

entertain an appeal in *any* case where no appeal is otherwise provided by the law or the Constitution. It is a special power which is to be exercised only under *exceptional circumstances* and the Supreme Court has already laid down the principles according to which this extraordinary power shall be used, *eg*, where there has been a violation of the principles of natural justice. An appeal by special leave is not a regular appeal. Merely because a different view is possible on the evidence adduced at the trial is no ground for the court to upset the opinion of the courts below. The court would reappreciate evidence only to find out whether there has been any illegality, material irregularity or miscarriage of justice.<sup>19</sup> In *civil cases* the special leave to appeal under this Article would not be granted unless there is some substantial question of law or general public interest involved in the case. Similarly, in *criminal cases* the Supreme Court will not interfere under Article 136 unless it is shown that exceptional and special circumstances exist, that substantial and grave injustice has been done and that the case in question presents features of sufficient gravity to warrant a review of the decision appealed against.<sup>20</sup> The suspension of sentence, pending any appeal by a convicted person and consequential release on bail is not a matter of course and the appellate court is required to record reasons in writing for suspending the sentence and release of convict on a bail pending appeal.<sup>21</sup> Similarly, it will not substitute its own decision for the determination of a *tribunal* but it would interfere to quash the decision of a quasi-judicial tribunal under its extraordinary powers conferred by Article 136 when the tribunal has either exceeded its jurisdiction or has approached the question referred to in a manner which is likely to result in injustice or has adopted a procedure which runs counter to the established rules of natural justice.<sup>22</sup> Where findings of facts recorded by the trial court are affirmed by the high court in appeal, the Supreme Court will be reluctant to interfere with such findings in exercise of jurisdiction under Article 136 of the Constitution unless there are very strong reasons to do so.<sup>23</sup>

Article 136 does not confer a right of appeal on any party, but confers a discretionary power on the Supreme Court to interfere in appropriate cases. This power can be exercised in spite of other provisions for appeal contained in the Constitution, or any other law.<sup>23A</sup>

A pure finding of fact based on appreciation of evidence does not call for interference in exercise of power under Article 136 of the Constitution.<sup>24</sup>

There is no tangible justification to allow the appellants to raise a new plea for the first time, the determination of which would require detailed investigation into issue of facts.<sup>25</sup> The point can be raised before the Supreme Court for the first time where it goes to the root of the matter and for consideration of this point no further investigation in the facts of the case is necessary.<sup>26</sup>

Supreme Court while hearing appeal under Article 136 of the Constitution is not inhibited by observations made at the time of admitting SLP limiting the points for consideration. The court can at the time of final hearing consider the entire perspective to do final justice in the matter.<sup>27</sup>

Besides the above regular jurisdiction of the Supreme Court, it shall have an *advisory jurisdiction*, to give its *opinion*, on any question of law or fact of public importance as may be referred to it for consideration by the President.

#### D. Advisory jurisdiction.

Article 143 of the Constitution lays down that the Supreme Court may be required to express its opinion in two classes of matters, in an advisory capacity as distinguished from its judicial capacity: