

# V.S. DREAM COACHING

234 S.F. D-Mall, Shakti Khand-2

Indirapuram Ghaziabad

For

H.J.S., P.C.S.(J), A.P.O. and CLAT

**Year- 2022**



**Secret of success is to  
know something  
nobody else knows**

**NO.1-2022**

**NEWS LETTER  
September 2022**

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**Established in Sept. 2022**

**For Judicial Service  
Aspirants**

**In the Service of Judicial Fraternity**

# **V.S. DREAM COACHING**

**234 S.F., D-Mall, Shakti Khand-2**

**Indirapuram Ghaziabad**

**Open on 29 September 2022**



**Coaching Lecture Room- 1**

# V.S. DREAM COACHING

234 S.F. D-Mall, Shakti Khand-2

Indirapuram Ghaziabad



Office of Director



Waiting Area

# V.S. DREAM COACHING

## 1. About Coaching

V.S. Dream Coaching is one of the Premier Law Institute that offers coaching for Judicial Services Examinations at all the three levels – Preliminary Test, Mains Examination and Personality Test.

We started our journey in the month of Sept. 2022 with a vision driven by the socialist ideology. Since its inception, the coaching is successfully conducting courses for Judicial Services Exams and has always worked by aligning itself to the best interest of its students. The Coaching Institute is focused on providing comprehensive and reliable training and support to all its students, who plan to appear for the Judicial Services Exam and are in the search of highly qualified targeted and dedicated faculty to crack examinations successfully.

The teaching faculty of the Institute has been drawn from highly qualified persons having experience. We also guide the aspirant in preparing his own notes and quality study Material

### **Teaching pedagogy**

Our patron Hon'ble Mr. Justice Vedpal (Former Judge) High Court of Judicature at Allahabad who had been the Director of Judicial Training and Research Institute U.P., Trainer of Trainers and also a member of State Law Commission of Uttar Pradesh. He is also resource person of several Judicial Institutes besides us. The faculty of the coaching Institutes consists of those who have several decade experience in teaching in the field of law.

## 2. About Director and Faculty

**Ms. Anshu Singh B.A., LL.B is the director of the coaching who remained associated with the law for more than two decades.** The director of the coaching possess self-awareness, garner credibility, focus on relationship-building, exhibit humility, empower others, stay authentic, present themselves as constant and consistent, become role models and are fully present

The director aims to improve performance and focuses on the 'here and now' rather than on the distant past or future. The director is subject expert. And focus on helping the individual to unlock their own potential

## **Regular Faculty**

**1. Ms. Anshu Singh B.A. (English Literature) LL.B The Director, herself**

**2. Shri Shantanu Baliyan B.A. LL.B** who is a Law graduate from C.C.S. University (Campus), Meerut. He has also received **Certificate of Excellency** from the University. He has started teaching at a very young age and now with his teaching experience, he has developed innovative ways of teaching Law and General Knowledge, which suites to the need of a law student, as well as an Judicial Service Aspirant. He has conducted many online and offline courses. His notes on Law subjects as well as on general knowledge are masterly work

## **3. Resource persons/Guest Speakers**

- (i) Hon'ble Mr. Justice Vedpal, Former Judge, High Court Allahabad -Mentor
- (ii) Shri Soraj Singh, Ex-Director (Ag.), U.P. Government- Guest Speakers
- (iii) Mrs. Kalpana Malik, B.Sc., LL.B., LL.M. (P) - Guest Speakers
- (iv) Prof. S.M. Sangal, Ex-Principal of Law College
- (v) Dr. Venu Agarwal M.A.(English), M.Com. M.Ed., PhD - Guest Speakers

## **4. Library with Research wing**

V.S. Dream Coaching has an excellent Library containing **about five thousand books, Journals, brochures, notes and guides**. The library in a coaching institute plays an important role in the life of students by serving as the store house of knowledge. It facilitates the work of the resource person and faculty also. The students have also access to library, after coaching hours. Our library changes as technology changes and remains updated in Course subjects. The coaching itself prepares study excellent and qualitative reading material.

Preparing a study material on a subject on Law and General Knowledge, is a herculean task. There is always a debatable question to be asked regarding what, and what not to include and how to differentiate the books and brochures from the ones already available in the market.

There should be a system for the verification of facts, data, etc. While preparing study material, we always keep in the mind the quality, so we hope that the

book, brochures prove beneficial to all the aspirants taking examinations with law and General Knowledge.

A coaching should provide students with the fundamental knowledge base or foundation needed in order to be successful in their exam. Aspirants were surveyed to determine how they should be taught. The survey was developed based on course content. We encourage accredited programs to regularly evaluate current curricula for and develop new curricula that reflect changing construction technologies and management trends.



## **5. Study Material-Law**

### **A. Law on Anticipatory Bail**

#### **Anticipatory Bail – Issues and Challenges**

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##### **1. Introduction**

The term Anticipatory Bail Application (ABA) is nowhere defined in the Criminal Procedure Code, 1973 (Cr.P.C), however the first mention of the said term can be seen in the 41st Law Commission Report, 1969 (the report) where the commission felt the need to include a provision for protecting an accused or any person who is apprehending or having a belief that he/she may be arrested for any offence which is non-bailable in nature. Taking into consideration the said report and the grave need of the hour, the Parliament while enacting the 1973 Act, added a provision for Pre-Arrest bail u/s 438 with a heading "Direction for grant of bail to person apprehending arrest".

## **2. Case laws which have elaborated the provisions of the anticipatory bail**

The law as regards anticipatory bail has been simplified in the landmark judgment of **Gurbaksh Singh Sibba Vs. State of Punjab AIR 1960 SC 1632** and further the same has been reiterated now in 2010 in the judgment of **Siddharam Mhetre Vs. State of Maharashtra 2011(1) Bom C.R. (Cri) 293**. These two case laws are a authority on the law of anticipatory bail. Another landmark judgment on the point of anticipatory bail is that of **Jagganath Vs. State of Maharashtra 1981 Cri.L.J. 1808**. Further there are also authorities which point out as to when anticipatory bail can be granted and what are the various aspects which have to be taken into consideration at the time of deciding anticipatory bail applications.

## **3. Pre-requisites taken into consideration before applying for Anticipatory Bail**

- (a) Apprehension should be shown for obtaining a anticipatory bail and
- (b) The apprehension should be that the offence that could be registered against the applicant is of a non bailable offence (the offences which are bailable and non bailable are described in the First Schedule of the Criminal Procedure Code) and
- (c) Apprehension that the police might register a non bailable offence

## **4. Is there any necessity of registration of First Information Report?**

There is no necessity of an FIR being registered against the person applying for anticipatory bail. It can be granted by the Court when a person apprehends arrest for a non-bailable offence (refer to the First Schedule for the list of offences described as bailable and non bailable).

## **5. Interim Anticipatory Bail**

Let us assume that the applicant on an apprehension wishes to obtain anticipatory bail and thereby files the same before the Court of Sessions. On filing of the anticipatory bail, the Public Prosecutor now requires time to file his say and wants to consult with the police machinery on the point as to whether custody is required or not. If the Public prosecutor required time to file his say and as well say of the investigating authority then in such circumstances there is a possibility that the police may use this time period to arrest the applicant. In such circumstances, the whole objective of the anticipatory bail would be frustrated and hence the applicant can apply for interim anticipatory bail and the Courts generally grant interim anticipatory bail.

## **6. As per the facts of each and every case the circumstances would differ but the general considerations would be**

- (i) the Court should be convinced as to how there are chances that the applicant may be falsely implicated in a particular crime
- (ii) even if the applicant has a role to play it should be highlighted that the custodial interrogation is not required
- (iii) in case of documentary evidence - how the documents are in the possession of the prosecution and how custody of the applicant would not serve any ends of the police
- (iv) how there is no need of recovery of any document/weapon/incriminating article from the possession of the applicant
- (v) how it would affect his/her liberty and would cause embarrassment in the society
- (vi) how the applicant has roots in the society
- (vii) that the applicant is a law abiding citizen
- (viii) that there is no past criminal record
- (ix) how he/she has contributed towards the wellbeing of the society by various social acts
- (x) sole bread earner of the family/dependents
- (xi) any medical history - "whether suffering from any particular ailment
- (xii) and last but the most important" how the applicant is ready to abide by all the conditions put by the Court and how he/she would be ready to co-operate with the investigation.

## **7. Can the Anticipatory Bail once granted be cancelled by the Court?**

Yes, if the Court which has the power to grant anticipatory bail also has the power to cancel the same if the prosecution/police authorities are able to show as to how the person released on anticipatory bail is not abiding by the conditions put down by the Court and also if the person given the benefit of anticipatory bail is not co-operating with the police authorities for investigation.

## **8. Whether the presence of the applicant is necessary in the Court?**

If the Court has granted interim anticipatory bail to the applicant then in such case, the presence of the applicant shall be mandatory but in case the interim is not granted, the presence of the applicant at the time of final hearing of the applicant is mandatory. The Court may reject the application of anticipatory bail if the applicant is not present for the final hearing.

## **9. When can an Anticipatory bail be not granted?**

There are certain circumstances where applications for anticipatory bail are normally refused. The offences which would require a custodial interrogation of the applicant, the case where there can be a chance of recovery of weapon from the accused, the cases where there is a chance of discovery of an incriminating article thereby directly showing the nexus between the accused and the offence in such case the anticipatory may be rejected.

The offences as described in Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Defence of India Rules, 1971 have made the provisions which state that the provisions of anticipatory bail would not be applicable but there is always an exception to the same and where the applicant is in a position to show that the offence alleged is prima facie not made out as per the ingredients of the relevant Sections and in such cases the anticipatory can be granted. The offences like murder, rapes, dacoity, economic offences are the instances where the courts are very cautious while granting anticipatory bails.

On **10-02-2020**, the Hon'ble Supreme Court in case **Prathvi Raj Chauhan Vs. Union of India & Ors., AIR 2020 SC 1036**, held that the provisions of Section 438 of the Code of Criminal Procedure (Anticipatory Bail) shall not apply to the cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, except when the complaint doesn't make out a prima facie case for applicability of the provisions of the Act.

The Hon'ble Court further observed that in cases where prima facie case is not made out, the bar created by Section 18 and 18A (i) of the Act excluding provisions of Section 438 of the Code of Criminal Procedure (Anticipatory Bail), shall not apply. The Hon'ble Bench upheld the constitutionality of Section 18A of the SC-ST Act, inserted vide an amendment made in 2018.

The trend now in cases of economic offences is that they are worst than the murders and rapes and hence forget anticipatory bails but not even regular bails are granted because of the apprehension of tampering with the evidence, witnesses etc. In offence like MCOC Act and Defence of India Rules, the provision of anticipatory bail would be like making a mockery of the law. For offences/contraventions under certain specific statutes like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Defence of India Rules, 1971. The provisions of Sec. 438 are normally refused to those accused of particularly heinous offences like murder, rapes

## **10. Where to make an application of Anticipatory Bail?**

Law says Court of Sessions and the High Court have concurrent jurisdiction then in such cases the question is where to apply for the anticipatory bail? The application for anticipatory bail should be generally made in the Sessions Court but there are instances where the anticipatory bails have been directly granted by the High Court as the power to grant anticipatory bail is vested with Sessions as well as High Courts. The proper approach would be to file an application in the Court of Sessions, exhaust the remedy and then if the same is rejected then to move the High Court. If a person files a anticipatory bail in the High Court first and his anticipatory stands to be rejected, then it would be binding on the Sessions Court and that would be like waiving off your right to apply in the Sessions Court.

## **11. Difference between Anticipatory Bail and Regular Bail**

Hon'ble Apex Court in case Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632 makes a distinction between anticipatory bail and regular bail. The Court ruled that the ordinary order of bail is granted after the arrest, and therefore, means release from police custody, while the order of Anticipatory Bail is granted in anticipation of arrest, and is therefore effective at the very moment of arrest.

## **12. No time limit could be fixed while granting Anticipatory Bail**

A Constitution Bench of Hon'ble Apex Court in case **Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Anr.**, AIR 2020 SC 831, decided on **29/01/2020** was pleased to frame two questions while deciding the landmark judgment viz.:

1. Whether the protection granted to a person under Section 438 of Cr.P.C should be limited to a fixed period so as to enable the person to surrender before the trial court and seek regular bail and
2. Whether life of anticipatory bail should end at the time and stage when the accused is summoned to court.

The Constitutional Bench of the apex court was pleased to answer the **first question** by holding that there can be no time limit set for the Anticipatory Bail by the court granting the same. The five-judge bench was pleased to unanimously hold that " the protection granted to a person under Section 438 Cr.P.C. should not invariably be limited to a fixed period; it should inure in favour of the accused without any restriction on time."

Answering the **second question** the Hon'ble court held that "the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial. Again, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so."

The Supreme Court was cautious while answering the second question by granting discretionary powers to the court to limit the tenure of the Anticipatory Bail in case of special or peculiar facts of case.

### **13. Guidelines on Anticipatory Bail**

Hon'ble Apex Court in case **Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Anr., AIR 2020 SC 831, decided on 29/01/2020**, issued the following guidelines by holding that some principles to be kept in mind by Courts; while dealing with applications under Sec. 438, Cr.P.C.:-

- (a) As held in **Gurbaksh Singh Sibbia etc Vs. State of Punjab, AIR 1980 SC 1632**, when a person apprehends arrest and approaches a court for anticipatory bail, his apprehension (of arrest), has to be based on concrete facts (and not vague or general allegations) relatable a specific offence or particular of offences. Applications for anticipatory bail should contain clear and essential facts relating to the offence, and why the applicant reasonably apprehends his or her arrest, as well as his version of the facts. These are important for the Court which considering the application, to extent and reasonableness of the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not a necessary condition that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.
- (b) The court, before which an application under Sec. 438, is filed, depending on the seriousness of the threat (of arrest) as a measure of caution, may issue notice to the public prosecutor and obtain facts, even while granting limited interim anticipatory bail.
- (c) Section 438 Cr. PC does not compel or oblige courts to impose conditions limiting relief in terms of time, or upon filing of FIR, or recording of statement of any witness, by the police, during investigation or inquiry, etc. While weighing and considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc. The courts would be justified ' " and ought to impose conditions spelt out in Sec. 437(3), Cr. PC

[by virtue of Sec. 438 (2)]. The necessity to impose other restrictive conditions, would have to be weighed on a case by case basis, and depending upon the materials produced by the state or the investigating agency. Such special or other restrictive conditions may be imposed if the case or cases warrant, but should not be imposed in a routine manner, in all cases. Likewise, conditions which limit the grant of anticipatory bail may be granted, if they are required in the facts of any case or cases; however, such limiting conditions may not be invariably imposed.

- (d) Courts ought to be generally guided by the considerations such nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while assessing whether to grant anticipatory bail, or refusing 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.
- (e) Anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial. Also orders of anticipatory bail should not be 'blanket' in the sense that it should not enable the accused to commit further offences and claim relief. It should be confined to the offence or incident, for which apprehension of arrest is sought, in relation to a specific incident. It cannot operate in respect of a future incident that involves commission of an offence.
- (f) Orders of anticipatory bail do not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail.
- (g) The observations in *Gurbaksh Singh Sibbia etc Vs. State of Punjab*, AIR 1980 SC 1632, regarding 'limited custody' or 'deemed custody' to facilitate the requirements of the investigative authority, would be sufficient for the purpose of fulfilling the provisions of Sec. 27, in the event of recovery of an article, or discovery of a fact, which is relatable to a statement made during such event (i.e. deemed custody). In such event, there is no question (or necessity) of asking the accused to separately surrender and seek regular bail. ***Gurbaksh Singh Sibbia etc Vs. State of Punjab*, AIR 1980 SC 1632** had observed that 'if and when the occasion arises, it may be possible for the prosecution to claim the benefit of Sec. 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by a person released on bail by invoking the principle stated by Supreme Court in ***State of U.P. Vs. Deoman Upadhyaya* AIR 1960 SC 1125**.
- (h) It is open to the police or the investigating agency to move the court concerned, which grants anticipatory bail, in the first instance, for a direction under Sec. 439 (2) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc. The court ' "in this context is the court which

grants anticipatory bail, in the first instance, according to prevailing authorities.

- (i) The correctness of an order granting bail, can be considered by the appellate or superior court at the behest of the State or investigating agency, and set aside on the ground that the court granting it did not consider material facts or crucial circumstances. This does not amount to 'cancellation' in terms of Section 439 (2), Cr.P.C.

Furthermore, in case **Sushila Aggarwal case (Supra)**, the Hon'ble Supreme Court overruled the following eight case law:-

1. Salauddin Abdulsamad Shaikh Vs. State of Maharashtra, AIR 1996 SC 1042,
2. Satpal Singh Vs. State of Punjab, AIR 2018 SC 2011
3. Adri Dharan Das Vs. State of West Bengal AIR 2005 SC 1057
4. HDFC Bank Ltd. Vs. J.J. Mannan @ J.M. John Paul & Anr., AIR 2010 SC 618
5. Naresh Kumar Yadav Vs. Ravindra Kumar and Ors., AIR 2008 SC 218
6. Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Ors., AIR 2011 SC 312
7. K. L. Verma Vs. State (NCT) of Delhi, (1998) 9 SCC 348
8. Nirmal Jeet Kaur Vs. State of M.P. and Anr., (2004) 7 SCC 558

#### **14. Anticipatory Bail and Muslim Women (Protection of Rights on Marriage) Act, 2019**

A three judges bench of Hon'ble Apex Court in case **Rahna Jalal Vs. State of Kerala, AIR 2021 SC 225**, held that there is no bar on granting anticipatory bail for an offence committed under the Muslim Women (Protection of Rights on Marriage) Act, 2019, provided that the competent court hears the woman who has made the complaint before granting the anticipatory bail. The Hon'ble Court further observed that a true and harmonious construction of Sec. 438 Cr.P.C. and Sec.7(c) of the Act should be made and that the legislature has not expressly barred the application of Sec. 438 Cr.P.C.

#### **15. Absconder/ Proclaimed offender is not entitled to anticipatory bail:**

Denying anticipatory bail to a POCSO accused who allegedly raped a minor girl and her mother, the Allahabad High Court in case **Yogendra Kumar Mishra Vs. State of U.P. and Another, decided on 06/04/2022**, has observed that if anyone has been declared as an absconder/ proclaimed offender under Section 82 Cr.P.C., he is not entitled to relief of anticipatory bail.

## **16. Conclusion**

The scope and ambit of the law on anticipatory bail has been elucidated by the judiciary time and again. Since the inclusion of Section 438 in the Code was envisaged as an antidote for preventing arrest and detention in false cases, it is in larger public interest that Section 438 is interpreted fairly under Article 21, to keep arbitrary and unreasonable limitations on personal liberty at bay. The clear ratio of **Sibbia (Supra) and Sushila Aggarwal (Supra)** appear to be in line with the object and purpose of Section 438 of the Code. The Constitution Bench in **Sushila Aggarwal (Supra)** has considered and given due weightage to personal liberty, which at the very heart of the law, is central to the concept of anticipatory bail.

## **B. Case Law**

**SUBJECT - Considerations to decide whether a culpable homicide amounts to murder or not**

**IN THE SUPREME COURT OF INDIA**

**Ajmal  
Vs.  
State of Kerala**

**[Criminal Appeal No. 1838 of 2019]  
[Criminal Appeal No. 1839 of 2019  
and with Criminal Appeal No. 1840 of 2019]**

**HEADNOTE** - The use of the term "likely" in several places in respect of culpable homicide highlights the element of uncertainty that the act of the accused may or may not have killed the person. Section 300 IPC which defines murder, however refrains from the use of the term likely, which reveals absence of ambiguity left on behalf of the accused. The accused is for sure that his act will definitely cause death. It is often difficult to distinguish between culpable homicide and murder as both involve death. Yet, there is a subtle distinction of intention and knowledge involved in both the crimes. This difference lies in the degree of the act. There is a very wide variance of degree of intention and knowledge among both the crimes.

## JUDGMENT

**Vikram Nath, J.**

1. The present set of three appeals filed by accused appellants namely, Biju (accused no.1), Ashique Salam (accused no.2) and Ajmal (accused no.3) assail the correctness of the judgment and order dated 30th May, 2019 passed by the High Court of Kerala in Criminal Appeal Nos. 91, 238 and 564 of 2014, whereby the aforesaid appeals were partly allowed. The conviction of these three appellants under sections 143, 147, 148 IPC1 read with section 149 IPC was set aside, however, their conviction and sentence under sections 341, 323, 324, 427 and 302 read with section 34 IPC as awarded by the Trial Court was confirmed.

2. At the outset, it may be pointed out that there were 10 (ten) accused, who were chargesheeted. The present appellants are accused nos. A1, A2 and A3. Four accused namely accused nos. 4, 5, 7 and 10 were acquitted of all the charges by the Trial Court. Further High Court acquitted three accused namely accused nos. 6, 8 and 9 of all the charges. Thus, out of 10 (ten) accused, the present three accused appellants A1, A2 and A3 stand convicted by the High Court and, as such, are before this Court.

3. According to the prosecution case the entire transaction was in three parts. It is briefly stated as under:

3.1. In the last week of January, 2008, there were festivals going on in the Church located at Thidanadu and Variyanikkadu. The deceased Varkeychen @ George Thomas along with his friends initially went to Thidanadu Church in a Scorpio Car, which was driven by Saji Joseph (P.W.1) to attend a musical festival (gana mela). The deceased along with his friends watched the programme for about half an hour and, thereafter, proceeded towards another Church at Variyanikkadu to enjoy the festival going on there.

At about 9:00 p.m., they were returning to Thidanadu Church, when two motorbikes driven by accused no.9 (Sabeer) and accused no.3, Ajmal were moving in front of their Car and blocked their way. Accused no.6 (Razique Jalal @ Razee) was sitting as a pillion on the motorcycle, driven by A3 (Ajmal). At that time, a verbal altercation took place between Saji Joseph (PW1) and A3 (Ajmal) regarding the bikes not giving way to their vehicle (four wheeler).

3.2. At around 10:45 p.m., deceased along with his friends were returning, when their Car reached the place called Veyilukanampara Junction in Thidanadu Kara, they saw accused no.9 (Sabeer) waiting for them by the side of the road

and soon thereafter the other accused also joined him on different bikes. All the ten accused persons formed an unlawful assembly and in prosecution of a common object wrongfully restrained the deceased and his friends and compelled them to alight from their vehicle.

Once, they were out of the vehicle, they were attacked by the accused appellants. The accused no.1 (Biju) hit the deceased with a stick of casuarina tree (marked as MO2). Whereas accused no.2 (Ashique Salam) hit on the back of his neck with a brick (marked as MO3), as a result of these two injuries, deceased fell on the road. Accused no. 3 (Ajmal) assaulted Saji Joseph (PW1) with a stick of casuarina tree (marked as MO1) causing injuries on his head and other parts of the body. As by this time, public had started gathering, the accused left the place of occurrence.

3.3. Further, when the deceased was being taken in the car by his friends towards the hospital, once again, the vehicle was stopped by the accused persons near Chennadu Junction, where accused no.3, Ajmal threw stones at the car causing damage to the wind screen and other glasses.

3.4. The injured deceased was taken to IHM Hospital, Bharananganam and from there, he was referred to the Medical College Hospital at Kottayam. His condition was deteriorating, as such, he was shifted to Medical Trust Hospital, Ernakulam, where he succumbed to the injuries on the following day at about 4:45 a.m. The First Information Report was lodged by Peter (PW2) on his statement, which was registered as FIR (Ext.P.1).

4. The investigation was taken over by the Circle Inspector (PW20), who prepared the inquest report (Ext.P2). The dead body was sent for postmortem, which was conducted by Assistant Professor of Forensic Medicine and Deputy Police Surgeon, Medical College Hospital, Kottayam (PW13) at about 2:05 p.m. on 28.01.2008. He prepared the postmortem report (Ext.P10) mentioning the following antemortem injuries:

"(1) Contusion of scalp 10 X 8 c.m. involving the full thickness of left occipital region, its lower extent 3 c.m., above root of neck and 2 c.m. outer to midline. (2) Contusion of right cheek 5 X 4 c.m. X 0.5 c.m. (3) Abraded contusion 8 X 1 c.m. X 2 c.m. X 1 c.m. horizontally oblique involving right side of neck and face, its lower outer extent 7 c.m. above root of neck and 10 c.m. outer to midline. The skull showed fissured fracture 8 c.m. long involving the occipital bone of left side of posterior cranial fossa, 11.5 c.m. outer to midline, corresponding to injury No.1. Dura was intact had a bluish tint and tense, subdural clots were seen overlying right frontal and temporal lobe of brain with bilateral subarachnoid haemorrhage. The pons on sectioning showed haemorrhagic area

1.5 c.m. x 1 c.m. The right frontal pole of brain had contusion 3 x 2 x 0.5 c.m. Brain showed fattened gyri and narrow sulci. The anterior cranial fossa a right side showed fissured fracture 4 c.m. long. (4) Contusion 5 x 4 x 0.5 c.m. long. (5) Abrasion 2 x 1 c.m. on front of left knee."

5. After completing the investigations, the police report under section 173(2) Cr.P.C.2 was submitted, whereupon, cognizance was taken by the Magistrate and the matter committed to the Sessions Court for trial. The Trial Court framed charges under sections 143, 147, 148, 341, 323, 324, 427 and 302 read with section 149 IPC. The charges were read over to the accused, who pleaded not guilty and, as such, were put to trial.

