on record including the chargesheet which stated that the case has been found true against all the accused persons of such a heinous offence of murder by pouring kerosene oil and setting the deceased on fire.

Amutha vs A.R. Subramanian 2024 INSC 1033 – Hindu Marriage Act – Prolonged Separation – Cruelty – Irretrievable Breakdown Of Marriage – Permanent Alimony

Hindu Marriage Act – Section 13 –Actions causing sustained emotional torment and loss of trust in the marital relationship constitutes cruelty- Marriage is a relationship built on mutual trust, companionship, and shared experiences. When these essential elements are missing for an extended period, the marital bond becomes a mere legal formality devoid of any substance -Prolonged separation, coupled with inability to reconcile, is a relevant factor in deciding matrimonial disputes. (Para 31)

Constitution of India – Article 142- Irretrievable breakdown of marriage is not a statutory ground for divorce under the HMA, Article 142 of Constitution is invoked to grant relief where the marriage is beyond repair – When marriage has irretrievably broken down, forcing the parties to remain together serves no purpose and only prolongs their misery. (Para 32) Forcing a marriage to continue when it has become a source of unhappiness and conflict undermines the very purpose of the institution of marriage. (Para 34)

Permanent Alimony – The financial independence of a party does not preclude Court

from granting maintenance if it is necessary to secure dignity, social standing, and financial stability post- divorce, especially in cases where the marriage has subsisted for a long period- The factors to be considered while awarding maintenance or alimony include the duration of the marriage, the earning capacities of the parties, their age and health, their standard of living, and their financial and non-financial contributions to the marriage. Here, the appellant has spent substantial time during the pendency of the litigation without the emotional or financial support of the respondent. Moreover, granting a lumpsum as permanent alimony ensures finality and reduces the scope for future litigation between the parties. While the appellant is presumably capable of earning, she has undoubtedly faced financial and emotional setbacks due to the prolonged litigation and separation. Similarly, the financial provision for the daughter ensures her welfare is not compromised due to the breakdown of the marital relationship between her parents. (Para 37-39)

Jaggo vs Union Of India 2024 INSC 1034 – Service Law – Regularization – Uma Devi Judgment

Regularization – *Secretary, State of Karnataka vs. Uma Devi* judgment misinterpreted or misapplied to deny legitimate claims of long-serving employees- Employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure – Long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route- Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to

principles of fairness and equity. (Para 10, 26)

Government Employment – Government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country. (Para 27)

Bherulal Bhimaji Oswal(D) vs Madhusudan N.Kumbhare 2024 INSC 1035 – Medical Negligence

Summary: NCDRC allowed the revision and consumer complaint alleging medical negligence was dismissed – Allowing appeal, SC directed to pay compensation of Rs. 3,50,000 to the complainant and observed: a blatant result of medical negligence by the respondent in post-operative care wherein corrective steps could have been taken, if the most reasonable and basic skills which were expected from the respondent-doctor, were applied.

Sugirtha vs Gowtham 2024 INSC 1036 – Child Custody

Child Custody – Father being the natural guardian cannot be denied of the care and custody of the child and that his agony of missing his child's childhood cannot be prolonged, but the same cannot override the interest of the child. (Para 12) The matrimonial disputes and grave allegations between parents should not be an impediment to a child's right to have care, company, and affection of both the parents. (Para 14) The

interest of the minor child is paramount. In the process of adjudicating upon the rights of the parents, her health cannot be compromised. (Para 15)

Ajith G. Das vs State Of Kerala 2024 INSC 1037 -Public Service Commission

Public Service Commission -Kerala PSC – The Government's directives regarding workforce requirements are binding on the KPSC, provided they do not interfere with the integrity and sanctity of the selection process. While the KPSC's autonomy remains vital, it must be exercised within the confines of its role as a facilitator of recruitment and not as an arbiter of administrative policy- (Para 28) **Division of responsibilities between the State Government and the Public Service Commission**– The primary role of the KPSC is to aid and facilitate the selection process. It functions as an autonomous body within the framework laid down by the Constitution of India, ensuring transparency and merit-based recruitment. However, its autonomy is confined to the conduct of the selection process. Determination of the number of vacancies and the requisition for employees remain the prerogative of the State Government, which is the employer- The Government's role in notifying vacancies is integral to the recruitment process. It determines workforce requirements based on administrative exigencies and operational needs. The KPSC's mandate is to conduct the selection process in a manner that aligns with these requisitions.

James vs State Of Karnataka 2024 INSC 1038 – S 279,304A IPC – Conviction

Summary: High Court dismissed the Revision Petition and upheld the sentence of 6 months S.I. under Section 304A of the Indian Penal Code, 1860 (hereinafter 'IPC') and also upheld the fine of Rs. 1000/- for the offence punishable under Section 279 of IPC – Dismissing appeal, SC observed: him. The High Court and the Courts below are right in concluding that the act of the Petitioner was a rash and negligent one and have thereby rightly convicted the accused Petitioner- The present case is not fit for extending sympathy and taking a lenient view especially considering that the said rash and negligent act of the

accused has caused death of one person as well as injuries to one other.

Anil Bhavarlal Jain vs State Of Maharashtra 2024 INSC 1039 – S 482 CrPC – Corruption Cases

Code of Criminal Procedure – Section 482 – Prevention of Corruption Act –
Quashing of offences under the PC Act would have a grave and substantial impact not just on the parties involved, but also on the society at large- economic offences by their very nature stand on a different footing than other offences and have wider ramifications. They constitute a class apart. Economic offences affect the economy of the country as a whole and pose a serious threat to the financial health of the country. If such offences are viewed lightly, the confidence and trust of the public will be shaken. (Para 16)

Summary : High Court refused to quash criminal proceedings based upon a settlement arrived at between the parties as per the consent terms drawn and submitted before the DRT- SC dismissed appeal.

Amar Sardar vs State Of West Bengal 2024 INSC 1040 – S 372 CrPC – Appeal Against Conviction

Code Of Criminal Procedure -Section 372 – There shall be independent application of mind in deciding the criminal appeal against conviction. It is the duty of an appellate court to independently evaluate the evidence presented and determine whether such evidence is credible. Even if the evidence is deemed reliable, the High Court must further assess whether the prosecution has established its case beyond reasonable doubt. The High Court though being an appellate Court is akin to a Trial Court, must be convinced beyond all reasonable doubt that the prosecution's case is substantially true and that the guilt of the accused has been conclusively proven while considering an appeal against a conviction- High Court must provide clear reasons for accepting the evidence on record. Mere concurrence with the findings of the Trial Court is insufficient unless supported by a

well-reasoned independent justification. As the first appellate court, the High Court is expected to evaluate the evidence including the medical evidence, statement of the victim, statements of the witnesses and the defence's version with due care. While the judgment need not be excessively lengthy, it must reflect a proper application of mind to crucial evidence. Albeit the High Court does not have the advantage to examine the witnesses directly, the High Court shall, as an appellate Court, re-assess the facts, evidence on record and findings to arrive at a just conclusion in deciding whether the Trial Court was justified in convicting the accused or not- Large pendency of cases bombarding our courts cannot come in the way of the Court's solemn duty, particularly, when a person's liberty is at stake.

Summary: HC judgment dismissed accused's appeal against a conviction by the Fast Track Court for offenses under Sections 376, 511, and 354 of the Indian Penal Code.- Allowing appeal, SC directed the High Court to rehear the appeal and pass a fresh judgment.

Pawan Kumar vs Union Of India 2024 INSC 1041 – Judicial Review of Tender Matters

Constitution of India – Article 226 – Judicial Review – Author of the tender documents is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given- Exercise of power of judicial review would be called for if the approach is arbitrary or mala fide or procedure adopted is meant to favour one. The decision-making process should clearly show that the said maladies are kept at bay. But where a decision is taken that is manifestly in consonance with the

language of the tender document or subserves the purpose for which the tender is floated, the court should follow the principle of restraint. Technical evaluation or comparison by the court would be impermissible. The principle that is applied to scan and understand an ordinary instrument relatable to contract in other spheres has to be treated differently than interpreting and appreciating tender documents relating to technical works and projects requiring special skills. The owner should be allowed to carry out the purpose and there has to be allowance of free play in the joints. (Para 24-25)

Union Of India vs N.M. Raut 2024 INSC 1042 – Service Law – MACP Scheme

Service Law – Interpretation and implementation of the Modified Assured Career Progression Scheme, 2008, applicable with effect from 01.09.2008- SC

Held: the Respondents would be entitled to the benefits of the MACPS only after taking into consideration all the financial upgradations earned by them, in terms of the CCS RP Rules. Financial upgradations under the said Rules have to be accounted for and will be treated as financial upgradations earned for the purpose of reckoning the 10-year intervals and the three assured financial upgradations, in terms of Grade Pay, under the MACPS.

Giriyappa vs Kamalamma 2024 INSC 1043 – S 53A Transfer Of Property Act

Transfer of Property Act – Section 53-A-Protection of a prospective purchaser/transferee of his possession of the property involved, is available subject to the following prerequisites: (a) There is a contract in writing by the transferor for transfer for consideration of any immovable property signed by him or on his behalf, from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty; (b) The transferee has, in part-performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part- performance of the contract; (c) The transferee has done some act in furtherance of the contract and has performed or is willing to perform his part of the contract- Protection of ignorant transferees who take possession or spend money in improvements relying on documents which are ineffective as transfers or on contracts which cannot be

proved for want of registration. The effect of this section, is to relax the strict provisions of the Transfer of Property Act and the Registration Act in favour of transferees in order to allow the defence of part performance to be established- Section 53-A is an exception to the provisions which require a contract to be in writing and registered and which bar proof of such contract by any other evidence. Consequently, the exception must be strictly construed. (Para 11-14)

Hongkong And Shanghai Banking Corp. Ltd. Vs Awaz 2024 INSC 1044 – Credit Card Interest – NCDRC Judgment

Credit Card – The rate of interest, charged by the banks, determined by the financial wisdom & directives issued by the Reserve Bank of India, and is duly communicated to the credit card holders from time to time, cannot be in any manner unconscionable or unilateral. The credit card holders are duly educated and made aware of their privileges and obligations, including timely payment & levying of penalty on delay. (Para 70) -The decision of the National Commission to unilaterally hold that any interest above 30% p.a. is usurious is an encroachment upon the domain of the Reserve Bank of India. (Para 51)

Consumer Protection Act, 1986 -Section 2(1)(o)– The administrative policy decisions of banks, do not constitute provisions/facilities of banking, which may come under the umbrella of ‘service’- A policy decision pertaining to the rate of interest, and trade practices carried out by the banks across the country, is a regulatory function within the specific statutory domain of the Reserve Bank of India and cannot come under the purview of judicial scrutiny by the National Commission. (Para 46)

Consumer Protection Act, 1986- The requirement of obtaining prior permission from the Commission, for any consumer to act in a representative capacity, can in no way be dispensed with.(Para 43)

Consumer Protection Act, 1986- Section 2(1)(m) – A trust, whether registered under the Indian Trust Act, or the State Trust Registration Act, is not a “person” as defined under Section 2(1)(m). (Para 44)

Consumer Protection Act, 1986- Any trade practice which is adopted for the purpose

of promoting the sale, use, or supply of any goods, or for the provision of any service, by adopting any unfair method or unfair or deceptive practice, has to be treated as ‘unfair trade practice’. Hence, whether an act can be condemned as an unfair trade practice, or not, the key is to examine the ‘modus operandi’ i.e. whether there is any false statement/misrepresentation, or deception. (Para 68)

Interpretation of Statutes – Any direction or guideline, issued by a statutory authority, is an extension of the statute itself. Rules made under a statute must be treated, for all purposes of construction or obligations, exactly as if they were in that Act- The statutory presumption that the legislature whilst formulating laws has inserted every part thereunder for a purpose and that legislative intention, which should be given effect to, would be applicable to the present guidelines as well. (Para 56)

Contract – The terms of a contract executed between two parties, are not open to judicial scrutiny unless the same is arbitrary, discriminatory, mala fide or actuated by bias. The courts cannot strike down the terms of a contract, because it feels that some other terms would have been fair, wiser or logical. (Para 62) A contract, being a creature of an agreement between two or more parties, is to be interpreted giving the actual meaning to the words contained in the contract and it is not permissible for the Court to make a new contract, however reasonable, if the parties have not made it themselves- when a person signs a document which contains certain contractual terms, that normally parties are bound by such contract; it is for the parties to establish an exception in a suit. When a party to the contract disputes the binding nature of the signed document, it is for him to prove the terms, in the contract, or circumstances in which he came to sign the documents, need to be established. (Para 65)

Narcotics Control Bureau vs Kashif 2024 INSC 1045 – Ss 37, 52A NDPS Act

NDPS Act – Section 37 – In the NDPS cases, where the offence is punishable with minimum sentence of ten years, the accused shall generally be not released on bail. Negation of bail is the rule and its grant is an exception. While considering the application for bail, the court has to bear in mind the provisions of Section 37 of the NDPS Act, which

are mandatory in nature. The recording of finding as mandated in Section 37 is a sine qua non for granting bail to the accused involved in the offences under the said Act. Apart from the granting opportunity of hearing to the Public Prosecutor, the other two conditions i.e., (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that (ii) he is not likely to commit any offence while on bail, are the cumulative and not alternative conditions. (Para 8.39)

NDPS Act – Section 52A – Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone. Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused. Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act. (Para 39)

Interpretation Of Statutes – The Section Heading or Marginal note can be relied upon to clear any doubt or ambiguity in the interpretation of any provision and to discern the legislative intent. The Section Heading constitutes an important part of the Act itself, and may be read not only as explaining the provisions of the section, but it also affords a better key to the constructions of the provisions of the section which follows than might be afforded by a mere preamble. (Para 20) every law is designed to further ends of justice and not to frustrate it on mere technicalities. If the language of a Statute in its ordinary meaning and grammatical construction leads a manifest contradiction of the apparent purpose of the enactment, a construction may be put upon it which modifies the meaning of the words, or even the structure of the sentence. It is equally settled legal position that where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftsman's unskillfulness or ignorance of the law. (Para 37)

Muskan Enterprises vs State Of Punjab 2024 INSC 1046 – S 148 NI Act – S 482 CrPC – Res Judicata

Negotiable Instruments Act 1881- Section 148 –Deposit may not be ordered if the Appellate Court finds a case to be exceptional not calling for a deposit and the reasons for not ordering a deposit are recorded in the order- There could arise a case before the Appellate Court where such court is capable of forming an opinion, even in course of considering as to what would be the appropriate quantum of fine or compensation to be kept in deposit, that the impugned conviction and the consequent sentence recorded/ imposed by the trial court is so wholly incorrect and erroneous that it is only a matter of time for the same to be set aside and that ordering a deposit would be unnecessarily burdensome for the appellant. Such firm opinion could be formed on a plain reading of the order, such as, the conviction might have been recorded and sentence imposed without adherence to the mandatory procedural requirements of the N.I. Act prior to/at the time lodging of the complaint by the complainant rendering the proceedings vitiated, or the trial court might have rejected admissible evidence from being led and/or relied on inadmissible evidence which was permitted to be led, or the trial court might have recorded an order of conviction which is its ipse dixit, without any assessment/analysis of the evidence and/or totally misappreciating the evidence on record, or the trial court might have passed an order failing to disclose application of mind and/or sufficient reasons thereby establishing the link between the appellant and the offence, alleged and found to be proved, or that the compensation awarded is so excessive and outrageous that it fails to meet the proportionality test : all that, which would evince an order to be in defiance of the applicable law and, thus, liable to be labelled as perverse. These instances, which are merely illustrative and not exhaustive, may not arise too frequently but its possibility cannot be completely ruled out- Referred to Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Ltd (2023) 10 SCC 446. (Para 26-27)

Negotiable Instruments Act 1881- Section 148 -Once the Appellate Court is satisfied that a deposit is indeed called for, in an appropriate case, such court's power is in no way fettered to call upon the appellant to deposit more than 20% of the awarded compensation, but in no case can it be less than 20%- Referred to Jamboo Bhandari v. Madhya Pradesh State Industrial Development Corporation Ltd (2023) 10 SCC 446. (para 26)

Code Of Criminal Procedure 1973 – Section 482-High court would have the inherent power to decide any successive petition under section 482 and that it is not denuded of that power by the principle of res judicata (Para 15)- Change of law can legitimately be regarded as a vital change in circumstance clothing the high court with the power, competence and jurisdiction to entertain the subsequent petition notwithstanding the fact that the earlier petition was withdrawn without obtaining any leave, subject to the satisfaction recorded by the high court that the order prayed for in the subsequent petition ought to be made, inter alia, either to prevent abuse of the process of any court or to secure the ends of justice. (Para 19)

Res Judicata –The principle of res judicata has no application in a criminal proceeding – The principle of res judicata, traceable in Section 11 of the CPC, does neither apply to criminal proceedings nor is there any provision in the Cr. PC akin to Order XXIII Rule 1(3), CPC. the principle of res judicata has no application in a criminal proceeding. (Para 14-18)

Interpretation of Statutes – Use of the verbs ‘may’ and ‘shall’ in a statute is not a sure index for determining whether such statute is mandatory or directory in character. The legislative intent has to be gathered looking into other provisions of the enactment, which can throw light to guide one towards a proper determination. Although the legislature is often found to use ‘may’, ‘shall’ or ‘must’ interchangeably, ordinarily ‘may’, having an element of discretion, is directory whereas ‘shall’ and ‘must’ are used in the sense of a mandatory provision. Also, while the general impression is that ‘may’ and ‘shall’ are intended to have their natural meaning, it is the duty of the court to gather the real intention of the legislature by carefully analysing the entire statute, the section and the phrase/expression under consideration. A provision appearing to be directory in form could be mandatory in substance. The substance, rather than the form, being relevant, ultimately it is a matter of construction of the statute in question that is decisive-interpretation must depend on the text and the context – the text representing the texture and the context giving it colour – and, that interpretation would be best, which makes the textual interpretation match the contextual. While wearing the glasses of the statute-maker, the enactment has to be looked at as a whole and it needs to be discovered what each section, each clause, each phrase and each word means and whether it is designed to fit into the scheme of the entire enactment. While no part of a statute and no word of a

statute can be construed in isolation, statutes have to be construed so that every word has a place and everything is in its place. (Para 24-25)

Pradhan Babu vs Nachimuthu Nagar Kudiyiruppor Nala Sangam 2024 INSC 1047- Tamil Nadu Town and Country Planning Act

Tamil Nadu Town and Country Planning Act, 1972 - The law permits a planning authority to come out with a Layout Plan or a Master Plan for an area in which certain area may be reserved for public purposes. Given how our cities are fast expanding, the salutary purpose and objective behind Section 36 of the Act is obvious. Read with Section 2(36), 'public purpose' has been given a very wide connotation and could even include keeping the identified land as open spaces to act as lungs for the city in view of environmental considerations. However, the caveat is that though the planning authority can include private land, the way ahead to acquire the land, either by way of resort to land acquisition laws as modified by the Act or by way of agreement with the person(s) concerned [Section 37], but in accordance with the procedure as laid out in Chapter IV of the Act. (Para 22)

Legal Maxims -Nemo dat quad non habet - No one can give what they do not possess. (Para 22)

Bhagwati Medical Hall vs Central Drugs Standard Control Organization 2024 INSC 1048 - S 26A Drugs & Cosmetics Act

