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NEWSLETTER

FEBRUARY 2026

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NEWSLETTER
FEBRUARY 2026

1. Supreme Court Bans NCERT Book with Judicial Corruption Chapter, Issues Notice to School Education Secretary

Hon'ble Supreme Court on 26 February, 2026 imposed a complete ban on the class eight social science textbook published by the National Council of Educational Research and Training (NCERT) which included references to "corruption in judiciary" and issued show-cause notices to the secretary of school education in the Union Ministry of Education and the NCERT director.

A bench led by Chief Justice of India Surya Kant, along with Justices Joymalya Bagchi and Vipul M. Pancholi, said the contents of the chapter appeared, at first glance, to amount to serious misconduct. The court said it would consider whether action under the Contempt of Courts Act or other laws should follow if the publication was found to be a deliberate attempt to scandalise the judiciary.

Further, the court imposed a complete ban directing that no further publication, reprinting or digital circulation be allowed. It ordered that all physical copies be seized and removed from circulation.

"The NCERT in coordination with the Union and state education departments is directed to ensure that all copies of the book (hard or soft) currently in circulation, whether held in storage, retail outlets, or educational institutions, are seized and removed from public access. Compliance be filed," the bench was quoted as saying by **Live Law.**

The bench made it clear that responsibility for compliance would rest personally with the NCERT director and school principals wherever the book had reached.

"It shall be personal responsibility of NCERT director and the principal of every school where the book has reached to effectuate immediate seizure and sealing of all copies of the book in their premises and submit a compliance report. Ensure that no instruction is imparted based on the subject book. Principal secretaries of all states are to comply. Compliance to be sent within two weeks," the bench said.

It added: “As an abundant precaution, a complete blanket ban is hereby imposed on any further publication, reprinting or digital dissemination of the book. Any attempt to circumvent this order through electronic means or altered titles shall be seen as direct interference, willful breach and defiance of directions.”

The bench also directed the NCERT director to provide the names and credentials of those involved in drafting the chapter and to produce the minutes of meetings where it was discussed and finalised.

During the hearing, the court criticised the tone of the NCERT’s response to earlier queries, calling it “contemptuous and reckless.” It observed that the chapter cited complaints against judges in a way that suggested inaction and that remarks attributed to former Chief Justice B.R. Gavai had been presented out of context. According to the bench, there appeared to be a “calculated move to undermine the institutional authority and demean dignity of the institution.”

At the same time, the judges clarified that they were not acting to silence legitimate scrutiny. They underlined that the silence is egregious given the “sheer volume of high-ranking officials who have been censured by this court for corrupt practices and siphoning of public funds”. “We may however hasten to add that we do not propose to initiate the suo motu proceedings to stifle any legitimate criticism or to stop any individual from exercising the right to scrutinise public institutions, including the judiciary,” the bench observed, as per LiveLaw.

Solicitor General Tushar Mehta informed the court that the chapter had already been withdrawn and that **only 32 copies** had reached the market, which would be retrieved. He said the NCERT had expressed regret and that those who defended the chapter would not be associated with the body or any ministry in the future.

He also pointed to another chapter titled “justice delayed is justice denied,” which he said contained inaccurate data on case backlogs. “We cannot teach our children that justice is denied in the country,” he submitted.

The Chief Justice, however, questioned the adequacy of the response, remarking that the official press note lacked a clear apology.

“That’s very little consequence. They fired gunshot, judiciary is bleeding today,” he said.

Calling the episode a “deep-rooted, well-orchestrated conspiracy,” he added, “As the head of the institution, I must find out who the persons who are

responsible behind it. Heads must roll, I am not going to close these proceedings."

Senior advocate Kapil Sibal told the court that soft copies of the chapter were being widely shared online, prompting Justice Bagchi to suggest that the Union government take steps to have them removed.

The controversy began after media reports highlighted that the new textbook described corruption and case backlogs as major challenges facing the judiciary. The court had taken suo motu cognisance earlier this week after concerns were raised by senior lawyers in open court.

Following the court's initial remarks, NCERT issued a statement saying the chapter would be rewritten after consultation and would be available for the 2026–27 academic session, acknowledging that the content was "inappropriate" and attributing it to an "error of judgment."

"The National Council of Educational Research & Training (NCERT) holds the judiciary in highest esteem and considers it to be the upholder of the Indian Constitution and protector of Fundamental Rights. The aforesaid error is purely unintentional and NCERT regrets the inclusion of inappropriate material in the said chapter," the NCERT said in the press statement issued on Wednesday (February 25).