6. The prosecution examined 21 witnesses as PW1 to PW21 and exhibited as many as 74 documentary evidence marked as Exts:P1 to P74 and further produced 19 material objects marked as MO1 to MO19. After the close of the prosecution evidence, the accused were examined under section 313 Cr.P.C. and the incriminating material was put to them. They denied all such circumstances and reiterated their innocence. The Investigating Officer also conducted a test identification parade.

7. After considering the material evidence on record and after hearing the learned counsel for the parties, the Trial Court acquitted four accused namely, accused nos.4, 5, 7 and 10 namely, Nijas, Naseebulla @ Nazeeb, Seenaj and Shihab. It further convicted the rest of the 6 (six) accused nos. 1, 2, 3, 6, 8 and 9, namely, Biju, Ashique Salam, Ajmal, Razique Jalal @ Razee, Salim Basheer @ Saly and Sabeer respectively.

8. Aggrieved by the conviction, all the 6 (six) accused preferred appeals before the High Court. Criminal Appeal No.87 of 2014 was filed by the accused nos.6 and 8 namely, Razique Jalal @ Razee and Salim Basheer @ Saly, whereas Criminal Appeal No.132 of 2014 was filed by accused no.9Sabeer. As already recorded above, the other three appeals bearing nos.564, 238 and 91 of 2014 were filed by the accused nos.1, 2 and 3 respectively namely, Biju, Ashique Salam and Ajmal.

As already recorded above, the High Court allowed Appeal Nos.87 and 132 of 2014 acquitting the three accused nos.6, 8 and 9 of all the charges, whereas it partly allowed the appeal nos.564, 238 and 91 of 2014 of the present three appellants. Aggrieved by the judgment of the High Court, the three appellants are before this Court.

9. The prosecution has established:

(i) that the death of deceased Varkeychen @ George Thomas was homicidal;

- (ii) that PW1, PW2 and PW4 suffered simple and grievous hurt which took place at the date, time and place stated in the FIR.
- (iii) that the FIR was promptly lodged;
- (iv) the antemortem injuries suffered by the deceased is in consonance with the report registered by PW2 and also established from the statements of PW1, PW2 and PW4, who are the injured eyewitnesses.
- (v) The recovery of the material objects (MO nos.1, 2 and 3) used by the three appellants in causing the fatal injuries to the deceased as also the injuries to PW1, PW2 and PW4.

10. Insofar as the test identification parade is concerned, the same has not been found to be very reliable by the courts below, however, as the witnesses and the injured knew the accused, their identification in Court has been found to be sufficient by the Courts below. They were all residents of neighbourhood and knew each other.

11. We are, thus, satisfied that the occurrence in the manner as set up by the prosecution has been duly established. The deceased died due to the injuries caused by accused nos.1 and 2 by using a stick (MO2) and a brick (MO3), whereas, the injuries caused to the PW1, PW2 and PW4 is on account of the assault by accused no.3 by using a stick (MO1). The only question which requires consideration is whether it was a culpable homicide amounting to murder punishable under section 302 IPC as has been held by the courts below or it was a culpable homicide not amounting to murder punishable under section 304 of IPC as submitted by the Counsel for the appellants.

12. Learned counsel for the appellants have led great emphasis on the manner, in which the incident occurred. According to them,

- (i) there was no premeditation of committing murder.
- (ii) the accused, admittedly, when they accosted the vehicle and compelled the deceased and the injured to come out of the vehicle, were not armed with any weapons.

(iii) It was only when they alighted from the vehicle and some heated arguments took place as a result of the earlier verbal altercation in not giving a pass to the Scorpio vehicle to overtake the motorbikes, that the accused appellants picked up the stick of casuarina tree from the decorations, which had been made at that place and also the brick from the side of the road and assaulted with it.

(iv) both these weapons used could not be said to be deadly weapons but could have definitely caused grievous hurt and may be injuries, which could result into death.

(v) it is true that the injuries noted in the postmortem report of the deceased were on the vital part i.e. the head and neck and which, according to the medical evidence, was sufficient in ordinary course to cause death, but the same was unintentional.

(vi) only one blow each was given by accused nos. 1 and 2 to the deceased. There was no repeated assault.

(vii) there was no mens rea to commit murder, therefore, the same would fall within the exception of section 300 IPC.

(viii) On the own findings of the High Court, it was not a case of culpable homicide amounting to murder.

(ix) Our attention has been drawn to paragraph nos.27 and 28 of the judgment of the High Court, which took into consideration the evidence led by the eyewitnesses and injured namely, PW1, PW2 and PW4, according to which, the charge under section 302 ought to have been converted to section 304 IPC. The appellants ought to have been acquitted under section 302 IPC and at best could have been convicted under section 304 IPC.

(x) Paragraph Nos.27 and 28 of the judgment of the High Court are reproduced below:

"27. We have no dispute with the proposition that common object may be formed at the spur of the moment, and that prior meeting of minds or a formal assembly consisting of the members of the unlawful assembly to commit a particular crime may not be essential. The precedent on the point referred to earlier would indicate that the knowledge of the members of the assembly that the act which actually occurred was very likely to be caused by their acts, is sufficient to make them vicariously liable for the ultimate consequences.

But, in the instant case, what we see from the evidence is that the first part of the occurrence at Chemmalamattom was only an altercation between P.W.1 and A3 in the presence of A6 and A9 with regard to the bikers not giving way and passage to the car driven by P.W.1 for overtaking. The altercation also did not last long enough so as to form a vengeance in the mind of A3, A6 and A9 so as to garner support of the remaining accused to form an unlawful assembly with the common object of committing murder, particularly of the deceased, because the altercation was only with A3 and P.W.1 and the deceased had nothing to do with the altercation.

Under the circumstances, we are of the opinion that the accused definitely did not have a common object of murdering the deceased. It is also relevant to note that had the accused entertained the common object to commit murder or even previous act, they would have been lying in wait for the Scorpio car armed with deadly weapons.. None of the prosecution witness has a case that the accused had accosted them at the scene of occurrence armed with deadly weapons.

It is only after the witnesses alighted from the car, P.W.1 had a conversation with A9 and accused nos.1, 2 and 3 picked up the weapons which were available there and attacked the passengers in the car, including the deceased. Even if A3 had called for others to kill, it could not have been the deceased because he only had a vengeance against P.W.1, and, therefore, the entire occurrence as appeared to us from the oral testimony of witnesses would indicate that it is only a chance encounter without any premeditated motive in prosecution of common object.

28. It is also pertinent to note that P.W.1 had testified that he had a friendly conversation with A9 in the beginning after he alighted from the car at the scene of occurrence. It is also testified that when the accused went to attack the passengers of the car, including the P.W.1, A9 had prevented others from causing injuries. This particular statement in the testimony of P.W.1 clearly exonerated A9 of the allegations of having acted in prosecution of common object of committing murder. He was not even wielding any weapon in his hands. In fact, except A1, A2 and A3, none of the other accused had picked up any weapon from the scene of occurrence.

Even A1 and A3 had picked up sticks, which were hanging at the scene of occurrence as part of the decoration done in connection with the Church festival. MO3 brick was picked up by A2 from the side of the road abruptly during the scuffle that ensued in consequence of the passengers of the car alighting. Under the circumstances, we are of the considered opinion that apart from A1, A2 and A3, none of the other accused could be guilty for attacking the deceased, P.W.1 and P.W.2. The prosecution has not succeeded in establishing that there was formation of an unlawful assembly acting in furtherance of common object.

The finding of the learned Sessions Judge roping in all the appellants resorting to section 149 is therefore not held good. It is also pertinent to note that none of the accused were earlier armed with deadly weapons and therefore it cannot be said that they were guilty of committing riot armed with deadly weapons, an offence punishable under section 148 of the IPC."

(xi) As there was no intention to commit murder or a preplanned attempt to commit murder, section 302 IPC, charge could not have been sustained.

(xii) that appellants are in jail and have suffered incarceration of several years.

13. On behalf of the State of Kerala, it is submitted that the entire transaction took place in three parts. The first incident took place when a verbal altercation took place in overtaking the vehicles. The second incident took place, in which the physical assault occurred causing fatal injuries to the deceased and causing simple and grievous hurt to the three witnesses namely, PW1, PW2 and PW4. The third incident took place when the injured was being taken to the hospital; stones were pelted by accused no.3 causing damage to the vehicle.

14. Learned counsel for the State further submitted that there was clear motive to commit murder as after the first episode of verbal altercation took place, it was only with an intention to commit murder that all the accused joined together by forming an unlawful assembly accosting the vehicle in which the deceased was travelling with his friends compelling them to come out of the vehicle and thereafter it was an open assault with sticks and bricks, which were used with such force causing fatal injuries to the deceased and, therefore, it was nothing short of committing a preplanned murder.

Even after having caused the fatal injuries, the accused further tried to prevent the deceased from being taken to the hospital and the intention was to stop the vehicle and cause enough delay so that the deceased, who was still alive may ultimately die. The judgment of the High Court does not suffer from any infirmity and the appeal, accordingly deserves to be dismissed. Learned counsel has placed reliance upon a judgment of this Court in **Gulab Vs. State of U.P. 2021 (12) JT 134**

15. Having considered the submissions and having perused the material on record, we do not find any infirmity in the prosecution establishing the incident as set up in the First Information Report. For the said conclusion, we have taken note of the following:

- (i) First Information Report was promptly lodged.
- (ii) The prosecution story as set up in the FIR appears to be probable.
- (iii) The medical evidence fully corroborates the prosecution story.
- (iv) PW1, PW2 and PW4, the three eyewitnesses have fully supported the prosecution story and have narrated the same incident as it occurred.
- (v) Formal witnesses have discharged their burden by proving the police papers and other documentary evidence placed on record by the prosecution.
- (vi) The material objects recovered have also been duly proved.
- (vii) According to the medical evidence, the material objects alleged to have been used in the commission of crime could have been actually used in causing the injuries.

16. The only question which falls for our consideration is as to whether the manner in which the entire transaction took place in particular relating to the physical assault, would amount to culpable homicide amounting to murder or culpable homicide not amounting to murder.

17. The distinctive features and the considerations relevant for determining a culpable homicide amounting to murder and distinguishing it from the culpable homicide not amounting to murder has been a matter of debate in large number of cases. Instead of referring to several decisions on the point reference is being made to a recent decision in the case of **Mohd. Rafiq Vs. State of M.P. (2021) 10 SCC 706**, wherein Justice Ravindra Bhatt, speaking for the Bench, relied upon two previous judgments dealing with the issue as narrated in paragraph nos.11, 12 and 13 of the report which are reproduced below:

" 11. The question of whether in a given case, a homicide is murder 3, punishable under section 302 IPC, or culpable homicide, of either description, punishable under section 304 IPC has engaged the attention of courts in this country for over one and a half century, since the enactment of the IPC; a welter of case law, on this aspect exists, including perhaps several hundred rulings by this court. The use of the term "likely" in several places in respect of culpable homicide, highlights the element of uncertainty that the act of the accused may or may not have killed the person.

Section 300 IPC which defines murder, however refrains from the use of the term likely, which reveals absence of ambiguity left on behalf of the accused. The accused is for sure that his act will definitely cause death. It is often difficult to distinguish between culpable homicide and murder as both involve death. Yet, there is a subtle distinction of intention and knowledge involved in both the crimes. This difference lies in the degree of the act. There is a very wide variance of degree of intention and knowledge among both the crimes.

12. The decision in **State of Andhra Pradesh Vs. Rayavarapu Punnayya and Anr. (1976) 4 SCC 382** notes the important distinction between the two provisions, and their differing, but subtle distinction. The court pertinently pointed out that:

"12. In the scheme of the Penal Code, "culpable homicide" is genus and "murder" its specie. All "murder" is "culpable homicide" but not viceversa. Speaking generally, "culpable homicide" sans "special characteristics of murder", is "culpable homicide not amounting to murder". For the purpose of fixing punishment, proportionate to the gravity of this generic offence, the Code practically recognises three

degrees of culpable homicide. The first is, what may be called, "culpable homicide of the first degree".

This is the greatest form of culpable homicide, which is defined in section 300 as "murder". The second may be termed as "culpable homicide of the second degree". This is punishable under the first part of section 304. Then, there is "culpable homicide of the third degree". This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of section 304..

13. The academic distinction between "murder" and "culpable homicide not amounting to murder" has vexed the courts for more than a century. The confusion is caused, if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of sections 299 and 300."

13. The considerations that should weigh with courts, in discerning whether an act is punishable as murder, or culpable homicide, not amounting to murder, were outlined in **Pulicherla Nagaraju @ Nagaraja Reddy Vs. State of Andhra Pradesh (2006) 11 SCC 444** . This court observed that:

"29. Therefore, the Court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death.

It is for the courts to ensure that the cases of murder punishable under section 302, are not converted into offences punishable under section 304 Part I/II, or cases of culpable homicide not amounting to murder are treated as murder punishable under section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances;

- (i) nature of the weapon used;
- (ii) whether the weapon was carried by the accused or was picked up from the spot;
- (iii) whether the blow is aimed at a vital part of the body;
- (iv) the amount of force employed in causing injury;
- (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;
- (vi) whether the incident occurs by chance or whether there was any premeditation;
- (vii) whether there was any prior enmity or whether the deceased was a stranger;
- (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation;
- (ix) whether it was in the heat of passion;
- (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;
- (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention."

18. For the said purpose, we examined the evidence on record as narrated in the First Information Report, during investigation as per the evidence collected by the Investigating Officer and also the evidence led during the course of trial in particular by the injured eyewitnesses.

19. From the perusal of all the above material, the prosecution story as set up and as established in brief can be summarized as under:

(i) On the fateful evening of 27th January, 2008, the first incident took place around 9:00 p.m. regarding the overtaking of the vehicles of one party and the other resulting into a verbal altercation at that stage between PW1 and A9.

(ii) Both the parties went in separate directions after the verbal altercation.

(iii) Later on, at about 10:45 p.m., when the deceased along with his other friends PW1, PW2 and PW4 were returning, they were stopped by the accused 10 (ten) in number, they were wrongfully restrained, compelled to alight from their vehicle.

(iv) Again, a verbal altercation took place whereafter accused nos. 1 and 3 picked up a stick of casuarina tree from the decoration set up on the road side and accused No.2 picked up a brick from the road side. Accused No.1 hit the

deceased with a stick on his head, whereas accused No.2 hit the deceased with the brick, as a result of which, the deceased fell on the ground. Accused No.3 attacked the others with a stick and caused them simple and grievous hurt.

(v) Accused Nos.1 and 2 had caused only one injury each on the deceased. It was not a repeat or a multiple assault by them.

(vi) Although, role of exhortation to kill the deceased was assigned to accused No.3, but during trial and in the cross-examination, all the three witnesses PW1, PW2 and PW4 stated that they were not sure whether they have said so in their statements under section 161 Cr.P.C. Thus, apparently, there was no role assigned to exhortation to any of the accused to kill the deceased.

20. The Trial Court had acquitted 4 (four) accused namely accused nos.4, 5, 7 and 10 and the High Court acquitted three other accused namely accused nos.6, 8 and 9 of all the charges.

21. Considering the statutory provisions laid down in IPC and the law on the point, we find that the present case falls into the category of a culpable homicide not amounting to murder falling under section 304 Part II IPC for the following reasons:

(i) There was no premeditation of mind to commit murder.

(ii) All the accused were admittedly not armed when they stopped the vehicle of the deceased and his friends and compelled them to alight from the same.

(iii) It was during the verbal altercation at that stage that the three accused picked up the weapon of assault namely, sticks of casuarina tree and a brick from the road side.

(iv) Single blow was given to the deceased by the accused nos.1 and 2.

(v) The case set up for exhortation to kill the deceased has not been found to be proved.

(vi) Both the groups consisted of young men.

(vii) The High Court found that there was no unlawful assembly formed with a common object and accordingly had acquitted three other accused and also the present appellants from the charge of unlawful assembly under section 149 IPC.

(viii) The appellants have been convicted with the aid of section 34 IPC.

22. The reference to the judgment in the case of Gulab Singh (supra) by the learned counsel for the State of Kerala, in our opinion, is of no relevance to the facts and circumstances of the present case. There was no issue involved relating to the distinction between culpable homicide amounting to murder or not amounting to murder. The issue involved in the case of Gulab Singh was relating to the applicability of section 34 IPC.

23. Thus, for all the reasons stated above, we are of the view that the appellants would be entitled for acquittal under section 302 IPC but would be liable to be convicted under section 304 PartII IPC. Rest of the conviction upheld by the High Court and the sentence for the charges under sections 341, 323, 324 and 427 read with section 34 IPC is maintained. It is ordered accordingly.

24. Now coming to the question of sentence upon conviction under section 304 PartII IPC, we find that all the three appellants are in jail and have undergone several years of incarceration. We accordingly award the sentence for the period already undergone by all the three appellants. The appellants would be released forthwith unless they are required in any other case.

25. Appeals stand partly allowed as above. The impugned judgment of the High Court stands modified to the aforesaid extent.

.....J. [AJAY RASTOGI]

.....J. [VIKRAM NATH]

**NEW DELHI**

**JULY 12, 2022**

**Subject – When an ex parte decree is set aside and the suit is restored to file, the defendants cannot be relegated to the position prior to the date of hearing of the suit when he was placed ex parte.**

**AIR 2022 SC 2881**

**IN THE SUPREME COURT OF INDIA**

**Sudhir Ranjan Patra (D)**

**Vs.**

**Himansu Sekhar Srichandan**

**Civil Appeal No. 3641 of 2022**

**JUDGMENT**

**M. R. Shah, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 04.02.2022 passed by the High Court of Orissa at Cuttak in CMP No. 1423/2019, by which, though the High Court has confirmed the order passed by the learned Trial Court setting aside the exparte decree in exercise of powers under Order IX Rule 13 of Code of Civil Procedure (CPC), the High Court has observed and held that appellants herein - defendant Nos. 2 and 3 cannot be permitted to file their written statement, the appellants herein - original defendant Nos. 1 to 3 have preferred the present appeals.

2. The facts leading to the present appeals in a nutshell are as under:

2.1 That respondent No. 1 herein - original plaintiff instituted a suit for declaration of his right, title, interest and possession over the suit schedule land being Civil Suit No. 1783/2011. The original plaintiff also prayed for a decree to declare that original defendant No. 2 has no authority to alienate the suit land and also to declare that the two registered sale deeds bearing Nos. 3530 and 3533 of 2000 are not binding on the plaintiff as well as proforma defendant Nos. 4 and 5.

A relief of permanent injunction against original defendant Nos. 1 to 3 was also sought for. The appellants herein - original defendant Nos. 2 and 3 appeared in the suit on 20.03.20212 and filed a petition for time to file their written statement. However, in spite of several adjournments, they did not file written

statement. That the appellants herein - original defendant Nos. 2 and 3 did not file their written statement.

Thereafter, the issues were framed by the learned Trial Court. On 27.03.2017, the plaintiff filed their evidence in examination in chief by an affidavit. On 04.07.2017, when the suit was called on for hearing, appellants herein - original defendant Nos. 2 and 3 were absent and therefore, were set exparte. Thereafter, on behalf of the plaintiff, PW1 came to be examined.

The case was posted to 15.07.2017 for argument. On that date, original defendant Nos. 1 to 3 also filed an application for adjournment for which the suit was adjourned to 17.07.2017, on which date, the argument was heard and judgment was pronounced on 18.07.2017. The learned Trial Court passed an exparte decree.

Subsequently, the appellants herein - original defendant Nos. 2 and 3 filed CMA No. 31/2018 under Order IX Rule 13 of CPC to set aside the exparte decree along with an application under Section 5 of the Limitation Act to condone the delay in filing the CMA. The appellants herein - original defendant Nos. 2 and 3 also prayed to allow the filing of written statement and to take up the suit on merits. By order dated 05.12.2019, the learned Trial Court allowed the CMA by condoning the delay.

2.2 Feeling aggrieved and dissatisfied with order dated 05.12.2019 passed by the learned Trial Court allowing CMA No. 31/2018, the original plaintiff - respondent No. 1 herein filed CMP No. 1423/2019 before the High Court. By the impugned judgment and order, though the High Court has confirmed the order passed by the learned Trial Court condoning the delay and setting aside the exparte decree, the High Court has also passed an order that on setting aside the exparte decree and consequently the suit being restored to file, defendant Nos. 2 and 3 cannot be permitted to file their written statement and that they can only take part in the hearing of the suit without propounding their own case. The High Court has also observed that they can advance their argument on the basis of the materials available on record only.

2.3 Feeling aggrieved with the judgment and order passed by the High Court to the extent of observing that defendant Nos. 2 and 3 cannot be permitted to file their written statement and that they can only take part in the hearing of the suit without propounding their own case, original defendant Nos. 1 to 3 - appellants herein have preferred the present appeals.

3. Learned counsel appearing on behalf of the appellants herein - original defendant Nos. 2 and 3 has vehemently submitted that in the facts and circumstances of the case the High Court has committed a grave error in passing

the order that appellants herein defendant Nos. 2 and 3 cannot be permitted to file their written statement.

3.1 It is vehemently submitted that once the suit was restored to file by setting aside the exparte decree which has been upheld by the High Court, thereafter, it was not open for the High Court to pass a further order that on setting aside the exparte decree and restoring the suit to file, defendant Nos. 2 and 3 cannot be permitted to file their written statement.

3.2 It is submitted that what was challenged before the High Court was the order passed by the learned Trial Court condoning the delay and setting aside the exparte decree. It is submitted that therefore, the impugned order passed by the High Court observing that defendant Nos. 2 and 3 cannot be permitted to file their written statement is beyond the scope and ambit of CMP filed before the High Court.

3.3 It is submitted that once the suit was restored to file by setting aside the exparte decree and no order was passed by the learned Trial Court on whether the written statement be permitted to be taken on record or not, the High Court ought not to have observed anything on the same and ought to have left it to the learned Trial Court.

3.4 It is submitted that in the present case no order was passed by the learned Trial Court on whether the written statement be taken on record or not, the decisions relied upon by the High Court in the case of Sangram Singh Vs. Election Tribunal, Kotah and another; AIR 1955 SC 425 and Arjun Singh Vs. Mohindra Kumar and others; AIR 1964 SC 993 shall not be applicable to the facts of the case on hand.

4. Present appeals are vehemently opposed by Shri Nitesh Bhandari, learned counsel appearing on behalf of respondent No. 1 herein - original plaintiff.

4.1 It is submitted that despite the fact that a number of opportunities were given to defendant Nos. 2 and 3 to file their written statement between 2012 to 2017 (till the exparte decree was passed). Hence, the High Court was justified in passing the impugned order by observing that defendant Nos. 2 and 3 cannot be permitted to file their written statement on setting aside the exparte decree.

4.2 It is submitted that as held by this Court in the case of Sangram Singh (supra) and Arjun Singh (supra) when an exparte decree is set aside and the suit is restored to file, the defendants cannot be relegated back to the position prior to the date of hearing of the suit and he would be debarred from filing any written statement in the suit. It is submitted that therefore, the impugned order

passed by the High Court is absolutely in consonance with the law laid down by this Court in the case of Sangram Singh (supra) and Arjun Singh (supra).

5. We have heard learned counsel appearing on behalf of the respective parties at length.

6. At the outset it is required to be noted that when the appellants - original defendant Nos. 2 and 3 filed CMA No. 31/2018 under Order IX Rule 13 of CPC they prayed to condone the delay as well as to set aside the exparte decree and also to allow filing of the written statement and to take up the suit on merits. By order dated 05.12.2019, the learned Trial Court allowed CMA No. 31/2018 and condoned the delay and set aside the exparte decree subject to cost of Rs. 25,000/each to be paid to the plaintiff. From order dated 05.12.2019, it does not appear that any further order was passed by the learned Trial Court on whether by setting aside the exparte decree, defendant Nos. 2 and 3 may be permitted to file written statement or not.

The order passed by the learned Trial Court condoning the delay and setting aside the exparte decree has been confirmed by the High Court by passing the impugned judgment and order. However, the High Court has observed that on setting aside the exparte decree and restoring the suit to file, defendant Nos. 2 and 3 cannot be permitted to file the written statement. Reliance is placed upon the decisions of this Court in the case of Sangram Singh (supra) and Arjun Singh (supra).

However, it is true that as per the law laid down by this Court in the case of Sangram Singh (supra) and Arjun Singh (supra) when an exparte decree is set aside and the suit is restored to file, the defendants cannot be relegated to the position prior to the date of hearing of the suit when he was placed exparte. He would be debarred from filing any written statement in the suit, but then he can participate in the hearing of the suit inasmuch as to cross-examine the witness of the plaintiff and address arguments.

However, in our view, in the facts and circumstances of the case, the decisions of this Court in the case of Sangram Singh (supra) and Arjun Singh (supra) shall not be fully applicable. In the present case by filing the CMA under Order IX Rule 13, appellants herein - original defendant Nos. 2 and 3 not only prayed to set aside the exparte decree but also prayed to allow them to file written statement. As observed above, there was no order and/or decision by the learned Trial Court on the second prayer, namely, to allow defendant Nos. 2 and 3 to file written statement or not.

Therefore, once the ex parte decree is set aside and the suit is restored to file and even as per the decisions of this Court in the case of Sangram Singh (supra) and Arjun Singh (supra) the defendants cannot be relegated back to the position prior to the date of hearing of the suit in that case also, it should have been left to the learned Trial Court to consider the prayer of defendant Nos. 2 and 3 whether to allow them to file written statement or not, which was also prayed in CMA No. 31/2018. As observed hereinabove, there was no order passed by the learned Trial Court on the specific prayer made by defendant Nos. 2 and 3 to allow them to file written statement.

The learned Trial Court while passing order dated 05.12.2019 condoned the delay and set aside the ex parte decree and the said order of condonation of delay and setting aside the ex parte decree was the subject matter before the High Court. Therefore, the further observations made by the High Court that defendant Nos. 2 and 3 cannot be permitted to file their written statement can be said to be beyond the scope and ambit of the CMP filed before the High Court.

Under the circumstances, the impugned judgment and order passed by the High Court to the extent of observing that defendant Nos. 2 and 3 cannot be permitted to file their written statement is unsustainable and the issue/question whether defendant Nos. 2 and 3 may be allowed to file their written statement or not, shall have to be remanded to the learned Trial Court.

7. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court to the extent of observing that though the ex parte decree is set aside, defendant Nos. 2 and 3 cannot be permitted to file their written statement is hereby quashed and set aside.

The learned Trial Court to consider the prayer of defendant Nos. 2 and 3 whether to allow/permit them to file their written statement or not and as and when such question/issue is considered by the learned Trial Court, it will be open for respondent No. 1 - original plaintiff to resist the same and the learned Trial Court to consider the question/issue whether on setting aside the ex parte decree, defendant Nos. 2 and 3 may be allowed/permitted to file their written statement, in accordance with law and on its own merits for which we have not expressed anything in favour of either party.

The learned Trial Court to consider the issue/question with respect to the prayer of defendant Nos. 2 and 3 to allow them to file their written statement within a period of three months from the first date of hearing of the suit, which shall be within a period of one month from today. The present appeals are allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs.

.....J. (M. R. SHAH)

.....J. (B.V. NAGARATHNA)

New Delhi,

17th May, 2022

**Subject – Permanent injunction cannot be sought on the basis of an unregistered agreement to sell**

**IN THE SUPREME COURT OF INDIA**

**Balram Singh**

**Vs.**

**Kelo Devi**

**[Civil Appeal No. 6733 of 2022]**

**HEANOTE – Specific Relief Act** - a relief of permanent injunction cannot be sought on the basis of such an unregistered document/agreement to sell. A plaintiff cannot get the relief indirectly which otherwise he/she cannot get in a suit for for specific performance,

**JUDGMENT**

**M.R. Shah, J.**

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 10.12.2019 passed by the High Court of Judicature at Allahabad in Second Appeal No. 330/2001, by which the High Court has dismissed the second appeal and has confirmed the judgment and decree passed by the first appellate Court reversing the judgment and decree of dismissal of suit passed by the learned trial Court, the original defendant has preferred the present appeal.

2. The facts leading to the present appeal in a nutshell are as under: That the respondent herein - original plaintiff (hereinafter referred to as the 'original plaintiff') instituted Original Suit No. 696 of 1997 before the learned trial Court for permanent injunction only. The said suit was filed on the basis of an unregistered agreement to sell dated 23.03.1996. The original plaintiff sought permanent injunction restraining the defendant from disturbing her possession in the suit property.

2.1 In the said suit, the appellant herein - original defendant filed a counter-claim seeking the decree of possession.

2.2 The learned trial Court dismissed the suit filed by the original plaintiff and refused to grant permanent injunction and allowed the counter-claim of the defendant on the ground that original plaintiff could not prove the agreement to sell dated 23.03.1996 and that the original plaintiff is in unauthorised possession

of the suit property since 08.07.1997. The learned trial Court also held that the original plaintiff could not prove the agreement to sell for a sale consideration of Rs. 14,000/- and also could not prove that she was put in possession of the suit property on 23.03.1996.

2.3 Feeling aggrieved and dissatisfied with the judgment and decree passed by the learned trial Court dismissing the suit of the original plaintiff and allowing the counter-claim of the defendant, the original plaintiff preferred an appeal before the first appellate Court. The learned first appellate Court allowed the said appeal and set aside the judgment and decree passed by the learned trial Court and consequently decreed the suit for permanent injunction against the defendant. The learned first appellate Court also dismissed the counter-claim of the defendant.

2.4 The judgment and decree passed by the first appellate Court has been confirmed by the High Court, by the impugned judgment and order passed in Second Appeal No. 330 of 2001.

2.5 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court in dismissing the second appeal and confirming the judgment and decree passed by the learned first appellate Court, decreeing the suit for permanent injunction and dismissing the counter-claim, the original defendant has preferred the present appeal.

3. Learned counsel appearing on behalf of the appellant - original defendant has vehemently submitted that the original plaintiff filed a suit for permanent injunction solely on the basis of the agreement to sell dated 23.03.1996, which, as such, was unregistered.

3.1 It is submitted that such an unregistered agreement to sell is not admissible in evidence. It is submitted that therefore both, the learned first appellate Court as well as the High Court have committed a grave error in passing a decree for permanent injunction and dismissing the counter-claim.

3.2 It is further submitted that both, the learned first appellate Court as well as the High Court have not properly appreciated the fact that the suit filed by the original plaintiff was only for permanent injunction and she by adopting a clever drafting did not seek the relief for specific performance of agreement to sell as she was well aware that she would not succeed in the suit for specific performance on the basis of an unregistered agreement to sell. It is submitted that when the original plaintiff cannot get the substantive relief of specific performance of the unregistered agreement to sell dated 23.03.1996, she would

not be entitled to a decree for permanent injunction on the basis of such an unregistered document.

3.3 Making the above submissions, it is prayed to allow the present appeal.

4. The present appeal is vehemently opposed by the learned counsel appearing on behalf of the respondent - original plaintiff.

4.1 It is vehemently submitted that as per the settled position of law, an unregistered document can be used for collateral purpose and therefore both, the first appellate Court as well as the High Court have rightly passed a decree for permanent injunction restraining the defendant from interfering with her possession, considering the agreement to sell dated 23.03.1996 for collateral purpose of grant of permanent injunction.

4.2 Making the above submissions, it is prayed to dismiss the present appeal.

5. We have heard the learned counsel for the respective parties at length.

At the outset, it is required to be noted that the original plaintiff instituted a suit praying for a decree of permanent injunction only, which was claimed on the basis of the agreement to sell dated 23.03.1996. However, it is required to be noted that the agreement to sell dated 23.03.1996 was an unregistered document/agreement to sell on ten rupees stamp paper. Therefore, as such, such an unregistered document/agreement to sell shall not be admissible in evidence.

6. Having conscious of the fact that the plaintiff might not succeed in getting the relief of specific performance of such agreement to sell as the same was unregistered, the plaintiff filed a suit simplicitor for permanent injunction only. It may be true that in a given case, an unregistered document can be used and/or considered for collateral purpose. However, at the same time, the plaintiff cannot get the relief indirectly which otherwise he/she cannot get in a suit for substantive relief, namely, in the present case the relief for specific performance.

Therefore, the plaintiff cannot get the relief even for permanent injunction on the basis of such an unregistered document/agreement to sell, more particularly when the defendant specifically filed the counter-claim for getting back the possession which was allowed by the learned trial Court. The plaintiff cleverly prayed for a relief of permanent injunction only and did not seek for the substantive relief of specific performance of the agreement to sell as the agreement to sell was an unregistered document and therefore on such

unregistered document/agreement to sell, no decree for specific performance could have been passed. The plaintiff cannot get the relief by clever drafting.

7. In view of the above and for the reasons stated above, both, the learned first appellate Court and the High Court have committed a grave error in passing a decree for permanent injunction in favour of the plaintiff as against the defendant and dismissing the counter-claim filed by the original defendant. The impugned judgment and order passed by the High Court, confirming the judgment and decree passed by the first appellate Court and the judgment and decree passed by the first appellate Court decreeing the suit for permanent injunction and dismissing the counter-claim of the defendant are unsustainable and the same deserve to be quashed and set aside and the judgment and decree passed by the learned trial Court dismissing the suit filed by the plaintiff for permanent injunction and allowing the counter-claim of the defendant deserves to be restored.

8. Accordingly, the present appeal is allowed. The impugned judgment and order dated 10.12.2019 passed by the High Court dismissing Second Appeal No. 330/2001, confirming the judgment and decree passed by the first appellate Court and the judgment and decree dated 29.01.2001 passed by the first appellate Court decreeing the suit for permanent injunction in favour of the original plaintiff and dismissing the counter-claim of the defendant are hereby quashed and set aside. Consequently, the suit instituted by the original plaintiff for permanent injunction on the basis of an unregistered agreement to sell is hereby dismissed and the counter-claim filed by the original defendant is hereby allowed. The judgment and decree passed by the learned trial Court dismissing the suit and allowing the counter-claim is hereby restored. There shall be no order as to costs.

.....J. [M.R. SHAH]

.....J. [KRISHNA MURARI]

NEW DELHI

SEPTEMBER 23, 2022.

**Subject – Failure to produce accused before the court while considering application for extension of time for investigation amounts to violation of fundamental right**

**IN THE SUPREME COURT OF INDIA**

**Jigar @ Jimmy Pravinchandra Adatiya  
Vs.  
State of Gujarat**

**[Criminal Appeal No. 1656 of 2022  
arising out of S.L.P. (Crl.) No. 7696 of 2021]**

**[Criminal Appeal No. 1657 of 2022  
arising out of S.L.P. (Crl.) No. 7609 of 2021]**

**[Criminal Appeal Nos. 1658-1659 of 2022  
arising out of S.L.P. (Crl.) Nos. 7678-7679 of 2021]**

**[Criminal Appeal No. 1660 of 2022  
arising out of S.L.P. (Crl.) No. 7758 Of 2021]**

**HEADNOTE** – The failure to procure the presence of the accused either physically or virtually before the Court and the failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered, is not a mere procedural irregularity. It is gross illegality that violates the rights of the accused under Article 21.

**JUDGMENT**

**Abhay S. Oka, J.**

1. Leave granted.

**FACTUAL ASPECTS**

2. The appellants are the accused in FIR No.112020082021862020 registered with Jamnagar City 'A' Division Police Station in Gujarat for the offences under Sections 3(1), 3(2), 3(3), 3(4), 3(5), and 4 of The Gujarat Control of Terrorism and Organised Crime Act, 2015 (for short 'the 2015 Act'). Section 167 of the Code of Criminal Procedure, 1973 (for short 'CrPC') has been amended in relation to the cases involving offences punishable under the 2015 Act. By

virtue of subsection (2) of Section 20 of the 2015 Act, a proviso has been added in addition to the existing proviso to subsection (2) of Section 167 of CrPC which permits the Special Court established under the 2015 Act to extend the period of 90 days provided to complete the investigation up to 180 days. The Special Court is empowered to extend the period up to 180 days on a report of the Public Prosecutor setting out the progress of the investigation and the specific reasons for continuing detention of the accused beyond the period of 90 days.

3. The aforesaid First Information Report was registered on 15th October 2020. The accused were arrested on different dates. Reports were submitted by the Public Prosecutor seeking extension of time up to 180 days to complete the investigation. In three cases, the reports were submitted on 8th January 2021, and in one case, it was submitted on 21st January 2021. The prayer for extending the time up to 180 days was allowed by the Special Court on the very day on which the applications were filed. Being aggrieved by the said orders of the Special Court, separate applications under Section 482 of CrPC were preferred by the appellants. By the impugned common Judgment dated 15th September 2021, the learned Single Judge of Gujarat High Court rejected the applications made by the appellants under Section 482 of CrPC. The details such as the respective dates of arrest and the dates of making applications are as under:

S. No.	Name of the accused	Particulars	Date of Arrest	Date of filing application under Section 20(2)(b) of GUJCTOC	Date of filing application for default bail
1	Nileshbhai Mansukhbhai Tolia 2021 (SLP (CrI.) No.7758/ 2021)	Criminal Misc. Application No.4901 of	16.10.2020	08.01.2021 Allowed on the same day	04.02.2021
2	Vasantbhai @ Vasantrai Liladharbhai Mansata	Criminal Misc. Application No.4902 of 2021 (SLP (CrI.) No.7609/ 2021)	01.11.2020	21.01.2021 Allowed on the same day	02.02.2021

3	Yashpalsinh Mahendrasinh Jadeja and Jashpalsinh Mahendrasinh Jadeja	Criminal Misc. Application No.4904 of 2021 (SLP (CrI.) No. 767879/ 2021)	28/ 29.10.2020	08.01.2021 Allowed on the same day	03.02.2021
4	Jigar @ Jimmy Pravinchandra Adatiya	Criminal Misc. Application No.4928 of 2021 (SLP (CrI.) No.7696/ 2021)	16.10.2020	08.01.2021 Allowed on the same day	03.02.2021

4. The main ground urged in support of the appeals is that when the Special Court passed orders on the reports submitted by the learned Public Prosecutor by which time to complete investigation was extended up to 180 days, the presence of none of the accused was procured either physically or through video conference and that they were not even informed about the reports submitted by the Public Prosecutor.

#### **SUBMISSIONS OF THE APPELLANTS**

5. Ms. Nitya Ramakrishnan, the learned senior counsel appearing for the appellants has made detailed submissions. Reliance has been placed on the decisions of this Court in the case of **Hitendra Vishnu Thakur and others Vs. State of Maharashtra and others (1994) 4 SCC 602.** and **Sanjay Dutt Vs. State through CBI, Bombay (II) (1994) 5 SCC 410.** Her submission is that when the Special Court exercised the power under the proviso added by subsection (2) of Section 20 of the 2015 Act to subsection (2) of Section 167 of CrPC, the presence of the appellants was admittedly not procured even through video conference.

Admittedly, before the reports submitted by the Public Prosecutor seeking extension of time up to 180 days were considered, the Special Court did not inform the appellants about such reports being filed by the Public Prosecutor. Her submission is that in the case of **Sanjay Dutt (1994) 5 SCC 410,** the Constitution Bench of this Court has clearly laid down that the production of the accused before the Special Court on the date on which such a report is considered is mandatory and that by producing the accused before the Court, he

must be informed about such a report submitted by the Public Prosecutor. Thus, there is a violation of the mandate of law laid down by the Constitution Bench of this Court.

She pointed out that the appellants moved applications for grant of default bail as they were not aware of the filing of the reports by the Public Prosecutor and the orders of the Special Court extending the period for investigation. In view of the extension of time granted by the Special Court, the case of the appellants for grant of default bail under subsection (2) of Section 167 of CrPC was not considered by the Special Court. On 9th April 2021, a charge sheet was filed by the police. Her submission is that the order granting extension to complete investigation is completely illegal as the same has been passed without following the mandate laid down in the case of **Sanjay Dutt (1994) 5 SCC 410**. Her submission is that the order granting extension passed by the Special Court deserves to be set aside. As the applications for default bail were made by the appellants after the expiry of the statutory period of 90 days but before filing the charge sheet, the appellants are entitled to default bail.

6. The learned senior counsel submitted that the decision of this Court in the case of **Hitendra Vishnu Thakur (1994) 4 SCC 602** was modified by the Constitution Bench in the case of **Sanjay Dutt (1994) 5 SCC 410** on a very limited aspect. She submitted that the requirement of law laid down in the case of Hitendra Vishnu Thakur<sup>1</sup> regarding procuring the presence of the accused at the time of considering the report seeking extension of time and requirement of putting the accused to the notice of the filing of such a report has not been disturbed in the case of **Sanjay Dutt (1994) 5 SCC 410**. On the contrary, the decision of the Constitution Bench in the case of **Sanjay Dutt (1994) 5 SCC 410** reiterates the mandatory requirement of production of the accused before the Court at the time of consideration of the report submitted by the Public Prosecutor.

The only modification made by the Constitution Bench in the decision of **Hitendra Vishnu Thakur (1994) 4 SCC 602** is by holding that the mode of giving notice to the accused is by informing him about the filing of such a report by producing him before the Special Court and a written notice is not required. Her submission is that as this Court in the case of Sanjay Dutt<sup>2</sup> has laid down the requirement of informing the accused about the filing of a report seeking extension of time up to 180 days, it is obvious that the accused on receiving the intimation is entitled to object to the prayer made by the Public Prosecutor for grant of extension of time.

However, it is not necessary for the Special Court to supply a copy of the report submitted by the Public Prosecutor to the accused. Her submission is that the

proviso added by subsection (2) of Section 20 of the 2015 Act is pari materia with the proviso added by clause (bb) of subsection (4) of Section 20 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short 'TADA Act') to subsection (2) of Section 167 of CrPC. Therefore, the decisions of this Court in the case of **Hitendra Vishnu Thakur (1994) 4 SCC 602** and Sanjay Dutt<sup>2</sup> will squarely apply to the facts of the case. She pointed out that the decision of this Court in the case of Sanjay Dutt<sup>2</sup> was consistently followed in many decisions by this Court.

In the case of **Ateef Nasir Mulla Vs. State of Maharashtra (2005) 7 SCC 29**, this Court followed the law laid down by this Court in both the aforesaid decisions while dealing with the similar provisions under clause (b) of subsection (2) of Section 49 of Prevention of Terrorism Act, 2002 (for short 'POTA'). She submitted that while dealing with a similar provision in the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), in the case of **Sanjay Kumar Kedia @ Sanjay Kedia Vs. Intelligence Officer, Narcotics Control Bureau and Another (2009)17 SCC 631**, this Court followed the decision in the case of **Hitendra Vishnu Thakur (1994) 4 SCC 602**. The learned senior counsel also invited our attention to a decision of this Court in the case of **S. Kasi Vs. State through the Inspector of Police Samaynallur Police Station Madurai District AIR 2020 SC 2921**.

She also invited our attention to another decision in the case of **Bikramjit Singh Vs. State of Punjab (2020) 10 SCC 616**. She urged that in both the aforesaid decisions, this Court held that the right to get default bail under subsection (2) of Section 167 of Cr.P.C. is not merely a statutory right but a fundamental right guaranteed to an accused. She also referred to another decision of this Court in the case of **M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence (2021) 2 SCC 485** which holds that subsection (2) of Section 167 of CrPC is integrally linked to the constitutional commitment under Article 21 of the Constitution of India promising protection of life and personal liberty against unlawful and arbitrary detention. Therefore, the provision of subsection (2) of Section 167 should be interpreted in a manner that serves this object. She also relied upon a decision of the Karnataka High Court in the case of **Muzammil Pasha & Ors. Etc. Vs. National Investigating Agency etc. 2021 SCC OnLine Kar 12688**

7. Her submission is that in violation of the law laid down by the Constitution Bench in the case of Sanjay Dutt (Supra), the time to carry out the investigation was extended by the Special Court. Therefore, the said order is completely illegal as it infringes the right of the appellants to get default bail which is held to be a fundamental right guaranteed by Article 21 of the Constitution of India.

## **SUBMISSIONS OF THE RESPONDENT**

8. Shri Aman Lekhi, the learned Additional Solicitor General of India (ASG) submitted that the accused is not entitled to a written notice of the reports submitted by the Public Prosecutor for seeking extension of time. He submitted that the report of the Public Prosecutor is considered by the Special Court at a stage when the investigation is in progress. His submission is that accused has no say in the matter of grant of extension of time as he has no right of being heard at the stage of the investigation. He relied upon a decision of this Court in the case of **Narender G. Goel Vs. State of Maharashtra and Anr. (2009) 6 SCC 65**

9. Learned ASG further submitted that the inquiry at the time of consideration of the report submitted by the Public Prosecutor for extension of time is very limited. He relied upon a decision of this Court in the case of **State of Maharashtra Vs. Surendra Pundlik Gadling and Ors. (2019) 5 SCC 178**. He submitted that if a report is submitted by the Public Prosecutor indicating the progress of the investigation and the specific reasons for continuing the detention of the accused beyond a period of 90 days, the Special Court is empowered to grant the extension. He submitted that in the present case, the reports submitted by the Public Prosecutor indicate that there was an application of mind by the Public Prosecutor and all details as required were submitted. He urged that the decision of this Court in the case of Sanjay Kumar Kedia<sup>4</sup> is per incuriam as the binding precedent in the case of Sanjay Dutt<sup>2</sup> was not considered by this Court.

10. His submission is that the obligation to produce the accused before the Court is mandatory only when his detention in police custody is sought. He submitted that mere nonproduction of the accused on the day on which the Special Court considered the request for the grant of extension of time will not vitiate the order extending the time. His submission is that in view of Section 460 of CrPC, the order will not stand vitiated. His submission is that in any case, no prejudice has been caused to the appellants due to their nonproduction and there has been no failure of justice. Learned ASG submitted that physical production of the accused was not feasible due to Covid19 conditions and that inadequate bandwidth prevented the virtual production of the accused persons. He submitted that the reasons given by the High Court are cogent and correct.

## **REJOINDER OF THE APPELLANTS**

11. By way of rejoinder, the learned senior counsel appearing for the appellant submitted that without disturbing the law laid down in the case of Hitendra Vishnu Thakur (Supra), the Constitution Bench in the case of Sanjay Dutt

(Supra) has held that service of written notice to the accused is not necessary and it would suffice if the accused was present in the Court and was informed that the request for extension of time to complete the investigation is being considered. She submitted that there is no material placed on record to show that in January 2021 when the reports submitted by the Public Prosecutor were considered by the Special Court, either the Standard Operating Procedure prevailing at that time prohibited the physical production of the accused or there was no proper connectivity which prevented the production even virtually. Her submission is that the said plea has no foundation at all.

## **FURTHER SUBMISSIONS**

12. On 09th February 2022, submissions were concluded. Thereafter, we noticed that subsection (5) of Section 20 of the 2015 Act was not brought to our notice during the course of submissions. Therefore, on 10th March 2022, the appeals were again listed on Board for further hearing, and time was granted to the learned counsel appearing for the parties to make further submissions on the limited issue of the applicability of subsection (5) of Section 20 of the 2015 Act. Thereafter, the appeals could not be listed immediately due to the change of the constitution of the Bench. Ultimately, further submissions were heard on 23rd August 2022.

13. Ms. Nitya Ramakrishnan, learned senior counsel appearing for the appellants pointed out that though subsection (5) of Section 20, which overrides the provisions of CrPC, provides that the accused shall not be granted bail if it is noticed by the Special Court that he was on bail in an offence under the 2015 Act or under any other Act on the date of the offence in question, the same will not come in the way of the appellants getting default bail. She pointed out that an identical provision in the form of subsection (5) of Section 21 of the Maharashtra Control of Organised Crime Act, 1999 (for short, 'the MCOCA') has been partially struck down by the Bombay High Court in the case of **Bharat Shanti Lal Shah and Ors. Vs. State of Maharashtra 2003 All MR (Crl.) 1061**. She pointed out that this Court in the case of *State of Maharashtra v. Bharat Shanti Lal Shah & Ors.*<sup>12</sup> has affirmed the said view. This Court, for reasons recorded, held that the expression "or under any other Act" as appearing in subsection (5) of Section 21 of the MCOCA was arbitrary and discriminatory.

## **RESPONSE OF THE SOLICITOR GENERAL OF INDIA**

14. Shri Tushar Mehta, learned Solicitor General of India submitted that in view of the pronouncement of law by this Court in the case of **State of Maharashtra Vs. Bharat Shanti Lal Shah (2008) 13 SCC 5**, sub-section (5) of Section 20 of

the 2015 Act will not by itself be an impediment in the way of the appellants getting default bail. With the permission of the Court, he made additional submissions. He relied upon Section 461 of CrPC which contains an exhaustive list of irregularities that vitiate proceedings. He urged that the irregularity alleged in this case is not a part of the list of irregularities contained in the said provision. He also invited our attention to subsection (2) of Section 465 of CrPC.

His submission is that as held by this Court in the case of Sanjay Dutt<sup>2</sup>, the accused is not entitled to a written notice of the application made by the Public Prosecutor for extension of the period provided to carry out the investigation and only his presence is to be procured when the application is heard by the Special Court. He submitted that the accused is not entitled to receive a copy of the application/ report made under the proviso to subsection (2) of Section 20 of the 2015 Act and, therefore, he is not entitled to make any submissions on the report of the Public Prosecutor.

He submitted that there is no prejudice caused to the appellants as a result of the failure of the investigating agency to produce them before the Special Court when applications for extension were heard. He submitted that the failure to produce the appellants on the date on which extension applications were heard, is a mere irregularity in the proceedings which will have no effect on further stages such as cognizance, trial, etc. On this aspect, he relied upon a decision of this Court in the case of **Fertico Marketing & Investment Private Limited & Ors. Vs. Central Bureau of Investigation & Anr. (2021) 2 SCC 525**.

He also relied upon another decision of this Court in the case of **Securities and Exchange Board of India etc. Vs. Gaurav Varshney & Anr. etc. (2016) 14 SCC 430**. He urged that the applications for availing of default bail were filed by the appellants after the time was extended by the Special Court. He would, therefore, submit that the appellants are not entitled to default bail. He also submitted that the allegations against the appellants are of a very serious nature. Even this aspect needs to be taken into consideration.

## **CONSIDERATION OF SUBMISSIONS**

15. We have carefully considered the submissions. The entire issue revolves around the interpretation of the proviso added by the 2015 Act to subsection (2) of Section 167 of CrPC. For that purpose, we must refer to Section 20 of the 2015 Act. The Section reads thus:

"20. Modified Application of Certain provisions of Code: (1) Notwithstanding anything contained in the Code or in any other law, every offence punishable

under this Act shall be deemed to be a 'cognizable offence' within the meaning of clause (c) of section 2 of the Code and 'cognizable case' as defined in that clause and shall be construed accordingly. (2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modifications that in subsection (2), (a) the reference to "fifteen days" and "sixty days", wherever they occur, shall be construed as references to "thirty days" and "ninety days", respectively; (b) after the existing proviso, the following proviso shall be inserted, namely:

" Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Special Court shall extend the said period upto one hundred and eighty days on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for detention of the accused beyond the said period of ninety days."

(3) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person accused of having committed an offence punishable under this Act.

(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless - (a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and

(b) where the Public Prosecutor opposes the application, the Special Court is satisfied that there are reasonable grounds for believing that accused is not guilty of committing such offence and that he is not likely to commit any offence while on bail.

(5) Notwithstanding anything contained in the Code, the accused shall not be granted bail if it is noticed by the Special Court that he was on bail in an offence under this Act, or under any other Act on the date of the offence in question.

(6) The restriction on granting of bail specified in subsections (4) and (5) are in addition to the restriction under the Code or any other law for the time being in force on the granting of bail.

(7) The police officer seeking the custody of any person for preindictment or pretrial interrogation from the judicial custody shall file a written statement explaining the reasons for seeking such custody and also for the delay, if any, in seeking the police custody." [emphasis added] We also reproduce subsections (1) and (2) of Section 167 of CrPC which read thus:

"167. Procedure when investigation cannot be completed in twentyfour hours.

(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that( a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding (i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years; (ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this subsection shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(b) no Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

**Explanation I.** For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail.

**Explanation II.** If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be. Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution."

[emphasis added]

16. Thus, in a case involving the offences punishable under the 2015 Act, the Special Court is authorized to detain the accused person in custody for a period not exceeding 90 days. The proviso added by subsection (2) of Section 20 of the 2015 Act to sub-section (2) of Section 167 of Cr.P.C. enables the Special Court to extend the said period to a total of 180 days on the basis of a report of the Public Prosecutor setting out the progress of the investigation and incorporating the specific reasons for the detention of the accused beyond the period of 90 days.

17. Thus, unless the Special Court exercises the power under the proviso added by the 2015 Act to subsection (2) of Section 167 of Cr.P.C., on the expiry of the period of 90 days, the accused will be entitled to default bail. When the Special Court exercises the power under the proviso added to subsection (2) of Section 167 of Cr.P.C. and extends the time up to 180 days, the accused will be entitled to default bail only if the charge sheet is not filed within the extended period.

18. As can be seen from subsection (2) of Section 20 of the 2015 Act, the provisions of Section 167 of Cr.P.C. and in particular subsection (2) thereof containing entitlement of the accused to default bail will apply to the 2015 Act with the modification that the reference to the period of "fifteen days" and "sixty days" provided in subsection (2) of Section 167 of Cr.P.C. is required to be construed as a reference to "thirty days" and "ninety days" respectively. The proviso to subsection (2) of Section 20 of the 2015 Act enables the Special Court to extend the period provided in subsection (2) of Section 167 of Cr.P.C. up to 180 days.

## GENERAL PRINCIPLES GOVERNING DEFAULT BAIL

19. Before we go to the main controversy concerning the legality of the order of extension passed in exercise of the power under the proviso to sub-section (2) of Section 20 of the 2015 Act, it is necessary to recapitulate the settled law relating to default bail. Three decisions of the Benches of three Hon'ble Judges of this Court have laid down the law on this aspect.

19. (a) The first decision is in the case of **Uday Mohanlal Acharya v. State of Maharashtra (2001) 5 SCC 453**. In paragraph 13 thereof, the majority view has been summarised which reads thus:

".... .... On the aforesaid premises, we would record our conclusions as follows:

1. Under subsection (2) of Section 167, a Magistrate before whom an accused is produced while the police is investigating into the offence can authorise detention of the accused in such custody as the Magistrate thinks fit for a term not exceeding 15 days on the whole.

2. Under the proviso to the aforesaid subsection (2) of Section 167, the Magistrate may authorise detention of the accused otherwise than in the custody of police for a total period not exceeding 90 days where the investigation relates to offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and 60 days where the investigation relates to any other offence.

3. On the expiry of the said period of 90 days or 60 days, as the case may be, an indefeasible right accrues in favour of the accused for being released on bail on account of default by the investigating agency in the completion of the investigation within the period prescribed and the accused is entitled to be released on bail, if he is prepared to and furnishes the bail as directed by the Magistrate.

4. When an application for bail is filed by an accused for enforcement of his indefeasible right alleged to have been accrued in his favour on account of default on the part of the investigating agency in completion of the investigation within the specified period, the Magistrate/court must dispose of it forthwith, on being satisfied that in fact the accused has been in custody for the period of 90 days or 60 days, as specified and no chargesheet has been filed by the investigating agency. Such prompt action on the part of the Magistrate/court will not enable the prosecution to frustrate the object of the Act and the legislative mandate of an accused being released on bail on account of the

default on the part of the investigating agency in completing the investigation within the period stipulated.

5. If the accused is unable to furnish the bail as directed by the Magistrate, then on a conjoint reading of Explanation I and the proviso to subsection (2) of Section 167, the continued custody of the accused even beyond the specified period in para (a) will not be unauthorised, and therefore, if during that period the investigation is complete and the chargesheet is filed then the so called indefeasible right of the accused would stand extinguished.

6. The expression "if not already availed of" used by this Court in **Sanjay Dutt case [(1994) 5 SCC 410 : 1994 SCC (Cri) 1433]** must be understood to mean when the accused files an application and is prepared to offer bail on being directed. In other words, on expiry of the period specified in para (a) of the proviso to subsection (2) of Section 167 if the accused files an application for bail and offers also to furnish the bail on being directed, then it has to be held that the accused has availed of his indefeasible right even though the court has not considered the said application and has not indicated the terms and conditions of bail, and the accused has not furnished the same.

With the aforesaid interpretation of the expression "availed of" if the chargesheet is filed subsequent to the availing of the indefeasible right by the accused then that right would not stand frustrated or extinguished, necessarily therefore, if an accused entitled to be released on bail by application of the proviso to subsection (2) of Section 167, makes the application before the Magistrate, but the Magistrate erroneously refuses the same and rejects the application and then the accused moves the higher forum and while the matter remains pending before the higher forum for consideration a chargesheet is filed, the so called indefeasible right of the accused would not stand extinguished thereby, and on the other hand, the accused has to be released on bail.

Such an accused, who thus is entitled to be released on bail in enforcement of his indefeasible right will, however, have to be produced before the Magistrate on a chargesheet being filed in accordance with Section 209 and the Magistrate must deal with him in the matter of remand to custody subject to the provisions of the Code relating to bail and subject to the provisions of cancellation of bail, already granted in accordance with the law laid down by this Court in the case of **Mohd. Iqbal Vs. State of Maharashtra [(1996) 1 SCC 722 : 1996 SCC (Cri) 202]** ."

[emphasis added]

19(b) The second decision is in the case of **M. Ravindran (Supra)**. The conclusions in the said decision can be summarised as under:

(i) Majority view in the case of **Uday Mohanlal Acharya (Supra)** is correct;

(ii) Subsection (2) of Section 167 of Cr.P.C. was enacted for providing an outer time limit to the period of remand of the accused proportionate to the seriousness of the offence alleged. On the failure to complete the investigation within the defined outer limit, the accused acquires an indefeasible right to get default bail;

(iii) The timelines provided under subsection (2) of Section 167, Cr.P.C ensure that investigating officers are compelled to act swiftly and efficiently without misusing the prospect of further remand. This provision ensures that the Court takes cognizance of the case without undue delay after investigation is completed within the time provided in subsection (2) of Section 167, Cr.P.C.;

(iv) The Legislature has enacted subsection (2) of Section 167 for balancing the need to provide sufficient time to complete the investigation with the need to protect civil liberties of the accused which is given paramount importance in our Constitution;

(v) Subsection (2) of Section 167 is integrally linked to the constitutional commitment under Article 21 of the Constitution of India promising protection of the personal liberty against unlawful and arbitrary detention;

(vi) The decision of this Court in the case of **S. Kasi (Supra)** was quoted with the approval which holds that the indefeasible right to default bail is an integral part of the right to personal liberty under Article 21 and the said right cannot be suspended even during the pandemic situation; and

(vii) It is well settled that in case of any ambiguity in the construction of a penal statute, the Court must favour the interpretation which leans towards protecting the rights of the accused. This principle is applicable even in the case of a procedure providing for curtailment of liberty of the accused.

19.(c) The third decision is in the case of **Rakesh Kumar Paul Vs. State of Assam (2017) 15 SCC 67**. This decision holds that it is the duty of the learned Magistrate to inform the accused, of the availability of indefeasible right under subsection (2) of Section 167 Cr.P.C. once it accrues to him. It was held that this will ensure that dilatory tactics of the prosecution are thwarted and obligations under Article 21 of the Constitution are upheld.

20. The issue involved in these appeals will have to be decided in the context of the legal position that the indefeasible right to default bail under subsection (2) of Section 167, Cr.P.C. is an integral part of the fundamental right to personal liberty under Article 21 of the Constitution of India.

### **IMPEDIMENT OF SUBSECTION (5) OF SECTION 20 OF THE 2015 ACT**

21. Subsection (5) of Section 20 reads thus:

"20. Modified application of certain provisions of Code. ... .."

(5) Notwithstanding anything contained in the Code, the accused shall not be granted bail if it is noticed by the Special Court that he was on bail in an offence under this Act, or under any other Act on the date of the offence in question." Subsection (5) of Section 21 of the MCOCA contained identical provision. In the case of **Bharat Shanti Lal Shah (Supra)**, this Court, for the reasons recorded in paragraphs 62 to 65, concurred with the view of Bombay High Court that the expression "or under any other Act" appearing in subsection (5) of Section 21 of the MCOCA was violative of Articles 14 and 21 of the Constitution and, therefore, it must be struck down. Hence, the same expression used in subsection (5) of Section 20 of the 2015 Act infringes Articles 14 and 21 of the Constitution. In the facts of the case, none of the appellants were on bail for any offence under the 2015 Act and hence, no impediment has been created by subsection (5) of Section 20 in the facts of these cases for considering the prayer for default bail.

### **THE EFFECT OF THE FAILURE OF THE RESPONDENTS TO PRODUCE THE APPELLANTS BEFORE THE SPECIAL COURT AT THE TIME OF CONSIDERATION OF THE EXTENSION APPLICATION**

22. The question before us is about the legal consequences of the failure of the Special Court under the 2015 Act to procure the presence of the accused at the time of the consideration of the reports submitted by the Public Prosecutor for a grant of extension of time to complete the investigation. In addition, we will have to consider the effect of the failure to give notice to the accused of the reports submitted by the Public Prosecutor.

23. Under Clause (bb) of sub-section (4) of Section 20 of TADA, there is a pari materia proviso that empowers the Designated Court to extend the period provided in clause (a) of Sub-Section (2) of Section 167 Cr.P.C. Clause (bb) reads thus:

"(bb) in subsection (2), after the proviso, the following proviso shall be inserted, namely:-

'Provided further that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Designated Court shall extend the said period up to one year, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days; and' "

The said proviso came up for consideration before this Court in the case of **Hitendra Vishnu Thakur (1994) 4 SCC 602**. In paragraph 23 this Court held thus:

"23. We may at this stage, also on a plain reading of clause (bb) of subsection (4) of Section 20, point out that the Legislature has provided for seeking extension of time for completion of investigation on a report of the public prosecutor. The Legislature did not purposely leave it to an investigating officer to make an application for seeking extension of time from the court. This provision is in tune with the legislative intent to have the investigations completed expeditiously and not to allow an accused to be kept in continued detention during unnecessary prolonged investigation at the whims of the police.

The Legislature expects that the investigation must be completed with utmost promptitude but where it becomes necessary to seek some more time for completion of the investigation, the investigating agency must submit itself to the scrutiny of the public prosecutor in the first instance and satisfy him about the progress of the investigation and furnish reasons for seeking further custody of an accused. A public prosecutor is an important officer of the State Government and is appointed by the State under the Code of Criminal Procedure. He is not a part of the investigating agency. He is an independent statutory authority.

The public prosecutor is expected to independently apply his mind to the request of the investigating agency before submitting a report to the court for extension of time with a view to enable the investigating agency to complete the investigation. He is not merely a post office or a forwarding agency. A public prosecutor may or may not agree with the reasons given by the investigating officer for seeking extension of time and may find that the investigation had not progressed in the proper manner or that there has been unnecessary, deliberate or avoidable delay in completing the investigation.

In that event, he may not submit any report to the court under clause (bb) to seek extension of time. Thus, for seeking extension of time under clause (bb), the public prosecutor after an independent application of his mind to the request of the investigating agency is required to make a report to the Designated Court indicating therein the progress of the investigation and disclosing justification for keeping the accused in further custody to enable the investigating agency to complete the investigation.

The public prosecutor may attach the request of the investigating officer along with his request or application and report, but his report, as envisaged under clause (bb), must disclose on the face of it that he has applied his mind and was satisfied with the progress of the investigation and considered grant of further time to complete the investigation necessary. The use of the expression "on the report of the public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period" as occurring in clause (bb) in subsection (2) of Section 167 as amended by Section 20(4) are important and indicative of the legislative intent not to keep an accused in custody unreasonably and to grant extension only on the report of the public prosecutor.

The report of the public prosecutor, therefore, is not merely a formality but a very vital report, because the consequence of its acceptance affects the liberty of an accused and it must, therefore, strictly comply with the requirements as contained in clause (bb). The request of an investigating officer for extension of time is no substitute for the report of the public prosecutor. Where either no report as is envisaged by clause (bb) is filed or the report filed by the public prosecutor is not accepted by the Designated Court, since the grant of extension of time under clause (bb) is neither a formality nor automatic, the necessary corollary would be that an accused would be entitled to seek bail and the court 'shall' release him on bail if he furnishes bail as required by the Designated Court. It is not merely the question of form in which the request for extension under clause (bb) is made but one of substance.

The contents of the report to be submitted by the public prosecutor, after proper application of his mind, are designed to assist the Designated Court to independently decide whether or not extension should be granted in a given case. Keeping in view the consequences of the grant of extension i.e. keeping an accused in further custody, the Designated Court must be satisfied for the justification, from the report of the public prosecutor, to grant extension of time to complete the investigation.

Where the Designated Court declines to grant such an extension, the right to be released on bail on account of the 'default' of the prosecution becomes

indefeasible and cannot be defeated by reasons other than those contemplated by subsection (4) of Section 20 as discussed in the earlier part of this judgment. We are unable to agree with Mr. Madhava Reddy or the Additional Solicitor General Mr. Tulsi that even if the public prosecutor 'presents' the request of the investigating officer to the court or 'forwards' the request of the investigating officer to the court, it should be construed to be the report of the public prosecutor.

There is no scope for such a construction when we are dealing with the liberty of a citizen. The courts are expected to zealously safeguard his liberty. Clause (bb) has to be read and interpreted on its plain language without addition or substitution of any expression in it. We have already dealt with the importance of the report of the public prosecutor and emphasised that he is neither a 'post office' of the investigating agency nor its 'forwarding agency' but is charged with a statutory duty.

He must apply his mind to the facts and circumstances of the case and his report must disclose on the face of it that he had applied his mind to the twin conditions contained in clause (bb) of subsection (4) of Section 20. Since the law requires him to submit the report as envisaged by the section, he must act in the manner as provided by the section and in no other manner. A Designated Court which overlooks and ignores the requirements of a valid report fails in the performance of one of its essential duties and renders its order under clause (bb) vulnerable.

Whether the public prosecutor labels his report as a report or as an application for extension, would not be of much consequence so long as it demonstrates on the face of it that he has applied his mind and is satisfied with the progress of the investigation and the genuineness of the reasons for grant of extension to keep an accused in further custody as envisaged by clause (bb) (supra). Even the mere reproduction of the application or request of the investigating officer by the public prosecutor in his report, without demonstration of the application of his mind and recording his own satisfaction, would not render his report as the one envisaged by clause (bb) and it would not be a proper report to seek extension of time.

In the absence of an appropriate report the Designated Court would have no jurisdiction to deny to an accused his indefeasible right to be released on bail on account of the default of the prosecution to file the challan within the prescribed time if an accused seeks and is prepared to furnish the bail bonds as directed by the court. Moreover, no extension can be granted to keep an accused in custody beyond the prescribed period except to enable the investigation to be completed and as already stated before any extension is granted under clause (bb), the

accused must be put on notice and permitted to have his say so as to be able to object to the grant of extension."

[emphasis added]

24. The same issue came up for consideration before the Constitution Bench in this Court in the case of Sanjay Dutt (Supra). A specific submission was made before the Constitution Bench that the notice to the accused of the application for the extension as contemplated by the decision in the case of Hitendra Vishnu Thakur (Supra) is not a written notice. The argument was that when the report of the Public Prosecutor is considered by the Special Court, it is enough that the presence of the accused is procured before the Special Court and the accused is informed that such a report has been submitted by the Public Prosecutor. By accepting the said submission, the Constitution Bench summarised its conclusions as under:

" 53. (2)(a) Section 20(4) (bb) of the TADA Act only requires production of the accused before the court in accordance with Section 167(1) of the Code of Criminal Procedure and this is how the requirement of notice to the accused before granting extension beyond the prescribed period of 180 days in accordance with the further proviso to clause (bb) of Subsection (4) of Section 20 of the TADA Act has to be understood in the judgment of the Division Bench of this Court in Hitendra Vishnu Thakur. The requirement of such notice to the accused before granting the extension for completing the investigation is not a written notice to the accused giving reasons therein. Production of the accused at that time in the court informing him that the question of extension of the period for completing the investigation is being considered, is alone sufficient for the purpose."

[emphasis added]

25. In the case of **Devinderpal Singh Vs. Government of National Capital Territory of Delhi (1996) 1 SCC 44**, this Court in paragraphs 14 and 15 held thus:

"14. In **Hitendra Vishnu Thakur case [(1994) 4 SCC 602 : 1994 SCC (Cri) 1087]** it was also opined that no extension can be granted by the Designated Court under clause (bb) unless the accused is put on notice and permitted to have his say so as to be able to object to the grant of extension.

15. The Constitution Bench in **Sanjay Dutt case [(1994) 5 SCC 410 : 1994 SCC (Cri) 1433]** did not express any contrary opinion insofar as the requirement of the report of the Public Prosecutor for grant of extension is concerned or on the effect of the absence of such a report under clause (bb) of

Section 20(4), but observed that the 'notice' contemplated in the decision in **Hitendra Vishnu Thakur case [(1994) 4 SCC 602 : 1994 SCC (Cri) 1087]** before granting extension for completion of investigation is not to be construed as a "written notice" to the accused and that only the production of the accused at the time of consideration of the report of the Public Prosecutor for grant of extension and informing him that the question of extension of the period for completing the investigation was being considered would be sufficient notice to the accused."

[emphasis added]

26. In the case of **Ateef Nasir Mulla (Supra)**, this Court considered a similar provision under POTA. In the said decision, the law laid down in the case of Sanjay Dutt<sup>2</sup> was followed. In the facts of the case, it was found that the accused along with his Advocate were present when the request for extension of time to carry on the investigation was considered by the Court and, in fact, a copy of the report praying for the extension was provided to the accused to enable him to file a reply.

27. In the case of Sanjay Kumar Kedia (Supra), this Court considered a similar provision under the NDPS Act. However, this Court did not consider the binding precedent in the case of Sanjay Dutt<sup>2</sup>. Therefore, this decision will not be a binding precedent.

28. Clause (b) of sub-section (2) of Section 167 Cr.P.C. lays down that no Magistrate shall authorise the detention of the accused in the custody of the police unless the accused is produced before him in person. It also provides that judicial custody can be extended on the production of the accused either in person or through the medium of electronic video linkage. Thus, the requirement of the law is that while extending the remand to judicial custody, the presence of the accused has to be procured either physically or virtually. This is the mandatory requirement of law. This requirement is sine qua non for the exercise of the power to extend the judicial custody remand.

The reason is that the accused has a right to oppose the prayer for the extension of the remand. When the Special Court exercises the power of granting extension under the proviso to subsection (2) of Section 20 of the 2015 Act, it will necessarily lead to the extension of the judicial custody beyond the period of 90 days up to 180 days. Therefore, even in terms of the requirement of clause (b) of subsection (2) of Section 167 of Cr.P.C., it is mandatory to procure the presence of the accused before the Special Court when a prayer of the prosecution for the extension of time to complete investigation is considered.

In fact, the Constitution Bench of this Court in the first part of paragraph 53(2)(a) in its decision in the case of Sanjay Dutt (Supra) holds so. The requirement of the report under proviso added by subsection (2) of Section 20 of the 2015 Act to clause (b) of subsection (2) of Section 167 of CrPC is twofold. Firstly, in the report of the Public Prosecutor, the progress of the investigation should be set out and secondly, the report must disclose specific reasons for continuing the detention of the accused beyond the said period of 90 days. Therefore, the extension of time is not an empty formality. The Public Prosecutor has to apply his mind before he submits a report/ an application for extension. The prosecution has to make out a case in terms of both the aforesaid requirements and the Court must apply its mind to the contents of the report before accepting the prayer for grant of extension.

29. As noted earlier, the only modification made by the larger Bench in the case of Sanjay Dutt (Supra) to the decision in the case of Hitendra Vishnu Thakur (Supra) is about the mode of service of notice of the application for extension. In so many words, in paragraph 53(2)(a) of the Judgment, this Court in the case of Sanjay Dutt<sup>2</sup> held that it is mandatory to produce the accused at the time when the Court considers the application for extension and that the accused must be informed that the question of extension of the period of investigation is being considered.

The accused may not be entitled to get a copy of the report as a matter of right as it may contain details of the investigation carried out. But, if we accept the submission of the respondents that the accused has no say in the matter, the requirement of giving notice by producing the accused will become an empty and meaningless formality. Moreover, it will be against the mandate of clause (b) of the proviso to subsection (2) of section 167 of CrPC. It cannot be accepted that the accused is not entitled to raise any objection to the application for extension. The scope of the objections may be limited.

The accused can always point out to the Court that the prayer has to be made by the Public Prosecutor and not by the investigating agency. Secondly, the accused can always point out the twin requirements of the report in terms of proviso added by subsection (2) of Section 20 of the 2015 Act to subsection (2) of Section 167 of CrPC. The accused can always point out to the Court that unless it is satisfied that full compliance is made with the twin requirements, the extension cannot be granted.

30. The logical and legal consequence of the grant of extension of time is the deprivation of the indefeasible right available to the accused to claim a default bail. If we accept the argument that the failure of the prosecution to produce the accused before the Court and to inform him that the application of extension is

being considered by the Court is a mere procedural irregularity, it will negate the proviso added by subsection (2) of Section 20 of the 2015 Act and that may amount to violation of rights conferred by Article 21 of the Constitution. The reason is the grant of the extension of time takes away the right of the accused to get default bail which is intrinsically connected with the fundamental rights guaranteed under Article 21 of the Constitution.

The procedure contemplated by Article 21 of the Constitution which is required to be followed before the liberty of a person is taken away has to be a fair and reasonable procedure. In fact, procedural safeguards play an important role in protecting the liberty guaranteed by Article 21. The failure to procure the presence of the accused either physically or virtually before the Court and the failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered, is not a mere procedural irregularity. It is gross illegality that violates the rights of the accused under Article 21.

31. An attempt was made to argue that the failure to produce the accused will not cause any prejudice to him. As noted earlier, the grant of extension of time to complete the investigation takes away the indefeasible right of the accused to apply for default bail. It takes away the right of the accused to raise a limited objection to the prayer for the extension. The failure to produce the accused before the Court at the time of consideration of the application for extension of time will amount to a violation of the right guaranteed under Article 21 of the Constitution. Thus, prejudice is inherent and need not be established by the accused.

32. The learned Additional Solicitor General relied upon the decision of this Court in the case of **Narender G. Goel (Supra)**. The issue involved in that case was not of extension of time for completion of the investigation. The issue generally discussed therein is about the right of hearing of the accused at the stage of the investigation. His reliance on the decision of this Court in the case of **Surendra Pundlik Gadling (Supra)** will not help him at all. This was a case where the accused was not only produced before the Court but he was provided a copy of the application for extension of time. The grievance of the accused was that time of only one day was granted to contest the application. This contention was rejected.

33. In the facts of the cases in hand, when the Special Court considered the reports submitted by the Public Prosecutor for grant of extension of time, the presence of the appellants was admittedly not procured before the Special Court either personally or through video conference. It is also an admitted position that information about the filing of such reports by the Public Prosecutor was not provided to the accused. It is mentioned in the impugned judgment that due

to COVID - 19, it was not permissible to physically produce the accused before the Special Court. Moreover, the accused were in different prisons and, therefore, the production through video conference would have been very slow.

Assuming that the process of production would have been slow, that is no excuse for not procuring the presence of the accused through video conference. Nothing is placed on record either before this Court or High Court to show that as per the Standard Operating Procedure applicable to the concerned Court in January 2021 when the impugned orders were passed granting the extension, it was not permissible to physically produce the accused before the Special Court. There is no material placed on record to show that technical reasons/difficulties prevented the prosecution from producing the accused before the Special Court through video conference. It is not possible to accept that in January 2021 in the Court at Rajkot in the State of Gujarat, there was any connectivity issue. In fact, admittedly, no such case was pleaded before the High Court in the pleadings of the respondents.

34. We must note here that the reports were submitted by the Public Prosecutor nearly a week before the expiry of the period of 90 days. In every case, period of seven days or more was available for completion of the period of ninety days. The orders were passed by the Special Court on the reports of the Public Prosecutor on the very day on which reports were submitted. There was no reason for such hurry. The Special Court could have always granted time of a couple of days to the prosecution to procure the presence of the accused either physically or through video conference.