Drugs & Cosmetics Act, 1940 - Section 26A & 22(1)(d) - Section 22(1)(d) is not a substitute for Section 26A of the D&C Act, 1940. While an Inspector may inspect premises, verify licenses, ensure proper record-keeping, and take action against specific offenses under the Act, the Inspector cannot supplant the Central Government's prerogative by effectively banning a drug simply because of alleged misuse in certain quarters- If upon gathering evidence and seeking expert advice, the authorities believe that the drug poses

health risks serious enough to warrant prohibition, their proper recourse is to move the Central Government to consider exercising its powers under Section 26A of the D&C Act, 1940. Until such a notification is issued, the drug cannot be unilaterally banned at the local level. (Para 11-12)

Drugs & Cosmetics Act, 1940 - Any restriction on a licensed medicinal preparation must rest on a firm statutory footing. (Para 13)

Daliben Valjibhai Prajapati vs Kodarbhai Kachrabhai 2024 INSC 1049 - Order VII Rule 11 CPC - Art. 59 Limitation Act

Code of Civil Procedure 1908 - Order VII Rule 11 ; Limitation Act 1963 - Article 59 - Suit for cancellation of sale deed - In impugned judgment, HC noted that under Article 59 of the Limitation Act, a suit can be instituted within 3 years of the knowledge, it proceeded to return a finding that in cases where the document is registered, the knowledge must be presumed from the date of registration- Allowing appeal, SC observed: The High Court not justified in holding that the limitation period commences from the date of registration itself- High Court not justified in allowing the application under Order 7 Rule 11, on issues that were not evident from the plaint averments itself.

National Insurance Company Ltd. vs Maya Devi 2024 INSC 1050 - Insurance Law - Fraud

Fraud - Fraud vitiates everything, but merely alleging fraud does not amount to proving it. For, it has to be proven in accordance with law by adducing evidence etcetera, the onus of which would also lie on the person alleging fraud. (Para 13)

Insurance Policy - Effectiveness of the insurance policy would start from the time and date specifically incorporated in the policy and not from an earlier point of time. (Para 12) - Insurance companies with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish "breach" on the part of the owner of the vehicle; the burden of proof wherefor would be on them. (Para 10)

Pandurang Vithal Kevne vs Bharat Sanchar Nigam Limited 2024 INSC 1051
Litigation - Forum Shopping

Litigation - Forum Shopping - Right to access the courts is a cornerstone of our democracy. However, this right is not absolute and must be exercised responsibly. When litigants engage in forum shopping, file repetitive and meritless pleas, and deliberately delay proceedings, they erode the very foundation of our legal system. (Para 3) It is in interest of justice that genuine and timely claims are addressed efficiently, without being hindered by such unscrupulous litigation.(Para 18) It is also the duty of the Courts at different levels to curb such type of litigation so that more time is available for dealing with genuine litigation. (Para 22)

ABC vs XYZ 2024 INSC 1052 - S 376 IPC - Rape - Promise To Marry

Indian Penal Code 1860 - Section 376 -When contents of the FIR clearly suggest that both the parties being adult had consensual relations for years before the complaint was filed alleging that there was backing out of promise to marry -Under these admitted facts no case is made out under Section 376 IPC. (Para 6)

Syeda Noor Fatima Zaidi Vs Heena Urooz 2024 INSC 1053 - Karnataka Municipal Corporations Act

Karnataka Municipal Corporations Act, 1976 - Section 37(2)(b)- Section 37(2)(b) of the Act does provide for declaring the person having the second highest number of votes, if the same be a majority of the valid votes without counting the votes secured by the originally returned candidate. The position in law holding the field thus far, seems to be to declare a candidate elected on the disqualification of another, only if there were two candidates in fray and not where candidates are more than two - In Vishwanatha Reddy v Konappa Rudrappa Nadgouda, AIR 1969 SC 604, the Court did not lay down a blanket principle that one candidate could be declared returned on the other's disqualification only if there were two candidates in total, and in no other scenario. The Court clearly suggested that in an election with more than two candidates in the fray, notice to the voters 'may

assume significance', and the candidate with the next highest number of votes would not be declared elected as a sequitur to the disqualification of the original returned candidate. It is apparent from the exposition of the law that the course of action in elections with more than two candidates and the returned candidate being disqualified, would turn on the phrase 'may'. (Para 21)