It added: "NCERT reiterates that the objective of the new textbooks is to strengthen constitutional literacy, institutional respect, and informed understanding of democratic participation amongst students. There is no intent to question or diminish the authority of any constitutional body. As part of its continuous review process, NCERT remains open to constructive feedback. And hence, the same shall be re-written, with consultation of the appropriate authority, as necessary, and would be made available to students of Class 8 accordingly on the commencement of academic session 2026-27."

2. India AI Impact Summit 2026

Source – Indian Express

India wrapped up the **India AI Impact Summit 2026 on February 21,** with its organisers describing it as the world's "largest and most historic" AI summit. The summit achieved significant diplomatic heft and positioned New Delhi as a convening power in global AI governance discussions, producing a declaration with broader country participation than any previous summit in the series. Therefore, it is crucial to understand not only the key highlights of the summit but also artificial intelligence and India's efforts in this field.

Today, artificial intelligence (AI) has become a buzzword. India has also launched an AI mission and promised to make heavy investments in an indigenous AI language model.

Artificial Intelligence

Artificial Intelligence is the ability of machines, especially computers, to perform tasks that typically require human intelligence. These tasks include things like understanding language, recognising patterns, solving problems, and making decisions. Essentially, AI enables machines to think and learn from experience, just like humans do, but often at a much faster pace with access to vast amounts of data.

Breakthroughs in computational power and big data accelerated AI's capabilities in image and speech recognition, natural language processing, and autonomous systems. Today, AI continues to evolve, integrating into various industries, driving innovation, and transforming everyday life.

AI can be classified into two types: Artificial Narrow Intelligence (ANI) also known as weak AI and Artificial General Intelligence (AGI) also referred to as strong AI. ANI is designed for specific tasks and excels within a narrow domain. Examples include virtual assistants like Siri, recommendation systems on platforms like Netflix, and image recognition software. ANI systems are highly specialised and cannot transfer their expertise to unrelated tasks.

In contrast, AGI aims to replicate human cognitive abilities, enabling it to perform any intellectual task a human can do. AGI would possess general reasoning skills, understand context, and adapt to new situations across various domains. It would be capable of autonomous learning and problem-solving without requiring task-specific programming.

Key takeaways of the India AI Impact Summit 2026

The AI Impact Summit 2026 marked the first time the AI Summit was held in the Global South, following previous events in **Seoul and Paris.** The theme of the summit was **Sarvajana hitaya, Sarvajana sukhaya — welfare for all, happiness for all.** The three main goals of the AI Impact Summit 2026 were leveraging AI to empower people and promote innovation, projecting India as the service provider for AI for the whole world, and democratising access to compute, datasets, and algorithms.

It comprised **seven working groups**, termed 'chakras', that covered topics such as: 'Resilience, Innovation, and Efficiency,' 'Human Capital,' 'Safe & Trusted AI', 'Science', 'Democratising AI Resources', 'Inclusion for Social Empowerment', and 'AI for Social Good & Economic Development'. The key takeaways of the summit are:

(i) New Delhi Declaration on AI Impact: The key outcome document of the five-day India AI Impact Summit, the New Delhi Declaration on AI Impact, so far have been signed by 88 countries and international organisations, including the United States, China, France, Australia and the UK. Through the declaration, India has maintained the focus on its key pitch ahead of the AI Summit — **"democratising" AI,** while respecting the sovereignty of countries.

— The declaration sets a number of voluntary frameworks and platforms that countries have said they will participate in, to share AI resources, use cases, and expertise, among other things.

(ii) 'MANAV' vision: During the summit, PM Modi unveiled **India's AI vision 'MANAV'**, which encompasses moral and ethical systems, accountable governance, and national sovereignty. He outlined a nuanced approach to AI not as an autonomous force driven solely by data and algorithms, but as an extension of human aspirations, ethics, and dignity.

MANAV stands:
M– moral and ethical systems: AI should be based on ethical guidance.
A– accountable governance means transparent rules, robust oversight;
N– national sovereignty means whose data, his right.
A– accessible and inclusive means AI should be a multiplier, not a monopoly.
V– valid and legitimate means AI should be lawful and verifiable".