The accused may not be entitled to know the contents of the report but he is entitled to oppose the grant of extension of time on the grounds available to him in law. In the facts of the present case, the grant of extension of time without complying with the requirements laid down by the Constitution Bench has deprived the accused of their right to seek default bail. It has resulted in the failure of justice.

35. The orders passed by the Special Court of extending the period of investigation are rendered illegal on account of the failure of the respondents to produce the accused before the Special Court either physically or virtually when the prayer for grant of extension made by the Public Prosecutor was considered. It was the duty of the Special Court to ensure that this important procedural safeguard was followed. Moreover, the oral notice, as contemplated by this Court in the case of **Sanjay Dutt (Supra)**, was also not given to the accused.

36. Once we hold that the orders granting extension to complete investigation are illegal and stand vitiated, it follows that the appellants are entitled to default bail.

37. When they applied for bail, the appellants had no notice of the extension of time granted by the Court. Moreover, the applications were made before the filing of charge sheet. Hence, the appellants are entitled to default bail. At this stage, we may note here that in the case of **Sanjay Dutt (Supra)** as well as in the case of **Bikramjit Singh (Supra)**, this Court held that grant of default bail does not prevent re-arrest of the petitioners on cogent grounds after filing of chargesheet. Thereafter, the accused can always apply for regular bail. However, as held by this Court in the case of **Mohamed Iqbal Madar Sheikh & Ors. Vs. State of Maharashtra (1996) 1 SCC 722**, rearrest cannot be made only on the ground of filing of charge sheet. It all depends on the facts of each case.

38. Accordingly, the impugned orders passed by the Special Court granting extension to complete investigation and impugned judgment of the High Court are hereby quashed and set aside. The appellants shall be enlarged on default bail under subsection (2) of Section 167 of CrPC on following conditions :

- (a) The appellants shall furnish a bail bond of Rs.2,00,000/with appropriate sureties as may be decided by the Special Court;
- (b) The appellants shall surrender their passports to the Special Court at the time of furnishing security;
- (c) The appellants shall not interfere in any manner with the further investigation, if any and shall not make any effort to influence the prosecution witnesses; and
- (d) The appellants shall mark regular attendance with such police station and at such periodical intervals, as may be determined by the Special Court; and
- (e) The appellants shall cooperate with the Special Court for early conclusion of the trial.

39. The appeals are allowed on the above terms.

.....J. [AJAY RASTOGI]

.....J. [ABHAY S. OKA]

New Delhi;

September 23, 2022.

**Subject – It is not necessary to give opportunity of hearing to would-be accused before court makes complaint under Sec. 195/340 Cr.P.C.**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 335/2020**

**THE STATE OF PUNJAB**

**..APPELLANT(S)**

**VERSUS**

**JASBIR SINGH**

**..RESPONDENT(S)**

**O R D E R**

The matter has been placed before a three Judges Bench arising from a reference made vide order dated 26.02.2020 seeking the following questions to be answered:

“(i) Whether Section 340 of the Code of Criminal Procedure, 1973 mandates a preliminary inquiry and an opportunity of hearing to the would-be accused before a complaint is made under Section 195 of the Code by a Court?

(ii) what is the scope and ambit of such preliminary inquiry?”

The impugned judgment of the High Court granting relief to the respondent while dealing with an aspect of forgery in a civil case is predicated on a reasoning that the FIR which was registered against the respondent-accused did not comply with the mandatory requirements of Section 340 read with Section 195 of the Cr.P.C.

The FIR had given rise to the provisions since it had been filed without any inquiry and without giving any opportunity to the respondent to be heard.

The two Judges Bench of this Court noticing the aforesaid aspect, in order dated 26.02.2020 referred to two judgments of this Court both of three Judges Bench as also to a Constitution Bench of this Court.

To put the aspect in the right perspective and in sequence, we may note that the first judgment of three Judges Bench was **Prithvi vs. State of Maharashtra & Ors. (2002) 1 SCC 253** which noticed that the purpose of a preliminary inquiry under Section 340(1), Cr.P.C. was not to find whether a person is guilty or not but only to decide whether it was expedient in the interest of justice to inquire into the offence. It was thus observed that the Court is not obliged to make a preliminary inquiry on a complaint but if the Court decides to do so, it should make a final set of the facts which is expedient in the interest of justice that offence should be further probed into.

The reference order is a conflicting view in **Sharad Pawar vs. Jagmohan Dalmiya & Ors. (2010) 15 SCC 290** to the extent that in para 7 while noticing the submissions of the counsels it was observed that it was necessary to conduct a preliminary inquiry as contemplated under Section 340 Cr.P.C. and “also to afford an opportunity of being heard to the defendants, which was admittedly not done.” The latter was stated to be contrary to the view in Prithvi’s case (supra).

The reference order also simultaneously noted the observations in the Constitution Bench of this Court in **Iqbal Singh Marwah vs. Meenakshi Marwah (2005) 4 SCC 370** which was post the judgment in Prithvi’s case (supra) but prior to the judgment in Sharad Pawar’s case (supra). In this behalf the extracted portion in 23 of the judgment reads as under :

“In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the

Court may not consider it expedient in the interest of justice to make a complaint.

Emphasis supplied”

On having considered the matter, it is our view that the Constitution Bench’s view would naturally prevail that makes the legal position quite abundantly clear. Not only that, if we may notice, what is reported in Sharad Pawar’s case (supra) is only an order and not a judgment. An order is in the given factual scenario. The judgment lays down the principles of law. The scenario is that any order or judgment passed by this Court becomes a reportable exercise to create more volumes of reported cases! This thus has a possibility at times of causing some confusion on the legal principles prevalent. The observations in the quoted paragraph extracted aforesaid apparently came out of the flow of the order rather than pronouncing any principles of law and that is why the Bench itself categorized what is observed as an order i.e., in the given factual scenario.

We have little doubt that there is no question of opportunity of hearing in a scenario of this nature and we say nothing else but that a law as enunciated by the Constitution Bench in Iqbal Singh Marwah’s case (supra) is in line with what was observed in Pritish’s case (supra).

Interestingly both the judgments in Pritish’s case and the Constitution Bench judgment in Iqbal Singh Marwah’s case (supra) have not been noted in order passed in Sharad Pawar’s Case (supra). The answer thus to the first question raised would be in the negative.

Insofar as the second question is concerned, the scope and ambit of such a preliminary inquiry, also stands resolved in terms of the Constitution Bench judgment of this Court in the Iqbal Singh Marwah’s case (supra) as referred to aforesaid.

The reference is answered accordingly.

The matter be placed before the regular Bench for consideration on merits.

.....J. [SANJAY KISHAN KAUL]  
.....J. [ABHAY S. OKA]  
.....J. [VIKRAM NATH]

NEW DELHI,  
SEPTEMBER 15, 2022.

## 6. Study Material – G.K.

After the great period of the Gupta Empire and the reign of the Sultanate of Delhi, India saw the emergence of the largest ever empire with the rise of the Mughal rule in the country. The founder of this new state in India was Zahir-Ud-din Muhammad Babur, a descendant of Jenghis Khan and Timur the Lame. Babur had been thrown out of Central Asia earlier by the Uzbeks, but he managed to gain control of Afghan territories and then set his eyes on India by conquering which he could become more powerful and richer.

In 1518 and 1524 he attacked India and in 1525 he led a well organized army to Delhi. In the battle of Panipat, in 1526, he defeated Ibrahim Lodi, the last of the Delhi Sultans. The next year he defeated the Rajputs and then he succeeded in capturing most of the Ganges Valley. In the Mughal dynasty he founded, there were following Rulers.

<b>S.N.</b>	<b>Name</b>	<b>Description</b>
<b>1.</b>	<b>Babur (1526-1530)</b>	<p>Zahiruddin Muhammad Babur, popularly known as "Babur", meaning lion, was the founder of Mughal Empire in India. He was born in Farghana, now in Uzbekistan, on February 14, 1483. The Mughal Empire founded by him lasted for 331 years.</p> <p>Babur was a descendant of Timur on his father's side and of Chengez Khan on his mother's side. When Babur's father Umar Sheikh Mirza died in 1494, he inherited the ancestral kingdom of Farghana. He was only 14 years old at that time. Babur faced many hardships during this period of his life. He was driven out of his father's state and for two years became a wanderer. In 1504, he came to Afghanistan and occupied Kabul. Here he assumed the title of Padshah.</p> <p>The first battle of Panipat took place in northern India, and marked the beginning of the Mughal Empire. This was one of the earliest battles involving gunpowder firearms and field artillery. In 1526, the forces of Zahir al-Din Muhammad Babur, the ruler of Kabul and of Timurid descent, defeated the much larger army of Ibrahim Lodhi, the ruler of the large North Indian Delhi Sultanate. The battle was fought on April 21 near the small village of Panipat, in the present day Indian state of Haryana, an area that has been the site of a number of decisive battles for the control of Northern India since the twelfth century</p> <p>The handsome Ibrahim Lodhi multiplied his rigors at Delhi. Mian Bhua the vazir of his father was first thrown in prison then given a cup of poisoned wine. Noblemen like Azam Humanyun (Not Babur's son) and Hussayn Khan Farmuli were assassinated. Daulat Khan Lodhi governor of Lahore was ordered to appear at Delhi, he excused himself and sent his son in his place. Sultan took his son to prison and was shown the bodies of rebels hanging from the walls. "now you know what awaits those who disobey me" said Ibrahim Lodhi to the frightened boy.</p> <p>Daulat Khan appealed to Babur. "For 30 years " Babur said to him</p>

"you have eaten the salt of Lord Ibrahim and of his father, why this?". "It is true that my father and grand father have spent many years in their service, but this sultan prosecutes most faithful of his vassals. Without cause he has put to death 23 of his best men and ruined their families. That is why the nobles have sent me to you to convey their homage, they wait you anxiously."

The first Battle of Panipat gave a death blow to the Lodhi empire and marked the end of the Delhi Sultanate's rule in India. It establishment of Mughal Empire in India. Mongol prince Zahir-ud-Din Muhammad, known as Babur, had promised to help Daulat Khan Lodhi, Governor of Lahore, to fight the Sultan of Delhi Ibrahim Lodhi in 1523 and made many raids into Punjab. Babur, after occupying the whole of Panjab by 1525 AD, marched towards Delhi. In November 1525 he set out to meet the Sultan of Delhi. Passage of Indus took place on 15th December. Babur had about 12,000 soldiers. Crossing Sutluj at Roper and reached Ambala without meeting any resistance. On April 1st Babur reached Panipat. Rumors came that Sultan was coming with an army of 100,000 and 1000 war elephants. Afghan Sultan of Delhi, Ibrahim Lodhi advanced from Delhi to meet the invader. Babur had a strong artillery which was effectively pressed into service. battle started at six in the morning. Sultan Ibrahim Lodhi advanced rapidly . At about 400 yards Babur's Cannons opened fire, noise and smoke from the artillery terrified the Afghans and the attack lost momentum.

Though Ibrahim Lodhi had elephants and huge army, he did not know how to control them. Babur had guns and he used them to scare the elephants. As a result the elephants went out of control and trampled Lodhi's own army. He lost a lot of soldiers like that. Ibrahim Lodhi was finally abandoned by his generals and advisors and was left to die on the battlefield. This battle was the turning point in the history of Delhi as it marked the beginning of one of the most important empires in India, the Mughal dynasty. Most of his army stretching behind up to a mile never saw action. Battle ended in about 3 hours with the death of Ibrahim Lodhi who was at forefront

As a result of the Battle of Panipat in 1526, Babur became the ruler of Delhi and Agra. He founded mughal emperor in india. He now had to fight against two other enemies, the **Afghan nobles of Bihar and Bengal**, and the **Rajputs under Rana Sanga of Mewar**. Babur sent his nobles to unconquered parts of the country to expel the Afghans chiefs from there, while he was engaged in collecting the resources to wage a war against the Rajputs.

**Rana Sanga** was a brave warrior. He was joined by some Muslim supporters of the Lodi dynasty. He marched with an army of 120 chiefs, 80,000 horses and 500 war elephants, and the rulers of

		<p>Ajmer, Gwalior, Amber, Marwar against Babur. Babur's army was comparatively small and were struck with terror and panic. So Babur appealed to his men to fight bravely. His men promised to support him. Mughals and the Rajputs met in the decisive <b>battle of Khanwa</b> in on March 16, 1527.</p> <p>Rajputs fought bravely but Babur used the same tactics that he used in the battle of Panipat and thus defeated the Rajputs. <b>Rana Sanga</b> escaped with the help of some of the followers but died after about two years. This victory facilitated Babur's task as it enabled him to establish the rule of the Mughals in India.</p> <p>Ghagra Battle was fought between the Afgan king Mahmud Lodi and the Mughal emperor Babur. At that time Babur was trying to consolidate his dominion by encompassing all of North India. Lodi was supported by the Rajput kings of India and he raised serious threats to the Mughal. Mahmud Lodi had good relations with the kings of Bihar and Bengal where he had taken refuge once. In 1529, Babur fought a vigorous war with the Afgan force on the bank of river Ghagra in Bihar. Mahmud Lodi was defeated in the battle, and Babur extended his frontier from the Oxus River in the west to the Ghagra River in the east and from the Himalayas to Gwalior. The Battle of Ghaghra, fought in 1529 and was the last major battle for the conquest of India by the Mughal Empire. It followed the first Battle of Panipat in 1526 and the Battle of Khanwa in 1527. The forces of now Emperor Zahir ud-Din Muhammad Babur of the emerging Mughal Empire were joined by Indian allies in battle against the Eastern Afghan Confederates under Sultan Mahmud Lodi and Kingdom of Bengal under King Nusrat Shah. Sultan Mahmud Lodi, who aspired to the throne of Delhi and who had been declared the rightful heir to the Delhi Sultanate by the Western Afghan Confederates and aided by the Rajput Confederates, was put to flight after the defeat at the Battle of Khanwa in 1527. He took refuge in Gujarat. After trying to get in touch with his kinsmen in the east he managed to join them. He at the head of the Eastern Afghan Confederates took Bihar.</p>
2.	<p><b>Humayun</b> (1530-1540) (1555-1556)</p>	<p><b>Full name- Al-Sultan al-'Azam wal Khaqan al-Mukarram, Jam-i-Sultanat-i-haqiqi wa Majazi, Sayyid al-Salatin, Abu'l Muzaffar Nasir ud-din Muhammad Humayun Padshah Ghazi, Zillu'llah.</b></p> <p>Babur's eldest son and successor, <b>Humayun</b>, was 22 years old when his father passed away. Humayun lacked the experience and the tough fiber necessary to consolidate a new dynasty. the first decade of his rule brought a steady erosion of Mughal authority in northern India. In particular, Humayun had to deal with the determined hostility of the Afghans who were still allied with the</p>

		<p>dispossessed Lodi regime.</p> <p>Humayun was defeated by insurrections of nobles from the old Lodi regime. In 1540, the Mughal domain came under the control of one of those nobles, <b>Farid Khan Sur</b>, who assumed the regional name of <b>Sher Shah Sur</b>. Humayun would spend the next 15 years in exile in Sind, Iran, and then Afghanistan. During this exile, Humayun's Persian wife, <b>Hamida Begum</b>, a native of <b>Turbat-I Shaykh Jam</b> in Khurasan, gave birth to the future emperor <b>Akbar</b>.</p> <p>Humayun was the eldest son of Babur. He had three younger brothers, <b>Kamran, Askari and Hindal</b>. Born on March 6, 1508, at Kabul, he learnt <b>Turkish, Arabic and Persian</b> at a very young age. He assisted his father in the governance of the country. In 1520, he was appointed the <b>Governor of Badakshan</b> at the age of 12 years. When Babur invaded India in 1526, Humayun joined him. Humayun won a maiden victory in this campaign. He also participating in the <b>battle of Kanwaha</b>. After Babur's death in 1530, he was chosen as his successor. Humayun ascended the throne at Agra on December 30, 1530, at the age of 23, four days after his father's death.</p> <p><b>Humayun</b> inherited an empire barely held together by force of arms. It lacked a consolidated civil administration. He faced numerous problems right from the start. He faced troubles from the Afghan nobles, the Rajputs, and most of all from his brothers who were mean and disloyal to him. Unable to judge the growing power of <b>Sher Shah</b>, Humayun was defeated in the battle of <b>Kanauj in 1540</b>. He became a fugitive and escaped towards Iran via Sindh.</p> <p>While in Sindh, he married a young Persian girl, <b>Hamida Bano</b>, who joined him in his wanderings. A year later in Umerkot in upper Sindh, his first son Akbar was born. Legend has it that Humayun had nothing to give to his followers at this happy occasion except some musk. The musk was broken into pieces and passed among his men. He is reported to have said that one day the fame of the prince would spread like the smell of the musk.</p> <p>For a period of 15 years, the Mughal Empire lay dormant and Sher Shah founded the <b>Suri Dynasty</b>. In 1555 Humayun returned once again, and by his sheer perseverance, was able to recover his kingdom.</p> <p>Although lacking his father's abilities, Humayun was a cultivated gentleman. He was unrivalled in the science of astrology and mathematics. He was very kind towards his brothers; and despite their treachery, forgave them again and again. He possessed a very</p>
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		<p>charitable and magnificent personality.</p> <p>Although Humayun had recovered his kingdom, he was not destined to rule it for long. In January 1556, he met his tragic end by slipping from the famous building known as <b>Din Panah</b>.</p> <p><b>Battle of Chausa</b></p> <p>Sher Shah Suri was an ethnic Peshawari and Humayun belonged to the Mughal dynasty. The <b>battle of Chausa</b> took place 10 miles south of Buxar, which correspond to the modern day state of Uttar Pradesh.</p> <p>Humayun attacked Sher Shah Suri with the intention of bringing the latter's territory under Mughal control. <b>Sher Shah Suri</b> was a master warrior and he convinced the Mughals to form a peace treaty with him.</p> <p>When Humayun turned his attention away from this region, Sher Shah Suri attacked, caught him unaware and defeated him with ease. Humayun fled to Agra and Sher Shah Suri then assumed the title of <i>Farud-din Sher Shah</i>.</p>
3.	<b>Akbar (1556-1605)</b>	<p>Full name Abu'l-Fath Jalal ud-din Muhammad Akbar I</p> <p><b>alaluddin Muhammad Akbar</b> Jalāl ud-Dīn Muhammad Akbar), also known as <b>Akbar the Great</b> (November 23, 1542 – October 27, 1605) was the <b>third Mughal Emperor</b> of India/Hindustan. He was of Timurid descent; the <b>son of Humayun</b>, and the grandson of Babur who founded the dynasty. At the end of his reign in 1605 the Mughal empire covered most of Northern India. Akbar was only thirteen when his father died of an unfortunate accident in the palace at Delhi.</p> <p>Akbar "The Great" was one of the greatest rulers in Indian history. He was born when Humayun and his first wife, Hamida Bano, were fugitives escaping towards Iran. It was during these wanderings that Akbar was born in Umerkot, Sindh, on November 23, 1542. Legend has it that Humayun prophesied a bright future for his son, and thus accordingly, named him Akbar.</p> <p>Akbar was raised in the rugged country of Afghanistan rather than amongst the splendor of the Delhi court. He spent his youth learning to hunt, run, and fight and never found time to read or write. He was the only <b>great Mughal ruler who was illiterate</b>.</p> <p>Akbar was lucky to have <b>bairam Khan</b> as regent in those early teenage years. During the first five years of his rule, Akbar was</p>

assisted and advised by Bahram Khan in running the affairs of the country. Bahram Khan was, however, removed and for a few years Akbar ruled under the influence of his nurse Maham Anga. After 1562, Akbar freed himself from external influences and ruled supreme.

During his reign, Akbar managed to subdue almost all of India, with the remaining areas becoming tributary states. Along with his military conquests, he introduced a series of reforms to consolidate his power. Akbar practiced tolerance aimed at Hindu-Muslim unification through the introduction of a new religion known as Din-i-Ilahi. He appointed nobles and mansabdars without any religious prejudice.

His court had numerous scholars of the day who are well known as "**Nauratan**". Akbar had three sons Prince **Salim, Murad and Daniyal**. Prince **Murad and Daniyal** died in their prime during their father's lifetime. Akbar faced problems with **Prince Salim** and the last four years of Akbar's life were consumed in crushing Salim's rebellion. Akbar fell ill and died of slow poisoning on October 27, 1605. With him ended the most glorious period in Indian history. **Abul Fazal written akbarnama**

Battle of Panipat occurred in November 5, 1556. Emperor Akbar, who was crowned in the same year after his father's death defeated Muhammad Adil Shah Suri of Suri dynasty and his Prime minister Hemu (Hemchandra). This defeat of Muhammad Adil Shah and Hemu initiated Akbar's reign. Humayun, the second Mughal emperor died suddenly on 24th January, 1556 as he slipped from the steps of his library. That time his son Akbar was only thirteen years old boy. Many Mughal Generals advised Akbar and Bairam Khan to retreat to Kabul as Mughal forces may not face Hemu's might and new awareness among Hindus to liberate their country, but Bairam Khan decided in favour of war. Akbar's army marched towards Delhi. On November 5, both armies met at the historic battlefield of Panipat, where, thirty years earlier, Akbar's grandfather Babur had defeated Ibrahim Lodi in what is now known as the First Battle of Panipat. The Mughal forces were charged repeatedly by elephants to break their lines. Hemu was himself commanding his forces from atop an elephant. It seemed Hemu was on a winning track and Akbar's army will run away. However, Bairam Khan, the veteran of many wars and an able general had planned otherwise. With a much smaller army, his plan was clear. The warriors of that time, including Hemu wore armour completely covering their body specially the vulnerable organs except the eyes. After repeated attempts a stray arrow could find Hemu's eye. Hemu, struck in the eye by an arrow was knocked down senseless, almost dead in his Ohda on the elephant. Not seeing Hemu in his Ohda, Hemu's army was in disarray and defeated in the ensuing confusion.

		<p>Almost dead Hemu was captured by Shah Quli Khan and brought to Akbar's tent in the camp located at village Saudhapur in Panipat. General Bairam Khan was desirous that Akbar should slay General Hemu himself and should establish his right to the title of "Ghazi" (Champion of Faith or war veteran). But Akbar, who still was a child, refused to strike a dead enemy, just to be called a Ghazi. Bairam Khan irritated by Akbar's scruples beheaded Hemu himself. The victory of Akbar at the Battle of Panipat in 1556 was the real restoration of the Mughal Dynasty to Power in India. It took Akbar 8 years to capture the territory which was occupied by Hemu Vikramaditya. It marked the fulfillment of the destiny of Mughals in India as</p> <p>The Battle of Haldighati was fought between the Mughal Empire and the forces of Mewar on June 21, 1576 at Haldighati in Rajasthan, India. It was a decisive victory for the Mughal Emperor Jalal ud-Din Muhammad Akbar's general Raja Man Singh against the Maharana Pratap Singh of Mewar. Haldighati, is a small village in the Aravalli Hills about 44 km north of Udaipur. Haldighati, Battle of (June 18, 1576), a four-hour confrontation between the Imperial forces of Mughal Emperor AKBAR and Maharana PRATAP SINGH I (1572-1597) of Mewar. Despite it being an indecisive battle - an inglorious success of sorts for the Mughals and "a glorious defeat" for Mewar - it has entered the annals as one of the kingdom's most memorable episodes</p> <p>Raja Man Singh marched with his Mughal forces from Ajmer on April 3, 1576. On June 21, 1576 (June 18 in other texts), the two armies met at Haldighati, near the town of Gogunda in present-day Rajasthan. While accounts vary as to the exact strength of the two armies, all sources concur that the Mughal forces greatly outnumbered Pratap's men. The battle of Haldighati, lasted only four hours. Both sides fought bravely on the field. Folklore has it that Pratap personally attacked Man Singh: his horse Chetak placed its front feet on the trunk of Man Singh's elephant and Pratap threw his lance; Man Singh ducked, and the mahout or Elephant rider was killed. However, the numerical superiority of the Mughal army and their artillery began to tell. Seeing that the battle was lost, Pratap's generals prevailed upon him to flee the field so as to be able to fight another day. To facilitate Pratap's escape, one of his lieutenants, a member of the Jhala clan, donned Pratap's distinctive garments and took his place in the battlefield. He was soon killed. Meanwhile, riding his trusty steed Chetak, Pratap made good his escape to the hills. Maharana Pratap's son, Amar Singh, fought 17 wars with the Mughals but he conditionally accepted them as rulers. At this time, a large chunk of Maharana Pratap's band of loyal Rajputs became disillusioned and left Rajasthan. This group included Rathores, Deora Chauhans, Pariharas, Tomaras, Kacchwaha and Jhalas. They are called "Rors" and settled mostly in Haryana, with some in Uttar Pradesh and Pakistan</p>
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The **Dīn-i Ilāhī** (دیلا نی "Divine Faith"), was a syncretic religious doctrine propounded by the Mughal emperor Jalālu d-Dīn Muḥammad Akbar ("**Akbar the Great**"), who ruled the Indian subcontinent from 1556 to 1605.

From the discussions he led there in 1575, Akbar concluded that no single religion could claim the monopoly of truth. This inspired him to create the Dīn-i Ilāhī in 1581. Various Muslim clerics, among them the Qadi of Bengal and the seminal Sufi personality Shaykh Ahmad Sirhindi, responded by declaring this to be blasphemy

Akbar not only tolerated religions other than Islam, he encouraged interfaith discussion and debate. After listening to many religious scholars from the prominent religions of his empire (i.e., Islam, Hinduism, Zoroastrianism, and, to a lesser extent Jainism, Christianity and Judaism) he decided that no one faith was entirely and exclusively true; he developed a syncretic religion which he called Din-i Ilahi, "the Divine Faith" and encouraged his subjects to follow it. It combined elements primarily from Islam and Hinduism, but also from Zoroastrianism, Jainism and Christianity. While it never gained a real following, it promoted many universal values found in these religions, including compassion, piety, abstinence and prudence. It forbade celibacy and animal slaughter.

Every official in the Mughal empire, high or low, had a rank or a **mansab**. Their status, duties, pay and importance were graded accordingly. Technically, all mansabdars had to maintain a military contingent for which they were paid. All other officials were paid in cash. During Akbar's time the official bearing a decimal rank of 500 were ranked as a noble nor umara. But by the end of the seventeenth century the mansabdars with 1000 rank were accorded the status of a umara.

All mansabdars had dual ranks and they were remunerated on that basis. The successful regulation of the mansabs and the salary assignment (jagirdari system) can be truly termed as a Mughal phenomenon

All Mughal officials received a dual rank when they joined the Mughal imperial service. That was zat (personal salary) and sawar (payment for the military contingent). For example the mansab of Prince Salim (Jahangir) was 5000 zat/ 5000 sawar. What does it mean: Prince Salim's personal salary was based on his mansab of 5000 zat and for 5000 sawar, he had to maintain a military contingent.

During Akbar's reign the ratio was one horsemen and two horses and a mansabdar of 5000 sawar had to maintain a contingent of

		<p>5000 horsemen. The mansabdars zat rank never exceeded his sawar rank (either it used to be equal 5000/5000 or 3000/ 4000 or less than the sawar rank). The zat numerals were always used to be stated first.</p> <p>The highest rank (mansab) was 7000/7000 which was awarded to the officials/royalty</p> <p>From the point of view of the Muslim rulers, <b>jizya</b> was a material proof of the non-Muslims' acceptance of subjection to the state and its laws, "just as for the inhabitants it was a concrete continuation of the taxes paid to earlier regimes.</p> <p>In return, non-Muslim citizens were permitted to practice their faith, to enjoy a measure of communal autonomy, to be entitled to Muslim state's protection from outside aggression, to be exempted from military service and the Zakat as obligatory upon Muslim citizens.</p> <p>Jizya was applied to every free adult male member of the People of the Book. Slaves, women, children, the old, the sick, monks, hermits and the poor, were all exempt from the tax, unless any of them was independent and wealthy. Some Muslim rulers also collected <i>jizya</i> from Hindus and Sikhs (other monotheistic religion) under their rule. The collection of the tax was sometimes the duty of the elders of those communities, but often it was collected directly from individuals, in accordance with specific payment rituals described in the writings of Muslim jurists..</p> <p>In India, Islamic rulers imposed <i>jizya</i> starting in the 11th century. It was abolished by Akbar. However, Aurangzeb, the last prominent Mughal Emperor, levied <i>jizya</i> on his mostly Hindu subjects in 1679. Reasons for this are cited to be financial stringency and personal inclination on the part of the emperor, and a petition by the <i>ulema</i>. His subjects were taxed in accordance with the property they owned. Government servants were exempt, as were the blind, the paralyzed, and the indigent. Its introduction encountered much opposition, which was, however, overborne. Certain historians are of the view that the tax was aimed at forcibly converting Hindus to Islam..</p>
4.	<b>Jahangir (1605-1627)</b>	<p>Nur-ud-din Salim Jahangir (full title: <b>Al-Sultan al-'Azam wal Khaqan al-Mukarram, Khushru-i-Giti Panah, Abu'l-Fath Nur-ud-din Muhammad Jahangir Padshah Ghazi</b> [Jannat-Makaani]) (September 20, 1569 – November 8, 1627) (OS August 31, 1569 – NS November 8, 1627) was the ruler of the Mughal Empire from 1605 until his death. The name Jahangir is from Persian meaning "<b>Conqueror of the World</b>". <b>Nur-ud-din or Nur al-Din</b> is an Arabic name which means "<b>Light of the Faith</b>." Born as Prince <b>Muhammad Salim</b>, he was the third and eldest surviving son of Mogul Emperor Akbar. Akbar's twin sons, <b>Hasan and Hussain</b>, died in infancy. His mother was the</p>

Rajput Princess of Amber, **Jodhabai** (born Rajkumari **Hira Kunwari**, eldest daughter of Raja Bihar Mal or **Bharmal, Raja of Amber, India**)

The child was named Salim after the darvesh and was affectionately addressed by Akbar as **Sheikhu Baba**.

The marriage with Manbhawati Bai took place on February 13, 1585. Manbhawati gave birth to Khusrau Mirza. Thereafter, Salim was allowed to marry, in quick succession, a number of accomplished girls from the aristocratic Mughal and Rajput families. One of his favourite wives was a Rajput Princess, known as Jagat Gosain and Princess Manmati, who gave birth to Prince Khurram, the future Shah Jahan, Jahangir's successor to the throne. The total number of wives in his harem was more than eight hundred.

Jahangir married the extremely beautiful and intelligent Mehr-ul-Nisa (better known by her subsequent title of Nur Jahan), in May 1611. She was the widow of Sher Afghan. She was witty, intelligent and beautiful, which was what attracted Jahangir to her. Before being awarded the title of Nur Jahan ('Light of the World'), she was called Nur Mahal ('Light of the Palace'). Her abilities are said to range from fashion designing to hunting. There is also a myth that she had once killed four tigers with six bullets.

#### Death

The health of Jahangir was completely shattered by too much drinking of alcohol. He was trying to restore it by visiting Kashmir and Kabul. He went from Kabul to Kashmir but returned to Lahore on account of a severe cold. Jahangir died on the way from Kashmir in 1627 and was buried in Shahdara Bagh, a suburb of Lahore, Punjab. He was succeeded by his third son, Prince Khurram who took the title of Shah Jahan. Jahangir's elegant mausoleum is located in the Shahdara locale of Lahore and is a popular tourist attraction in Lahore. On his death in 1627 he uttered 'Kashmir only Kashmir'.

In 1600, when Akbar was away from the capital on an expedition, Salim broke into an open rebellion, and declared himself Emperor. Akbar had to hastily return to Agra and restore order. There was a time when Akbar thought of putting his eldest grandson Khusrau Mirza on the throne instead of Salim. Prince Salim forcefully succeeded to the throne on November 3, 1605, eight days after his father's death. Salim ascended to the throne with the title of Nur-ud-din Muhammad Jahangir Badshah Ghazi, and thus began his 22-year reign at the age of 36. Jahangir soon after had to fend off his son, Prince Khusrau Mirza, when he attempted to claim the

throne based on Akbar's will to become his next heir. Khusrau Mirza was defeated in 1606 and confined in the fort of Agra. As punishment Khusrau Mirza was blinded, and the Sikh Guru Arjun (the religious spiritual head of the sect at the time) was put to death, for giving the then fugitive Khusrau Mirza money when he visited Guru Arjun. In 1622, Khurram (Shah Jahan), younger brother of Khusrau Mirza, had Khusrau murdered in a conspiracy to eliminate all possible contenders to the throne. Taking advantage of this internal conflict, the Persians seized the city of Qandahar and as a result of this loss, the Mughals lost control over the trade routes to Afghanistan, Persian and Central Asia and also exposed India to invasions from the north-west.

Jahangir promised to protect Islam and granted general amnesty to his opponents. He was also notable for his patronage of the arts, especially of painting. During his reign the distinctive style of Mughal painting expanded and blossomed. Jahangir supported a flourishing culture of court painters.

Jahangir is most famous for his golden "chain of justice." The chain was setup as a link between his people and Jahangir himself. Standing outside the castle of Agra with sixty bells, anyone was capable of pulling the chain and having a personal hearing from Jahangir himself.

Sovereignty, according to Jahangir, was a "gift of God" not necessarily given to enforce God's law but rather to "ensure the contentment of the world." In civil cases, Islamic law applied to Muslims, Hindu law applied to Hindus, while criminal law was the same for both Muslims and Hindus[citation needed]. In matters like marriage and inheritance, both communities had their own laws that Jahangir respected. Thus Jahangir was able to deliver justice to people in accordance of their beliefs, and also keep his hold on empire by unified criminal law.

Jahangir's relationship with other rulers of the time is one that was well documented by Sir Thomas Roe, especially his relationship with the Persian King, Shah Abbas. Though conquest was one of Jahangir's many goals, he was a naturalist and lover of the arts and did not have quite the same warrior ambition of the Persian king. This led to a mutual enmity that, while diplomatically hidden, was very clear to a number of his observations are detailed in **Tuzk-e-Jahangiri**, also referred to as *Jahangirnama*. He liked paintings and collected many of them in his palace. Some of them are still found in museums. observers within Jahangir's court.

A number of his observations are detailed in **Tuzk-e-Jahangiri**, also referred to as *Jahangirnama*. He liked paintings and collected

		<p>many of them in his palace. Some of them are still found in museums</p> <p>Jahangir was certainly willing to engage with other religions. When drunk, Jahangir swore to Sir Thomas Roe, England's first ambassador to the Mughal court, that he would protect all the peoples of the book. Many contemporary chroniclers were not even sure quite how to describe his personal belief structure. Roe labelled him an atheist,</p> <p>Most notorious was the execution of the Sikh Guru Arjun. It is unclear that Jahangir even understood what a Sikh was, referring to Guru Arjun as a Hindu, who had "captured many of the simple-hearted of the Hindus, and even of the ignorant and foolish followers of Islam, by his ways and manners ... for three or four generations (of spiritual successors) they had kept this shop warm." The trigger for Guru Arjun's execution was his support for Jahangir's rebel son Khusrau Mirza, yet it is clear from Jahangir's own memoirs that he disliked Guru Arjun before then: "many times it occurred to me to put a stop to this vain affair or bring him into the assembly of the people of Islam."</p> <p>Guru Arjun was handed over to the Mughal governor of Lahore, and was tortured to death for refusing to convert to Islam. Jahangir ordered his execution, but it is unlikely that he also ordered Guru Arjun to be tortured and converted, for two reasons; one, because we have no other examples from Jahangir's generally tolerant reign to support the idea that he forced people to convert to Islam, and two, because Jahangir makes no note of Guru Arjun's torture, yet cheerfully describes the torture of two other rebels, as well as Guru Arjun's execution. Jahangir maintained his hostility towards the Sikhs, imprisoning Guru Hargobind, the successor of Guru Arjun, for several years</p> <p>Such a religious situation allowed the more recently arrived form of Christianity to have opportunity to grow. Jahangir did not seem to have anything against Christianity. He wrote fondly of Akbar's reign, when "Sunnis and Shias met in one mosque, and Franks and Jews in one church, and observed their own forms of worship." Roe noted that "of Christ he never utters any word unreverently." His prayer room in Agra contained pictures of "our Lady and Christ." In the imperial palace in Lahore, over one of the doors, according to William Finch, a merchant, was "the Picture of our Saviour," with an image of the Virgin Mary facing it. Elsewhere, the emperor had pictures of angels and demons, with the demons having a "most ugly shape, with long hornes, staring eyes ... with such horrible difformity and deformity, that I wonder the poore women are not frightened therewith."</p> <p>There was even some baseless suggestion that Jahangir had converted to Christianity. Thrown by the religious tolerance of</p>
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		Akbar and Jahangir's rule, the Jesuits had long thought that they were always on the verge of conversion
5.	<b>Shah Jahan (1627-1658)</b>	<p>Full name -Shahab-ud-din Muhammad Shah Jahan Prince Khurram was 35 years old when he ascended the throne as Shah Jahan (King of the World). Succeeding Jahangir in 1627, Shah Jahan enjoyed the support of experienced administrators and advisors -- like his father-in-law Asaf Khan -- who were holdovers from the previous reign.</p> <p>In 1607 CE (1025 AH), at the age of fifteen, Khurram was to marry Arjumand Banu Begum, the grand daughter of a Persian noble, who was 14 years old at the time. She would become the unquestioned love of his life. They would, however, have to wait five years before they were married in 1612 CE. After their wedding celebrations, Khurram "finding her in appearance and character elect among all the women of the time," gave her the title</p> <p>Mumtāz Mahal (April, 1593 - 17 June 1631) pronounced ; meaning "beloved ornament of the palace" is the common nickname of Arjumand Banu Begum, an Empress of India during the Mughal Dynasty. She was born in Agra, India. Her father was the Persian noble Abdul Hasan Asaf Khan, the brother of Empress Nur Jehan. She was married at the age of 19, on 10 May 1612, to Prince Khurram, who would later ascend the Peacock Throne as Mughal Emperor Shah Jahan I</p> <p>Mumtaz died in Burhanpur in 1631 AD (1040 AH), while giving birth to their fourteenth child. She had been accompanying her husband whilst he was fighting a campaign in the Deccan Plateau. Her body was temporarily buried at Burhanpur in a walled pleasure garden known as Zainabad originally constructed by Shah Jahan's uncle Daniyal on the bank of the Tapti River. The contemporary court chroniclers paid an unusual amount of attention to Mumtaz Mahal's death and Shah Jahan's grief at her demise. In the immediate aftermath of his bereavement, the emperor was reportedly inconsolable. Apparently after her death, Shah Jahan went into secluded mourning for a year. When he appeared again, his hair had turned white, his back was bent, and his face worn. Jahan's eldest daughter, the devoted Jahanara Begum, gradually brought him out of grief and took the place of Mumtaz at court.</p> <p>During the early years of his reign, Shah Jahan preferred Agra to Delhi as a place of residence. This preference is reflected in his selection of Agra as the site for a number of building ventures including the world's most famous and beautiful mausoleum, Taj</p>

		<p><b>Mahal.</b><b>Shah Jahan is in the first rank of Indian rulers.</b></p> <p>In 1638, Shah Jahan moved his capital from Agra to a city in Delhi. Known as Shahjahanabad, the new capital city was laid out under the emperor's auspices from 1639-1648.</p> <p>From Shah Jahan to the end of the Mughal line the famous Red Fort was heart of the empire and the principal residence of the emperors. Hambly writes that in the 17th century, at the height of the Mughals' power, the Red Fort constituted not only the esidence of the emperor and his court but also housed the central dministrative machinery of the empire, a military garrison, an arsenal, the imperial treasury, factories (karkhaneh) for the manufacture of luxury commodities, and much more.</p> <p>Shah Jahan, like his father Jahangir, was a notable patron of gardens.<b>Lahore</b> is also another site of the greatest of the Mughal water gardens known as Shalimar (Abode of Bliss), Brend (1991) notes. The garden was constructed in 1642</p> <p>During Shah Jahan's reign, the Mughals penetrated deeper into the Deccan and the successful campaign in 1636 forced the state ruled by Adil Shah to acknowledge Mughal dominance. Shah Jahan returned north to concentrate on his new capital at Shahjahanabad, while his son, the young prince Aurangzeb, was appointed viceroy and commander-in-chief of Mughal forces in the Deccan.From an early age, <b>Shah Jahan's four sons, Dara Shukoh, Shah Shuja, Aurangzeb, and Murad Bakhsh</b>, grew up in an atmosphere of bitter rivalry.Dara Shukoh, Shah Jahan's favorite and his heir, was a man of broad intellectual interests</p> <p>Children</p> <ol style="list-style-type: none"> <li>1. Shahzadi Huralnissa Begum (1613</li> <li>2. Shahzadi (Imperial Princess) Jahanara Begum ) (1614</li> <li>3. Shahzada (Imperial Prince) Dara Shikoh (1615</li> <li>4. Shahzada Mohammed Sultan Shah Shuja (1616</li> <li>5. Shahzadi Roshanara Begum (1617</li> <li>6. Badshah Mohinnudin Mohammed Aurangzeb (1618</li> <li>7. Shahzada Sultan Ummid Baksh (1619</li> <li>8. Shahzadi Surayya Banu Begum (1621</li> <li>9. Shahzada Sultan Murad Baksh (1624</li> <li>10. Shahzada Sultan Luftallah (1626</li> <li>11. Shahzada Sultan Daulat Afza (1628</li> <li>12. Shahzadi Husnara Begum (1630</li> <li>13. Shahzadi Gauhara Begum (1631</li> </ol>
6.	<b>Aurangzeb (1658-1707)</b>	Full Name-Abul Muzaffar Muhiuddin Muhammad Aurangzeb Alamgir

**Muhi Uddin Muhammad Aurangzeb Bahadur Alamgir I**, more commonly known as **Aurangzeb** (full title: **Al-Sultan al-Azam wal Khaqan al-Mukarram Abul Muzaffar Muhi ud-din Muhammad Aurangzeb Bahadur Alamgir I, Badshah Ghazi**) (4 November, 1618 – 3 March 1707), also known by his chosen imperial title **Alamgir I (Conqueror of the World)** (Persian: was the **6th Mughal Emperor** whose reign lasted from **1658 until his death in 1707**. Aurangzeb's reign as the Mughal monarch was marked by many wars of expansion.

**Aurangzeb**, having ruled most of the Indian subcontinent for nearly half a century, was the **second longest reigning Mughal emperor after Akbar**. In this period he successfully brought a larger area, notably in southern India, under Mughal rule than ever before. A devout Muslim, Aurangzeb tried to force all his people to follow the doctrines of Islam. He destroyed many Hindu and Sikh scriptures and works of art because he feared that they might be worshipped as idols.

Aurangzeb was the third son of the fifth Mughal emperor Shah Jahan and **Mumtaz Mahal (Arjumand Bānū Begum)**. After a rebellion by his father, part of Aurangzeb's childhood was spent as a virtual hostage at his grandfather Jahangir's court. **Muhammad Saleh Kamboh Salafi** had been one of his childhood teachers.

After **Jahangir's death** in 1627, Aurangzeb returned to live with his parents. Shah Jahan followed the Mughal practice of assigning authority to his sons, and in 1634 put Aurangzeb in charge of the Deccan campaign. Following his success in 1636, Aurangzeb became **Subahdar** (governor) of the Deccan. At this time, he began building a new city near the former capital of Khirki which he named Aurangabad after himself. In 1637, he married **Rabia Durrani**. During this period the Deccan was relatively peaceful. In the Mughal court, however, Shah Jahan began to show greater and greater favoritism to his eldest son **Dara Shikoh**.

In 1644, Aurangzeb's sister **Jahanara Begum** was accidentally burned in Agra. This event precipitated a family crisis which had political consequences. Aurangzeb suffered his father's displeasure when he returned to Agra three weeks after the event, instead of immediately. Shah Jahan dismissed him as the governor of the Deccan. Aurangzeb later claimed (1654) that he had resigned in protest of his father favoring Dara.

In 1645, he was barred from the court for seven months. But later, Shah Jahan appointed him governor of Gujarat; he performed well and was rewarded. In 1647, Shah Jahan made him governor of Balkh and Badakhshan (in modern Afghanistan and Tajikistan), replacing Aurangzeb's ineffective brother Murad Baksh. These

		<p>areas at the time were under attack from various forces and Aurangzeb's military skill proved successful.</p> <p>He was appointed governor of Multan and Sindh, and began a protracted military struggle against the Safavid army in an effort to capture the city of Kandahar. He failed, and fell again into his father's disfavour.</p> <p>In 1652, Aurangzeb was re-appointed governor of the Deccan. In an effort to extend the empire, Aurangzeb attacked the border kingdoms of Golconda (1657), and Bijapur (1658). Both times, Shah Jahan called off the attacks near the moment of Aurangzeb's triumph. In each case Dara Shikoh interceded and arranged a peaceful end to the attacks.</p> <p>In a sudden reversal, Aurangzeb arrested his brother Murad, whose former supporters defected to Aurangzeb in return for rich gifts</p> <p>With Shuja and Murad disposed of, and with his father Shah Jahan confined in Agra, Aurangzeb pursued Dara, chasing him across the north-western bounds of the empire. After a series of battles, defeats and retreats, Dara was betrayed by one of his generals, who arrested and bound him. In 1659, Aurangzeb arranged his formal coronation in Delhi. He had Dara openly marched in chains back to Delhi; when Dara finally arrived, Aurangzeb had him executed on August 30, 1659. Having secured his position, Aurangzeb kept an already weakening Shah Jahan under house arrest at the Agra Fort. Shah Jahan died in 1666.</p> <p>Deccan wars and the Rise of the Marathas</p> <p>In the time of Shah Jahan, the Deccan had been controlled by three Muslim kingdoms: Ahmednagar (Nizams), Bijapur (Adilshahi) and Golconda (Qutbshahi). Following a series of battles, Ahmendnagar was effectively divided, with large portions of the kingdom ceded to the Mughals and the balance to Bijapur. One of Ahmednagar's generals, a Hindu Maratha named Shahaji, joined the Bijapur court. Shahaji sent his wife Jijabai and young son Shivaji in Pune to look after his Jagir.</p> <p>In 1657, while Aurangzeb attacked Golconda and Bijapur, Shivaji, using guerrilla tactics, took control of three Adilshahi forts formerly controlled by his father. With these victories, Shivaji assumed de facto leadership of many independent Maratha clans.</p> <p>Just before Shivaji Raje's his coronation in 1659, Aurangzeb sent his trusted general and maternal uncle Shaista Khan to the Deccan to recover his lost forts. Shaista Khan drove into Maratha territory and took up residence in Pune.</p>
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Aurangzeb ignored the rise of the Marathas for the next few years. Shivaji continued to capture forts belonging to both Mughals and Bijapur. At last Aurangzeb sent his powerful general Raja Jai Singh of Amber, a Hindu Rajput, to attack the Marathas. Jai Singh's blistering attacks were so successful that he defeated Shivaji and had him arrested. Shivaji agreed becoming a Mughal vassal. Jai Singh also promised the Maratha hero his safety, placing him under the care of his own son, the future Raja Ram Singh I. However, circumstances at the Mughal court were beyond the control of the Raja, and when Shivaji and his son Sambhaji went to Agra to meet Aurangzeb, they were placed under house arrest, from which they managed to effect a daring escape.

In 1689 Aurangzeb captured and had Sambhaji killed. Sambhaji's successor chhatrapati Rajaram and his, Maratha Sardars (commanders) fought individual battles against the Mughals, and territory changed hands again and again during years of endless warfare.

Now let us deal with Aurangzeb's imposition of the jizya tax which had drawn severe criticism from many Hindu historians. It is true that jizya was lifted during the reign of Akbar and Jahangir and that Aurangzeb later reinstated this. Before I delve into the subject of Aurangzeb's jizya tax, or taxing the non-Muslims, it is worthwhile to point out that jizya is nothing more than a war tax which was collected only from able-bodied young non-Muslim male citizens living in a Muslim country who did not want to volunteer for the defense of the country. That is, no such tax was collected from non-Muslims who volunteered to defend the country. This tax was not collected from women, and neither from immature males nor from disabled or old male citizens. For payment of such taxes, it became incumbent upon the Muslim government to protect the life, property and wealth of its non-Muslim citizens. If for any reason the government failed to protect its citizens, especially during a war, the taxable amount was returned.

It should be pointed out here that zakat (2.5% of savings) and 'ushr (10% of agricultural products) were collected from all Muslims, who owned some wealth (beyond a certain minimum, called nisab). They also paid sadaqah, fitrah, and khums. None of these were collected from any non-Muslim. As a matter of fact, the per capita collection from Muslims was several fold that of non-Muslims. Further to Aurangzeb's credit is his abolition of a lot of taxes, although this fact is not usually mentioned. In his book Mughal Administration, Sir Jadunath Sarkar, foremost historian on the Mughal dynasty, mentions that during Aurangzeb's reign in power, nearly sixty-five types of taxes were abolished, which resulted in a yearly revenue loss of fifty million

		<p>rupees from the state treasury.</p> <p>While some Hindu historians are retracting the lies, the textbooks and historic accounts in Western countries have yet to admit their error and set the record straight.</p> <p><b>views on the Jizya (poll tax)</b></p> <p>Aurangzeb again increase zizya tax.. Of all the Muslim rulers who ruled vast territories of India from 712 to 1857 CE, probably no one has received as much condemnation from Western and Hindu writers as Aurangzeb. He has been castigated as a religious Muslim who was anti-Hindu, who taxed them, who tried to convert them, who discriminated against them in awarding high administrative positions, and who interfered in their religious matters. This view has been heavily promoted in the government approved textbooks in schools and colleges across post-partition India (i.e., after 1947). These are fabrications against one of the best rulers of India who was pious, scholarly, saintly, un-biased, liberal, magnanimous, tolerant, competent, and far-sighted.</p> <p>Most Hindus like Akbar over Aurangzeb for his multi-ethnic court where Hindus were favored. Historian Shri Sharma states that while Emperor Akbar had fourteen Hindu <i>Mansabdars</i> (high officials) in his court, Aurangzeb actually had 148 Hindu high officials in his court. (Ref: <i>Mughal Government</i>) But this fact is somewhat less known.</p>
7.	<b>Bahadur Shah I (1707-1712)</b>	<p>Bahadur Shah Bahādur Shāh) (14 October, 1643, Burhanpur–27 February, 1712, Lahore) was a Mughal Emperor, who ruled India from 1707 to 1712. His original name was Qutb ud-Din Muhammad Mu'azzam later titled as Shah Alam by his father. He took the throne name Bahadur Shah in 1707. His name Bahādur means "braves" in Persian. Bahadur Shah, who is commonly neglected because his reign lasted just five years, completes the gallery of the great Mughals .He was an old man of 63 when he came to power but his achievements in those five years would have done credit to most men in their prime. He made settlements with the implacable Marathas, tranquilized the Rajputs, added Assam to the Mughal Empires and became friendly with the Sikhs in the Punjab. He was travelling throughout his reign and only came to rest in Lahore in the last few months of his life</p> <p>After Aurangzeb's death, Muazzam Bahadur Shah took the throne. A war of succession began immediately after Aurangzeb died. One younger brother, Prince Azam Shah, proclaimed himself emperor and marched towards Delhi, where he unsuccessfully fought Bahadur Shah and died after a nominal reign of three months. Another brother, Muhammad Kam Baksh, was killed in</p>

		<p>1709. Aurangzeb had imposed Sharia law within his kingdom with harsh enforcement of strict edicts. This led to increased militancy by many constituencies including the Marathas, the Sikhs and the Rajputs. Thus, rebellion was rife at the time of Aurangzeb's death and Bahadur Shah inherited a very unstable polity. A more moderate man than his father, Bahadur Shah sought to improve relations with the militant constituencies of the rapidly crumbling kingdom. Bahadur Shah constantly struggled with the rise of Sikh strength, with the Sikh General Banda Singh Bahadur being a constant threat to the empire. He was able to gain control over Assam purely because of the assistance he got from his son, Azim-ush-Shan. Bahadur Shah never abolished jizyah, but the effort to collect the tax became ineffectual. Support to music was apparently renewed during his brief rule of five years. There was no destruction of temples in his reign. During Bahadur Shah's brief reign of five years, although the empire remained united, factionalism in the nobility reached a new height. However, he could do little to mitigate the damage already done by his father. After his short reign of less than five years, the Mughal Empire entered a long decline, attributable both to his old age and to his father's geographical overextension. Reports are that he was courageous and intelligent, but that his father's repressions had harmed his abilities. All accounts agree in representing Bahadur Shah as a man of mild and equable temper, learned, dignified, disciplined, magnanimous and generous to a fault. Although not a great sovereign like his predecessors, Bahadur Shah may be called, at least in comparison with his successors, a fairly successful one. According to many historians Bahadur Shah was the last major Mughal emperor as the rulers who succeeded him were either proxies or puppets of some influential regional chieftains and their influence was hardly felt outside the imperial capital city of Delhi. Bahadur Shah hardly shared Aurangzeb's orthodox views. Unlike his father, Aurangzeb, he was a liberal Sufi in outlook. In fact, it is true that after his sudden death the disintegration of the Mughal Empire became very much evident.</p>
8.	<p><b>Jahandar Shah (1712-1713)</b></p>	<p>Jahandar Shah (1661-1713) was a Mughal Emperor who ruled Hindustan for a brief period in 1712-1713 CE.</p> <p>Jahandar Shah was born on May 10, 1661, a son of the emperor Bahadur Shah I. Upon the death of their father on 27 February 1712, he and his brother Azim-ush-Shan both declared themselves emperor and conducted a struggle for the succession. Azim-ush-Shan was killed on 17 March 1712 and Jahandar Shah was able to rule for a further eleven months. His court was depraved.</p>

		<p>He was a mere puppet in the hands of his favourite wife, <b>Lal Kunwar</b>, who, before her elevation to the position of Queen Consort was a mere dancing girl. Her children were promoted to the highest offices of the Empire. He was defeated in the battle at Agra on 10 January 1713 by Farrukhsiyar, his nephew the second son of Azim-ush-shan, with the support of the Sayyid Brothers. He fled to Delhi, from where he was captured and handed over to the new Emperor, who confined him along with Lal Kunwar. He lived in confinement for a month, until 11 February 1713, when professional stranglers were sent to murder him. When the stranglers were admitted into the prison, Lal Kunwar shrieked, "clasped hold of her lover and refused to let go." Violently forcing the two apart, they laid hands on Jahandar Shah and finished him off. His head was severed and presented to Farruksiyar, while his body was taken to Humayun's Tomb and interred there. Lal Kunwar was sent to "suragpura" (Hamlet of Happy Wives), where the widows of previous emperors lived in retirement. Before coming to the throne, Jahandar Shah had sailed around the Indian ocean, and had been a very prosperous trader. He was the father of three sons, including, Aziz-ud-Din, or Alamgir II, who reigned as Mughal emperor between 1754 and 1759.</p>
<p>9.</p>	<p><b>Furrukhsiyar (1713-1719)</b></p>	<p>Abu'l Muzaffar Muin ud-din Muhammad Shah Farrukh-siyar Alim Akbar Sani Wala Shan Padshah-i-bahr-u-bar [Shahid-i-Mazlum] (or Farrukhsiyar, August 20, 1685 - April 19, 1719) was the Mughal emperor between 1713 and 1719. Noted as a handsome but weak ruler, easily swayed by his advisers, Farukhsiyar lacked the ability and character to rule independently. His reign witnessed the primacy of the Syed Brothers who became the effective powers of the land, behind the façade of Mughal rule.</p> <p>Farrukhn Siyar was born at Aurangabad in the Deccan on September 11, 1683. He was the second son of Azim ush Shan, a son of former emperor Bahadur Shah I. His mother was Sahiba Niswan, a sister of Nawab Shaista Khan, the erstwhile Mughal Subedar of Kashmir. He married his first wife, Nawab Fakhr-un-Nisa Begum Sahiba, daughter of Nawab Sa'adat Khan Bahadur [Mir Muhammad Taqi Husaini], a Kashmiri nobleman from the Marashi clan, sometime prior to December, 1715. In September 1715, Farrukhsiyar married Indira Kanwar, daughter of Maharaja Ajit Singh of Jodhpur. He was also married to at least one other lady.</p> <p><b>Trade concessions</b></p>

		<p>It was during Farrukhsiyar's reign, in 1717, that the British East India Company purchased duty-free trading rights in all of Bengal for a mere three thousand rupees a year. It is said that the Company's surgeon, William Hamilton, cured Farrukhsiyar from some ailment and the emperor was moved to grant trading rights to the Company. Another story tells of a bribe to a eunuch of the seraglio and a rumoured British Naval attack on the Moghul navy at Surat.</p> <p>This order, which the Company hailed as the golden firman, was not of much practical use. Even though the Company claimed duty exemptions based on this firman, the Mughal governors of Bengal, from Murshid Quli Khan onwards, ignored this order of their suzerain and continued to collect customs duty from the East India Company.</p> <p><b>Furrukhsiyar Reign</b></p> <p>Jahandar Shah was defeated at Samugarh near Agra on 10 January 1713. Following this, the Syed Brothers, helped Farukhsiyar to secure his throne. He took the throne On January 11, 1713, at the age of 30. His reign marked the ascendancy of the <b>Syed Brothers</b> who monopolized state power and reduced the Emperor to an effective figurehead. The town of <b>Farrukhnagar</b> in Gurgaon district, 32 km south of Delhi, was rechristened after his name, during his reign, here he built a <b>Sheesh Mahal</b> and also a <b>mosque</b>.</p> <p>In 1717 he(furrukhsiyar) granted a firman to the <b>English East India Company</b> granting them duty free trading rights for Bengal, and confirmed their position in India.</p> <p><b>Furrukhsiyar Death</b></p> <p>However Farrukhsiyar in the very short term met a humiliating and bloody end, his constant plotting eventually led the Syed Brothers to officially depose him as the Emperor. Farrukhsiyar was imprisoned and starved; later, on February 28, 1719, he was blinded with needles at the orders of the Syed Brothers. Farrukhsiyar was strangled to death on the night of April 27/28, 1719. After accomplishing his assassination, the Syed Brothers placed his first-cousin, Rafi Ul-Darjat on the throne. Rafi-ud-durjat's father and Farukhsiyar's father had been brothers.</p>
10.	<b>Rafi-ul-Darjat (1719)</b>	<p><b>Rafi-ul Darjat</b>, youngest son of <b>Rafi-us-shaan</b> (brother of Azim ush Shan) was the 10th Mughal Emperor. He was born on 30 November 1699, and succeeded Furrukhsiyar on 28 February 1719, being proclaimed Badshah by the Syed Brothers.</p> <p>Role of the Syed Brothers.</p>

		<p>As Rafi-ul Darajat owed his throne to the Syed Brothers they took full advantage of this. They wanted him to be a puppet ruler and so took steps to curtail his power, the previous emperor Furrukhsiyar was deposed by the Syed Brothers as he had tried to maintain his independence. rafi ul darjat is <b>10th mughal emperor</b>.</p> <p>On one occasion a warrant of appointment, having been signed by the Emperor, a second was brought to him the next day by the Wazir, giving the appointment to someone else. The emperor asked, "Is this the same village or some other village by the same name?" On being told that it was the same, but this new man was more suitable for the post because he offered more money, the Emperor refused to sign it, saying it was foolish to act this way. He was also slighted by the Syed Brothers. Once, Husain Ali Khan sat in his presence without his permission (which was contrary to the royal etiquette). In response, the emperor requested him to take off his (the emperor's) stockings [moza]. Although inwardly boiling, Husain was forced to comply. His younger brother went a step forward, flirting with Inayat Banu, the emperor's wife, saying that he had fallen in love with her "long curling locks." So the former cut her "locks" off, and sent them to her lover</p> <p>Rival claim to throne          .The reign of Rafi Ul-Darjat was one of turbulence. On 18 May 1719, less than three months after his own accession, Rafi Ul-Darjat's uncle, Nekusiyar assumed the throne at the Agra Fort as he thought he had more right to the throne than the "new born child".i.e. Rafi Ul-Darjat. (Nekusiyar was twenty years older than the former). The Syed Brothers were extremely determined, of course, to defend the emperor they had raised to the throne and punish the offender. In this they easily and swiftly succeeded, and only three months after Nekusiyar's enthronement, the fort surrendered and Nekusiyar was captured. He was respectfully received by the Amir Ul-Umara, and confined at Salimgarh where he died in 1723. Meanwhile, Rafi Ul-Darjat had died. His lungs had failed. When it became clear that he was dying, he requested that his elder brother be raised to the throne, so that he could die a happy man. Accordingly, on 4 June 1719, after a reign of 3 months and four days, he was dethroned and sent to the "haram". Two days later his brother, Rafi Ul-Daulah was enthroned. Thus delighted, Rafi Ul-Darjat died five days later. His remains were interred near the shrine of Khawaja Qutub ud-din in Delhi</p>
<b>11.</b>	<b>Rafi-ud-</b>	<b>Rafi- ud- Daulah</b> also known as <b>Shah Jahan II</b> (born 1696) was

	<b>Daulat (1719)</b>	<p>Mughal emperor for a brief period in 1719. He succeeded his short-lived brother Rafi Ul-Darjat in that year, being proclaimed Badshah by the Syed Brothers. Like his brother, he also died in 1719 at Delhi, being deposed and killed at the behest of the Syed Brothers.</p> <p>After his death he was succeeded by the unfortunate Nikusiyar who was a nominal sovereign (and whose reign is sometimes discounted).</p>
12.	<b>Nikusiyar (1719)</b>	<p><b>Neku Siyar</b> or <b>Nikusiyar Mohammed</b> was the <b>12th Mughal Emperor</b>. He took the throne in 1719 at the age of 40 plus. He was son of rebel Muhammad Akbar, son of Aurangzeb and was brought up in a harem in Agra. The local Minister Birbal (not the Birbal of Akbar's fame) used him as puppet and proclaimed him emperor. But as the prince had spent his life inside harem and talked like a catamite, he was laughingly ignored and again put in jail by the Syed Brothers. He died around 1743 at age of 63.</p>
13.	<b>Muhammad Ibrahim (1720)</b>	<p><b>Mohammed Ibrahim</b> was the 13th Mughal emperor. The brother of Rafi Ul-Darjat and Rafi Ud-Daulat, he took the throne in 1720, after a war of succession to inherit the short-lived Furrukhsiyar throne against the Syed Brothers. He was the claimant of the Syed Brothers after Muhammad Shah joined <b>Nizam ul-Mulk Chin Kilich Khan</b> Mir Qamar ud-Din Khan's camp. After the Syed Brothers' defeat, he was sent back to harem. He died in 1744.</p>
14.	<b>Muhammad Shah (1719-1748)</b>	<p>Muhammad Shah (1748 – 1702) also known as Roshan Akhtar was a Mughal emperor of India between 1719 and 1748. He was son of Khujista Akhtar Jahan Shah, the 4th son of Bahadur Shah I. Ascending the throne at the age of seventeen with the help of the Syed Brothers, he later got rid of them with the help of Nizam ul Mulk Chin Qilich Khan. He was nicknamed as <b>Rangeela</b> meaning merry-maker by many historians.</p> <p><b>Reign</b></p> <p>During his reign, the Mughal empire eventually broke up into a loosely-knit collection of several regional states, each with its own ruler, thus declining the authority of the emperor into a greater extent</p> <p>In 1722, Muhammad Shah got rid of the Syed Brothers. The following year he lost Malwa to the Marathas. In 1725, the Marathas took Gujrat. In 1737, the Mughal emperor Muhammad Shah had to fight the Marathas once again. He asked the Nizam-ul-Mulk to help him. Both forces fought the Marathas at Bhopal but were defeated. Under the terms of a treaty, Muhammad Shah gave the Marathas 5 million rupees and also ceded Malwa to them</p> <p>Invasion of Nadir Shah</p> <p>In February 1739, the Persian emperor, Nader Shah decided to conquer India. Due to poor tactics, Muhammad Shah's army was</p>

		<p>easily defeated, and Nader Shah triumphantly entered Delhi within the span of one month, where he had the Khutba read in his name[citation needed]. In the violence that followed, more than 30,000 civilians were killed by the Persian troops, forcing Muhammad Shah to beg for mercy and handing the keys to his treasury[citation needed]. In response, Nader Shah agreed to withdraw, but Muhammad Shah paid the consequence - handing over the keys of his royal treasury and losing even the Peacock Throne, along with the Koh-i-Noor and Darya-ye Noor diamonds, to the Persian emperor</p> <p>Aftermath.</p> <p>After Nadir Shah's invasion, the Mughal Empire disintegrated rapidly. Nawab Ali Wardi Khan of Bengal proclaimed independence in 1740. In 1748, to the people's relief, the Mughal prince Ahmad Shah Bahadur defeated Ahmad Shah Abdali.</p> <p>Muhammad Shah died in 1748 at the age of 46.</p>
15.	<p><b>Ahmad Shah Bahadur (1748-1754)</b></p>	<p>Ahmed Shah Bahadur (1725–1775) was born to Mohammed Shah. He succeeded his father to the throne as the 15th Mughal Emperor in 1748 at the age of 23. His mother was <b>Udhambai, (also known as Kudsia Begum)</b>. When Ahmed Shah came to power the rule of the Mughal Empire was collapsing. During the reign of his father the city of Delhi (the Mughal capital) had been plundered and much of northern India had been ransacked by the invading army of Nadir Shah).</p> <p>Ahmed Shah inherited a much weakened Mughal state and after ruling unsuccessfully for 6 years, he was deposed by the Vizier <b><i>Ghazi ud-Din Khan Feroze Jung III</i></b> in 1754 <u>and later blinded along with his mother. He spent the remaining years of his life in prison and died of natural causes in January 1775.</u> His son Bidar Bakhsh II temporarily rose to power in 1788 as puppet of <b><i>Ghulam Qadir</i></b></p> <p>. After the death of Muhammad Shah, his son Ahmad Shah ascended the throne on April 29, 1748. At the time of his accession, he was 23 years old and had no experience in the field of administration.</p> <p>Although Ahmad Shah was the hero of the battle of Sarhind, in which Ahmad Shah Abdali was defeated, he lacked qualities of leadership and was unable to manage the affairs of the state. As a result the administration fell into the hands of his Wazir, Safdar Jang. Safdar Jang was also unable to run the administration proficiently and spent most of his time in internal strife and self-aggrandizement. Safdar Jang later joined the Marhattas against Ahmad Shah in 1750.</p> <p>Ahmad Shah's short reign was a period of great disturbance. The Rohillas rose in rebellion and <u>Ahmad Shah Abdali invaded Punjab</u></p>

		<p><u>for the second time</u> and marched towards Delhi. In order to avoid the destruction of Delhi, Ahmad Shah made peace with Ahmad Shah Abdali by ceding Punjab and Multan.</p>
16.	<b>Alamgir II (1754-1759)</b>	<p><b>Aziz-ud-din Alamgir II</b> (1759 - 1699) was the Mughal Emperor of India from June 3, 1754 to December 11, 1759. He was the son of Jahandar Shah</p> <p><b>Aziz-ud-Din</b>, the second son of Jahandar Shah, was raised to the throne by <b>Ghazi-ud-Din</b> after he deposed <b>Ahmad Shah Bahadur</b> in 1754. On ascending the throne, he took <u>the title of Alamgir</u> and tried to follow the approach of <b>Aurangzeb Alamgir</b>.</p> <p>At the time of his accession to throne he was an old man of 55 years. He had no experience of administration and warfare as he had spent most of his life in jail.</p> <p>He was a weak ruler, with all powers vested in the hand of his Wazir, <b>Ghazi-ud-Din Imad-ul-Mulk</b>. In 1756, <b>Ahmad Shah Abdali</b> invaded India once again and captured Delhi and plundered Mathura. Marathas became more powerful because of their collaboration with Ghazi-ud-Din, and dominated the whole of northern India. This was the peak of Maratha expansion, which caused great trouble for the Mughal Empire, already weak with no strong ruler.</p> <p>The relations between Alamgir and his Wazir, <b>Ghazi ud-Din Khan Feroze Jung III</b>, by this time had gotten worse. <u><b>Alamgir was murdered by Nawab Mir Ghazi ud-Din Khan Feroze Jung III (grandson of Asaf Jah I), and the son of Alamgir, Ali Gauhar succeeded him.</b></u></p> <p>Aziz-ud-Din, the second son of Jahandar Shah, was raised to the throne by Ghazi-ud-Din Imad-ul-Mulk after he deposed Ahmad Shah Bahadur in 1754, whom he blinded, imprisoned and later killed (1775). During Ahmad Shah's reign, the Persian ruler, Nader Shah had sacked Delhi (1738-1739) and carried off both the Peacock Throne and the Koh-i-Noor diamond, both symbols of Moghul prestige and so much treasure that Persians subsequently enjoyed a three year holiday from taxation. According to Schimmel, et al, Ahmad Shah had been raised by "women" and taught nothing about military matters.</p> <p><b>Assassination</b> .As Ahmad Shah Durrani prepared to retake the Punjab from the Hindu Marathas, encouraged by Muslim leaders such as Shah Waliullah, relations between Alamgir and the Vizier, Ghazi-ud-Din deteriorated beyond repair. Fearing that Alamgir might fall captive to the Afghan overlord and well aware that the</p>

		imperial treasury could not afford to pay a ransom, the <u>vizier ended Alamgir's life in the same way he had ended his predecessors</u> —by killing him. The vizier then quickly left for the hajj in Mecca and was never punished for either act of regicide.
17.	<b>Shah Jahan III (1759)</b>	<b>Shah Jahan III</b> also known as <b>Muhi-ul-millat</b> was Mughal Emperor briefly. He was son of Muhi-us-sunnat, the eldest son of Muhammad Kam Baksh who was the youngest son of Aurangzeb. He was placed on the Mughal throne in December, 1759 by Ghazi ud-Din Khan Feroze Jung III but subsequently deposed by the Afghan confederation (Rohillas and Ahmad Shah Abdali) and Nawab of Oudh Shuja-ud-Daula in 1760 in recognition of Shah Alam II as the rightful heir to the throne who was in exile at Allahabad.
18.	<b>Shah Alam II (1759-1806)</b>	<p>Shah Alam II (1728–1806), also known as Ali Gauhar, was a Mughal emperor of India. He inherited the throne from his father, Alamgir II as Shah Alam II (1761–1805). After the murder of Alamgir II, his son Ali Gauhar succeeded him by taking the title of Shah Alam. Emperor Shah Alam was an ornamental figurehead with the reigns of government actually under the control of his Wazir, Ghazi-ud-Din.</p> <p>Ghazi-ud-Din by his deceitful dealings had created around him a host of enemies, and in order to defeat them he sided with the Maratthas. During the reign of Alamgir II in 1758, the Maratthas had occupied Lahore and deposed Timur Shah who had been appointed a year earlier as viceroy by his father, Ahmad Shah Abdali. In August 1759, the Afghan monarch Ahmad Shah Abdali entered India. It took him almost two years to deal a fatal blow to Maratthas in the third battle of Panipat, fought on <b>June 14, 1761</b>. Consequently, the power of the Maratthas was crushed .</p> <p>After the battle of Panipat, Ahmed Shah Abdali left the throne of Delhi to Shah Alam with Najib-ud-Daula as his Wazir. From 1761 to 1771, the capital was without a king. Shah Alam, after his unsuccessful effort to defeat the British in the Battle of Buxar in 1764, was taken in as the prisoner and did not return to Delhi till 1772. By giving the Diwani of Bengal, Bihar and Orrisa to the East India Company, Shah Alam strengthened British control over the Indian Sub-continent. After the death of Najib-ud-Daula, Shah Alam remained a puppet in the hands of the ministers and the Maraatthas. He appointed Sindhia, a Maraattha leader, as in-charge of the administration of Delhi.</p> <p>In an expeditions against Dabitah Khan, who was earlier appointed as Mir Bakhsi by Shah Alam, the entire family of Dabitah Khan</p>

and other Rohilla leader were arrested and severely humiliated. Among them was Dabita's son, Ghulam Qadir Rohilla, who was castrated and made to serve as a page in the palace. In September 1787, Ghulam Qadir Rohilla forced the emperor to appoint him as Mir Bakhshi and Regent. He then had to leave Delhi due to differences with the emperor, but the next year he entered Delhi to take revenge. He blinded Shah Alam with great cruelty and subjected the inmates of the palace, princes and princesses to severely hardship and humiliation. Sindhia, however, hunted him down and the blinded Shah Alam was restored as the king.

Sindhia continued to be the overlord of Delhi till he was defeated by Lord Lake in 1803. The British, whose control over India was almost complete, didn't disturb Shah Alam who was a king only in name, and continued to rule till his death in 1806

**Battle of Buxar** was fought in October 1764 between the forces under the command of the British East India Company, and the combined armies of Mir Kasim, the Nawab of Bengal; Shuja-ud-Daula, the Nawab of Awadh; and Shah Alam II, the Mughal Emperor. The battle fought at Buxar (currently in Bihar state, India), a town located on the bank of the Ganges river, was a decisive battle won by the forces of the British East India Company.

#### **The battle and booty**

British troops engaged in the fighting numbered 7,072 comprising 857 British, 5,297 Indian sepoys and 918 Indian cavalry. The number of the native forces were estimated to be around 40,000. Lack of co-ordination among the three disparate allies, each with a different axe to grind, was responsible for their decisive debacle.

British losses are said to have been 847 killed and wounded, while the three Indian allies accounted for 2,000 dead; many more were wounded. The victors captured 133 pieces of artillery and over 1 million rupees of cash. Battle of Buxar makes British revenue collectors

Battle of Buxar (October 1764) resulted into securing of **Diwani rights** to administer the collection and management of revenues of large areas which currently form parts of Indian states of West Bengal, Bihar, Jharkhand, and Uttar Pradesh, as well as of Bangladesh. Battle of Buxar establishment of the rule of the East India Company in the eastern part of the Indian subcontinent. While the Battle of Plassey secured a foot for the British East India

		company in India, the Battle of Buxar made them the dominant force in India.
<b>19.</b>	<b>Akbar Shah II (1806-1837)</b>	<p>Akbar Shah II (1760 - 1837), also known as Mirza Akbar, was the second-to-last of the Mughal emperors of India. He held the title from 1806 to 1837. He was the second son of Shah Alam II and the father of Bahadur Shah Zafar II. Akbar had little real power due to the increasing British control of India through the East India Company. Shortly before his death he sent Ram Mohan Roy as an ambassador to Britain. During his regime, in 1835, the East India Company discontinued calling itself the lieutenant of the Mughal Emperor and issuing coins in his name.</p> <p>Reign::Emperor Akbar Shah II presided over an empire titularly large but in effect limited to the Red Fort in Delhi alone. His attitude with the British was honourable to him but it angered the British. They reduced even his titular authority to Delhi in 1835. The British no more called itself the lieutenant of Mughal Empire as they did so from 1803 to 1835</p> <p>Emperor Akbar Shah II had four sons, one of which Bahadur Shah Zafar eventually succeeded him at age 60. Before Bahadur Shah, one of his other sons, Mirza Nali was given the title of Crown Prince of the Mughal, but the title went on to his brother.</p> <p>After the mutiny, he fled Delhi and took refuge in other parts of India. In the mid 1800s he came to Bengal. His sons and two daughters lived the same life he did, in constant fear of the British. His eldest son, Mirza Jalaluddin became an official to a Bengal King's court. He was succeeded by his eldest son, Mirza Zafar. He was an official to the King too. His son Mirza Jamsheer renounced his titles in 1895. Their children settled down permanently in North Bengal and to this day they still remain in the capital city of Dhaka and Rajshahi. Most of the members are still considered royalty in the country and often held in high esteem, the elderly members of the princely family have vast amounts of land around North Bengal and have educational Institutions named after them. Members of the dynasty have been candidates at Parliamentary elections and fought on the Army of East Bengal during the Bloody Birth of Bangladesh in 1971.</p>
<b>20.</b>	<b>Bahadur Shah Zafar (1837-1857)</b>	<p>Abu Zafar Sirajuddin Muhammad Bahadur Shah also known as Bahadur Shah or Bahadur Shah II) (October 1775 – 7 November 1862) was the last of the Mughal emperors in India, as well as the last ruler of the Timurid Dynasty. He was the son of</p>

Akbar Shah II and Lalbai, who was a Hindu Rajput. He became the Mughal Emperor upon his father's death on 28 September 1837. Zafar (ظفر), was (takhallus) as an Urdu poet. Even in defeat it is traditionally believed that he said.

Ghāzioñ méñ bū rahegi jab talak imān ki; Takht-e-London tak chalegi tégh Hindustan ki Means As long as there remains the scent of faith in the hearts of our heroes, so long shall the sword of Hindustan flash before the throne of London

Bahadur Shah Zafar was a noted Urdu poet. He wrote a large number of Urdu ghazals. While some part of his opus was lost or destroyed during the Indian Rebellion of 1857-1858, a large collection did survive, and was later compiled into the Kulliyat-i Zafar. The court that he maintained, although somewhat decadent and arguably pretentious for someone who was effectively a pensioner of the British East India Company, was home to several Urdu writers of high standing, including Ghalib, Dagh, Mumin, and Zauq (Dhawq). In 1857 Bahadur Shah Zafar had warned the Indian people against this policy of the British. The Shahi Firman issued on May 12, 1857 declared, "To all the Hindus and Mussalmans of India. Zafar Mahal Closely woven into the history of the last remains of Mughal rule is the history of Zafar Mahal in Mehrauli, a locality of Delhi. Zafar Mahal was originally built by Akbar II, but it was his son, Bahadur Shah Zafar, who constructed the gateway and added to the palace in the mid-1800s.

#### **Events of 1857.**

When the victory of the British became certain, Zafar took refuge at Humayun's Tomb, in an area that was then at the outskirts of Delhi, and hid there. British forces led by Major William Hodson surrounded the tomb and compelled his surrender on 20 September 1857. The next day British officer William Hodson shot his sons Mirza Mughal, Mirza Khizr Sultan, and grandson Mirza Abu Bakr under his own authority at the Khooni Darwaza (the bloody gate) near Delhi Gate. On hearing the news Zafar reacted with shocked silence while his wife Zeenat Mahal was content as she believed her son was now Zafar's heir. Bahadur Shah died in exile on 7 November 1862. He was buried near the **Shwedagon Pagoda** in **Yangon**, at the site that later became known as **Bahadur Shah Zafar Dargah**. His wife **Zeenat Mahal** died in **1886**.

In 1959, the **All India Bahadur Shah Zafar Academy** was

		founded expressly to spread awareness about his contribution to the first major anti-British movement in India.
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## 7. Study Material-Language

### Latin- English

S.N.	Latin	English
1.	<i>Ab-initio</i>	From the very beginning
2.	<i>Actio personalis moritur cum persona</i>	A personal right of action dies with the person, in other words, the personal action dies with a man
3.	<i>Actori incumbit onus probandi</i>	The burden of proof lies on the plaintiff or the prosecution
4.	<i>Actus non facit reum, nisi mens sit rea</i>	The act itself does not constitute guilt unless done with a guilty intent. An act is not a crime unless it is committed with a particular criminal intention (mens rea). What constitutes the mens rea is laid down in the case of offences defined in the Indian Penal Code
5.	<i>Ad hoc</i>	For particular purpose
6.	<i>Ad interim</i>	In the meantime
7.	<i>Ad valorem</i>	According to the value
8.	<i>Alibi</i>	A plea by a person accused of an offence that he was 'elsewhere' – that having regard to the time and place when and where he is alleged to have committed the offence, he could not have been present
9.	<i>Allegans contraria non est audiendus</i>	He who alleges contradictory things is not to be heard. A man shall not be permitted to “blow hot and cold” with reference to the same transaction or insist, at different times, on the truth of each of two conflicting allegations, to suit his private interests
10.	<i>Amicus curiae</i>	Friend of the court ; one who voluntarily or on invitation of the court, and not on the instructions of any party helps the court in any judicial proceedings
11.	<i>Animus</i>	1. Intention 2. Hostility 3. Ill will hatred
12.	<i>Animus deserendi</i>	Intention to desert
13.	<i>Animus domini</i>	The intention of possession and ownership by entry

		or user
14.	<i>Animus possidendi</i>	The intention of possessing
15.	<i>Audi alteram partem</i>	Hear the other side. Both sides should be heard before a decision is arrived at
16.	<i>Bona fides</i>	Good faith
17.	<i>Caveat Emptor</i>	Let the purchaser beware. A maxim implying that the buyer must be cautious, as the risk is his and not that of the seller
18.	<i>Corpus delicti</i>	The body of facts which constitute an offence; gist or substance of the offence
19.	<i>Corpus possessionis</i>	The thing possessed
20.	<i>Damnum sine (absque) injuria</i>	Damage without injury, that is damage caused without legal wrong
21.	<i>Data</i>	What is given; the promises upon which an argument is based; certain given facts from which others may be inferred
22.	<i>De facto</i>	In fact; an expression indicating the actual state of circumstances independently of any remote question of right or title
23.	<i>Dehors</i>	Outside of; unconnected with; unrelated to
24.	<i>De jure</i>	In law, independent of what obtains in fact
25.	<i>De minimis non curat lex</i>	The law takes no account of very trifling matters
26.	<i>De novo</i>	A new
27.	<i>Delegatus non potest delegare</i>	A delegated power cannot be further delegated
28.	<i>Ex- officio</i>	By virtue of an office
29.	<i>Ex- parte</i>	Expression used to signify something done of said by one person not in the presence of his opponent
30.	<i>Ex post facto</i>	By subsequent act; by virtue of a thing done after some particular event; done after another thing and operating retrospectively
31.	<i>Falsus in uno, falsus in omnibus</i>	False in one, false in all i.e. false in one particular, false in all
32.	<i>Functus officio</i>	One who has fulfilled his office or is out of office; an authority who has performed the act authorised so that the authority is exhausted

33.	<i>In forma pauperis</i>	In the character of a pauper
34.	<i>In limine</i>	At the outset
35.	<i>In pari delicto</i>	When both parties are equally in fault; in equal fault
36.	<i>In pari materia (in pari causa)</i>	In an analogous cause, case or position
37.	<i>In personam</i>	An act or proceeding done or directed against or with reference to a specific person
38.	<i>In rem</i>	An act or proceeding done or directed with reference to no specific person or with reference to all whom it might concern
39.	<i>Inter alia</i>	Amongst other things
40.	<i>Intravires</i>	Within the powers; with in the authority given by law
41.	<i>Ipsa jure</i>	By the law, itself
42.	<i>Locus standi</i>	Signifies a right to be heard
43.	<i>Mens rea</i>	A guilty mind
44.	<i>Mesne profits</i>	The profits which a person in wrongful possession of the property actually received or might with ordinary diligence have received therefrom together with interest on such profits excluding the profits due to improvement made by the person in wrongful possession
45.	<i>Modus operandi</i>	1. Mode of operating; the way in which a thing, cause etc. operates; the way in which a person goes to work 2. A distinct pattern or method of procedure thought to be characteristics of an individual criminal and habitually followed by him
46.	<i>Modus vivendi</i>	The manner of living; a way of life
47.	<i>Nexus</i>	Bond, link or connection
48.	<i>Non obstante clause</i>	“Notwithstanding clause”
49.	<i>Non est factum</i>	It is a defence in an action founded on a document when there has been a mistake as to the very nature of the transaction
50.	<i>Obiter dicta</i>	An opinion of law not necessary to the decision
51.	<i>Obligations ex contractu</i>	
52.	<i>Onus probandi</i>	The burden of proving; the burden of proof
53.	<i>Pendente lite</i>	During litigation

54.	<i>Per annum</i>	By the year
55.	<i>Per capita</i>	(Counting) by heads
56.	<i>Per diem</i>	By the day
57.	<i>Per incuriam</i>	Through carelessness, through inadvertance
58.	<i>Per stirps</i>	By stocks in inheritance the children of each descendant dividing only the share that would have been their parents
59.	<i>Persona designata</i>	A person pointed out or described as an individual, as opposed to a person ascertained as a member of a class, or as filling a particular character
60.	<i>Post mortem</i>	1. After death 2. An examination of a corpse made under the direction of the constituted authorities, an autopsy
61.	<i>Prima facie</i>	On the face of it; at first sight; arising at first side; based on the first impression
62.	<i>Pro bono publico</i>	For the public good
63.	<i>Pro rata</i>	In proportion
64.	<i>Pro tanto</i>	To that extent
65.	<i>Ratio decidendi</i>	Reasons for deciding ; grounds of decision
66.	<i>Ratio legis</i>	The reasons or occasion of the law
67.	<i>Res gestae</i>	Acts; declarations and incidents accompanying or explaining the fact in issue or which are deemed to constitute the fact in issue; facts so connected with a fact in issue as to form part of the same transaction
68.	<i>Res integra</i>	An untouched matter; a point without a precedent; a case of novel impression
69.	<i>Res ipsa loquitur</i>	The thing speaks for itself
70.	<i>Res judicata</i>	A case or suit already decided
71.	<i>Res nullius</i>	A thing which has no owner
72.	<i>Rule nisi</i>	A rule or order upon condition that is to become absolute when cause is shown to the contrary
73.	<i>Solatium</i>	A sum paid to an injured party over and above the actual damages by way of solace to his wounded feelings
74.	<i>Stare decisis</i>	To stand by things decided ; to abide by precedents where the same points come again in litigation
75.	<i>Status quo</i>	Existing condition

76.	<i>Sub judice</i>	In course of trial
77.	<i>Sub-silentio</i>	silently
78.	<i>Sui juries</i>	Of his own right
79.	<i>Suo moto</i>	On his own
80.	<i>Suggestio falsi</i>	Suppressing the truth
81.	<i>Terminus a quo</i>	Point of beginning
82.	<i>Ubi jus ibi remedium</i>	Where there is a right, there is a remedy
83.	<i>Ultra virus</i>	Beyond one's powers
84.	<i>Vires</i>	Authority, power

## **8. Current Affairs**

### **SEPTEMBER 2022**

#### **1. U.P. Government approves first tiger reserve in Bundelkhand region**

U.P. government approves the establishment of a tiger reserve in the Bundelkhand region. The meeting was chaired by CM Yogi Adityanath and the cabinet approved the construction of the reserve under the Wildlife Protection Act, 1972.

#### **2. Samantha Cristoforetti becomes first woman of Europe to command International Space Station**

Samantha Cristoforetti has been appointed as the first woman to command International Space Station. Samantha will be the fifth and the first woman European commander of the International Space Station.

#### **3. Advocate R. Venkataramani assigned as new Attorney General of India**

Advocate R Venkataramani has been appointed as the new attorney general of India by the Government of India. Venkataramani's appointment as attorney general of India is for three years.

#### **4. Retired lieutenant general Anil Chauhan appointed as next Chief of Defence Staff**

Retired lieutenant General Anil Chauhan has been appointed as the next Chief of Defence Staff. The retired lieutenant will also work as a Secretary, to the Government of India, Department of Military Affairs.

#### **5. Chandigarh airport renamed after Bhagat Singh**

Finance Minister Nirmala Sitharaman renamed the Chandigarh airport after Shaheed Bhagat Singh.

#### **6. Asian Development Bank announces support of \$14 billion for food security in Asia Pacific**

The Asian Development Bank (ADB) announced a \$14 billion financial support for the food security of the Asia Pacific region. Read below to know what else discussions were held at the meeting.

#### **7. Popular Front of India (PFI) banned and its affiliates for five years**

The Government of India has banned the Popular Front of India(PFI), its affiliates, and associates. PFI has been banned as an unlawful association with instant effect for five years under the Unlawful Activities Act, 1967.

#### **8. Ministry of Rural Development launched JALDOOT app**

Rural Development Ministry has developed a JALDOOT app. The app was launched by the Minister of State for Panchayati Raj, Kapil Moreshwar Patil, and Ministers of State for Rural Development, Sadhvi Niranjana Jyoti and Faggan Singh Kulaste on September 27, 2022, in New Delhi. Extraction of groundwater, as also utilization of surface water sources has reached critical levels in several parts of the country, resulting in significant depletion of water levels. The action is causing agony to the community, including farmers. Therefore measurement and observation of the levels of water tables across the country have become essential.

#### **9. Dadasaheb Phalke Award 2020: Veteran Actress Asha Parekh to be bestowed with prestigious award**

Asha Parekh will be honored with Dadasaheb Phalke Award. The National Film Award will be presided over by the President of India, Draupadi Murmu at the National Film Award Ceremony in New Delhi.

### **10. Ministry of Housing and Urban Affairs Swachh Toyathon, a competition to make toys from waste**

Housing and Urban Affairs Ministry launched Swachh Toyathon on September 26, 2022. It is a unique competition that involves making toys from waste. The competition will be hosted on MyGov's Innovative India portal. The knowledge partner for the initiative is the Center for Creative Learning, IIT Gandhinagar.

### **11. Dilip Tirkey, former captain of Indian hockey elected as Hockey India President**

Dilip Tirkey, former Indian hockey captain has been elected as the Hockey India President. Tirkey, 44, is the latest addition to the player's list who has grabbed the top job in a sports body.

### **12. Government to buy additional Brahmos missiles for frontline warships worth 1700 crore rupees**

The Defence Ministry signed a contract worth 1700 crore rupees on September 22, 2022, with Brahmos Aerospace private limited, to buy additional missiles for frontline warships. Providing further drive to Aatmanirbhar Bharat the ministry will buy the missiles with a strike range of 290 km.

### **13. Gujarati movie "Chhello Show" is India's official entry for Oscar 2023**

"Chhello Show" the Gujarati movie has been announced as India's official entry for Oscars 2023. Chhello Show is ready to release in theatres on October 14, 2022, in India.

### **14. Face mask to detect viral exposure within 10 minutes developed**

Scientists have developed a face mask that can identify common respiratory viruses, such as influenza and Covid-19, in the air as droplets or aerosols. If specific viruses are present in the air, the extremely sensitive mask may inform people via their mobile devices within 10 minutes.

### **15. China create world's first cloned wild Arctic wolf 'Maya'**

For the first time in the world, a wild Arctic wolf was successfully cloned by a Beijing-based gene firm. The cloning of the Arctic wolf also called polar or

white wolf is considered a milestone achievement in saving rare and endangered species through cloning technology.

### **16. INS Ajay decommissioned after 32 years of service**

INS Ajay was decommissioned after 32 years of glorious service on September 19, 2022. The ceremony was conducted in a traditional manner at Naval Dockyard, Mumbai. The national flag, naval ensign, and the decommissioning pennant of the ship were lowered for the last time at sunset.

### **17. Varanasi nominated as first SCO tourism and cultural capital**

At the 22nd meeting of the SCO council in Samarkand on September 16, 2022, Varanasi city has been nominated as the first cultural and tourism capital during 2022-2023. Nominating Varanasi as the first SCO Tourism and Cultural Capital will boost tourism and cultural and humanitarian exchanges between India and SCO member countries.

### **18. Tennis star Roger Federer announces retirement from competitive tennis**

Roger Federer, the Swiss tennis legend, announced his retirement from competitive tennis. The forthcoming Laver Cup in September would be his last Association of Tennis Professionals event as a player.

### **19. India's first Lithium Cell Manufacturing Plant at Tirupati, Andhra Pradesh**

Shri Rajeev Chandrasekhar, the Minister of State for Electronics and Information Technology, will launch the pre-production run of India's first lithium cell manufacturing facility at Tirupati, Andhra Pradesh.

### **20. World wrestling championship 2022: Vinesh Phogat grabs Bronze, first Indian women wrestler to win two medals**

Vinesh Phogat won a bronze medal at the ongoing World Wrestling Championships 2022 in the women's 53kg category. She defeated the European champion, Emma Malmgren, from Sweden and has also become the first Indian women wrestler to win two medals at the World Championship.

## **21. HDFC Bank issues first Electronic Bank Guarantee in India**

HDFC bank has become India's first bank to issue an Electronic Bank Guarantee (e-BG) in partnership with National E-Governance Services Limited (NeSL). The bank plans to migrate to the e-BG platform completely to expedite the issuance of BGs for the customers.

## **22. Neeraj Chopra wins Gold Medal at Diamond League Finals in Zurich, becomes 1st Indian to Win the Championship**

Neeraj Chopra wins Gold at Diamond League Finals: Neeraj Chopra scripted history by winning Gold Medal at the prestigious Diamond League Finals in Zurich and becoming the 1st Indian to win the Championship. Neeraj's gold medal-winning throw came in his second attempt which landed at the 88.44 metres mark.

## **23. Queen Elizabeth II passes away at the age of 96, Charles succeeds as England's King immediately**

Queen Elizabeth II Passes Away: Queen Elizabeth II, World's Oldest Monarch and the Longest Reigning Monarch of Britain, passed away today - 8th Sept 2022 at the age of 96. Formally known as Elizabeth Alexandra Mary, her reign lasted for 70 years and seven months.

## **24. India's 1st needle-free intranasal COVID-19 vaccine get emergency use approval from DCGI**

India's 1st Intranasal COVID-19 vaccine: Bharat Biotech has received emergency use authorization for India's 1st needle-free intranasal COVID-19 vaccine. DCGI granting approval for the first intranasal vaccine comes as a major milestone in India's fight against the COVID-19 pandemic.

## **25. India's first Bio-Village setup in Daspara Tripura**

India's 1st Bio-Village in Tripura: Tripura Government has setup India's 1st Bio-Village at Daspara village of the state. The concept of Bio Village 2.0 has been recognized as one of the best practices to attain sustainable development goals.

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## 9. News

### **A.-Supreme Court Collegium News**

#### **STATEMENT**

The Supreme Court Collegium in its meeting held on 26th September, 2022 has recommended elevation of Mr. Justice Dipankar Datta, Chief Justice of Bombay High Court (PHC: Calcutta), as Judge of the Supreme Court.

#### **STATEMENT**

The Supreme Court Collegium in its meeting held on 12th September, 2022 has approved the proposal for elevation of the following Advocates as Judges in the Bombay High Court: 1. Shri Santosh Govindrao Chapalgaonkar, and 2. Shri Milind Manohar Sathaye.

#### **STATEMENT**

The Supreme Court Collegium in its meeting held on 12th September, 2022 has approved the proposal for elevation of the following Judicial Officers as Judges in the Punjab & Haryana High Court: 1. Shri Gurbir Singh 2. Shri Deepak Gupta, 3. Ms. Amarjot Bhatti, 4. Ms. Ritu Tagore, 5. Ms. Manisha Batra, 6. Ms. Harpreet Kaur Jeewan, 7. Ms. Sukhvinder Kaur, 8. Shri Sanjiv Berry, and 9. Shri Vikram Aggarwal.

#### **STATEMENT**

The Supreme Court Collegium in its meeting held on 19 th July, 2022 has approved the proposal for elevation of the following Judicial Officers as Judges in the Allahabad High Court: 1. Smt. Renu Agarwal, 2. Shri Mohd. Azhar Husain Idrisi, 3. Shri Ram Manohar Narayan Mishra, 4. Smt. Jyotsna Sharma, 5. Shri Mayank Kumar Jain, 6. Shri Shiv Shanker Prasad, 7. Shri Gajendra Kumar, 8. Shri Surendra Singh-I, and 9. Shri Nalin Kumar Srivastava

#### **STATEMENT**

The Supreme Court Collegium in its meeting held on 14th July, 2022 has, on reconsideration, resolved to reiterate its earlier recommendation for elevation of the following Advocates as Judges in the Allahabad High Court: 1. Shri Shishir Jain, 2. Shri Manu Khare, 3. Shri Rishad Murtaza, 4. Shri Dhruv Mathur, and 5. Shri Vimlendu Tripathi. The Supreme Court Collegium has also approved the

proposal for elevation of the following Advocates, as Judges in the Allahabad High Court: 1. Shri Saurabh Srivastava, and 2. Shri Om Prakash Shukla.

### STATEMENT

The Supreme Court Collegium has recommended transfer / repatriation of Judges of High Courts, as mentioned below: S. No. Name of the Judge S/Shri Justice Present High Court High Court where transferred or repatriated 1. Ahsanuddin Amanullah Andhra Pradesh Patna 2. Chitta Ranjan Dash Orissa Calcutta 3. Subhasis Talapatra Tripura Orissa 4. Lanusungkum Jamir Manipur Gauhati 5. Dhiraj Singh Thakur Jammu & Kashmir and Ladakh Bombay 6. Purushaindra Kumar Kaurav Madhya Pradesh Delhi

### STATEMENT

The Supreme Court Collegium in its meeting held on 4 th May, 2022 has approved the proposal for elevation of the following Advocates as Judges in the Delhi High Court: 1. Shri Vikas Mahajan, 2. Shri Tushar Rao Gedela, 3. Ms. Manmeet Pritam Singh Arora, 4. Shri Sachin Datta, 5. Shri Amit Mahajan, 6. Shri Gaurang Kanth, and 7. Shri Saurabh Banerjee.

## **B. Other news**

Nepal is the world's 45th-biggest country in the world, with a population of 29 million people. Thus, if only for its size, Nepal is too big a nation-state to be a vassal. The country takes pride in its history of never having been colonized and has an important geostrategic position, with India and China on either side. However, contrary to conventional notions of a harmonious diplomatic relationship, there is a sharp difference in the way Nepal and India view each other.

### Reasons

- Relationship took a beating in 2015, when India first got blamed for interfering in the Constitution drafting in Nepal.
- India was also blamed for an “unofficial blockade” in the Madhesis issue, this generated widespread resentment against the country.
- The politicians in Nepal exploited Nepali Nationalism and anti-Indianism successfully.
- China seized the opportunity- In the past, China maintained a link with the Palace and its concerns were primarily related to keeping tabs on the Tibetan refugee community.

- Now, that the monarchy is abolished, China has shifted its attention to the political parties, as well as institutions like the Army and Armed Police Force.

## **10. Event of the Coaching**

### **CRASH COURSE**



### **V.S. DREAM COACHING FOR HJS, PCS (J.) AND CLAT**

V.S. Dream Coaching Ghaziabad is a Unique Coaching in India, having Hon'ble Mr. Justice Vedpal, Former Judge, High Court Allahabad as patron. The faculty of V.S. Dream Coaching is drawn from legal luminaries having experience of several decades in the field of law. The coaching is imparting legal education to all those who after joining a coaching couldn't succeed and have not sufficient funds to join a coaching again. The Coaching is being run on no profit no loss basis. The past record of our patron has been excellent. Many Judicial service aspirants who were blessed by our patron succeeded in Judicial Service Examinations and presently are holding different posts in Judicial Services.

This batch of aspirants of judicial service examination of V.S. Dream Coaching is only for **twenty aspirants**. The registration of aspirants of judicial services is open and will close on **15 October 2022**. Thereafter, the coaching will take up crash course from **17 October 2022** for the forthcoming U.P. Judicial Service Examination. The research work in law as well as in G.K. is going on to ensure that the aspirants joining the coaching may get success.

The seats shall be filled up on the basis of first come first serve. The willing aspirants may obtain registration forms from the Coaching Centre situate at 234 S.F., D-Mall, Shakti Khand 2, Indirapuram, Ghaziabad. The residential facility is also available for the willing aspirants. The library of the coaching contains

about **five thousand books**. Book may be issued to willing students for study purpose only. At a time, only one book shall be issued.

For any query, aspirants may contact at **Mob. 8448078978**.

**Anshu Singh**  
**Director**

**Date - 30/09/2022**

## 11. Notes Preparation Scheme

### **V.S. DREAM COACHING FOR HJS, PCS (J.) AND CLAT**

Prepare your own excellent study notes to crack HJS, PCS (J) and CLAT on the subjects mentioned below under the able guidance of Hon'ble Mr. Justice Vedpal (Former Judge), High Court of Judicature at Allahabad, Ex-Director of Judicial Training and Research Institute, U.P., Lucknow and resource person of various legal academies and institutions. Seek prior appointment to avoid despair. Subjects;-

<b>1.General Knowledge</b>	<b>2.Law</b>
<ol style="list-style-type: none"><li>1. Current Affairs</li><li>2. G.K.MCQs</li><li>3. History of India and Indian Culture</li><li>4. Geography of India</li><li>5. Indian Polity</li><li>6. Current National Issues</li><li>7. Topic of Social Relevance</li><li>8. India and the World</li><li>9. Indian Economy</li><li>10.International Affairs and Institutions</li><li>11.Development in the field of:<ol style="list-style-type: none"><li>(a) Science and Technology</li><li>(b) Communications and Space</li></ol></li></ol>	<ol style="list-style-type: none"><li>1. Constitutional Law</li><li>2. Law of Evidence</li><li>3. Criminal Procedure Code</li><li>4. Code of Civil Procedure,</li><li>5. Indian Panel Code</li><li>6. Law of Contract</li><li>7. Partnership Act</li><li>8. Easements Act</li><li>9. Law of Torts</li><li>10. Transfer of Property Act</li><li>11. Principles of Equity ,</li><li>12. Law of Trust</li><li>13. Specific Relief Act</li><li>14. Hindu Law</li><li>15. Muslim Law</li><li>16. U.P. Revenue Code.</li><li>17. U.P. Municipalities Act 1916</li><li>18. U.P. Panchayat Raj Act 1947</li><li>19. U.P. Consolidation of Holdings Act, 1953</li><li>20. U.P. Urban (Planning and Development) Act, 1973,</li></ol>
<b>3.CLAT</b> <ol style="list-style-type: none"><li>1. General Knowledge</li><li>2. A Guide for CLAT</li></ol>	