(iii) India-America Connect Initiative: At the summit, Google CEO Sundar Pichai announced a new initiative called the India-America Connect Initiative**.** The initiative aims to increase AI connectivity between India, the US

and multiple locations across the Southern Hemisphere, delivering new sub-scale cable routes.
— The project will establish a new international subsea gateway in Visakhapatnam; three new subsea paths connecting India to Singapore, South Africa and Australia; and four strategic fiber-optic routes to boost network connectivity between the US, India and multiple locations across the Southern Hemisphere. This builds on Google's ongoing subsea cable projects across the Pacific and Africa, it said in a press release.

(iv) Prime Minister Modi has outlined three key suggestions for the ethical and responsible use of artificial intelligence.

First, Modi called for a global trusted data framework that respects data sovereignty.
Second, he stressed transparency in AI systems, advocating for what he described as a "glass box" approach. "We need a glass box approach instead of a black box, where safety rules can be viewed and verified," he said, adding that this would strengthen accountability and ethical business practices.
Third, referring to the "paperclip problem" often cited in AI research, Modi warned about unchecked machine objectives. "If a machine is given the goal of simply making paperclips, it will continue to do so, even at the cost of devouring all the world's resources. Therefore, AI requires clear human values and guidance," he said.

(v) Qualcomm Technologies has announced a strategic collaboration with the Anusandhan National Research Foundation to strengthen India's research ecosystem in science, engineering and next-generation technologies. The focus areas include AI systems, advanced wireless technologies and next-generation computing.

(vi) Adobe has announced free access to Acrobat, Firefly AI, and over 20 Creative Cloud apps for students in 15,000 schools and 500 colleges under the government's Content Creator Labs initiative. This initiative was announced in the Union Budget 2026 to boost the orange economy in India.

(vii) Gnani.ai has announced the launch of Vachana STT, a foundational, enterprise-grade Indic speech recognition model trained on over 1 million hours of real-world voice data spanning 1,056 domains. Vachana STT is the first model released under Inya VoiceOS, a sovereign AI model stack being built as part of the India AI Mission.

Steps taken by India to promote and integrate AI

From time to time, the government has introduced various initiatives to promote and integrate AI across sectors. In the Union Budget 2026–27, ₹1,000 crore was allocated to the IndiaAI Mission (FY26–27) to continue support for domestic AI R&D and compute infrastructure. To further encourage long-term investments, Budget also proposed a tax holiday until 2047 for foreign companies providing cloud services globally using data centre infrastructure based in India. The long-term policy framework for data centres up to 2047 positions India among the leading global destinations for AI and cloud infrastructure.

IndiaAI Mission: The IndiaAI Mission seeks to create a comprehensive ecosystem that encourages AI innovation by democratising computing access, improving data quality, developing indigenous AI capabilities, attracting top AI talent, facilitating industry collaboration, providing startup risk capital, ensuring socially impactful AI projects, and promoting ethical AI.
— This mission promotes the responsible and inclusive growth of India's AI ecosystem through the following seven pillars:
(i) IndiaAI Compute Capacity
(ii) IndiaAI Innovation Centre
(iii) IndiaAI Datasets platform (AIKosh)
(iv) IndiaAI Application development initiative
(v) IndiaAI Future skills
(vi) IndiaAI Startup Financing
(vii) Safe and Trusted AI
— Launched in 2024, the mission has made strong progress in expanding the country's computing infrastructure. From an initial target of 10,000 Graphics Processing Units (GPUs), India has now achieved 38,000 GPUs, providing affordable access to world-class AI resources.

Bharat-VISTAAR: Union Agriculture Minister Shivraj Singh Chouhan launched the Bharat-VISTAAR (Virtually Integrated System to Access Agricultural Resources), an AI-powered multilingual tool designed to provide farmers with relevant information in Jaipur on Tuesday (February 17).
— It is an AI-powered multilingual tool that provides information to farmers in their native language through mobile or a simple phone call. The tool offers guidance on crop planning, agricultural practices, pests, weather forecasts, markets, scheme information, eligibility, applications, and grievances. It serves as a single "digital doorway" for farmers to access required information. BharatVistaar will be available 24 hours a day as a 'digital agriculture expert'.

Adi Vaani: The Ministry of Tribal Affairs in September last year rolled out the beta version of 'Adi Vaani', an AI-based translation tool that will serve as a foundation for large language models dedicated to tribal languages. Made

using AI and efforts of academicians and educators proficient in tribal languages, the app will translate Hindi and English to tribal languages and vice-versa, and also aims to help digitize and preserve these languages.

BharatGen: It is a pioneering generative AI effort that aims to transform public service delivery and increase citizen involvement by establishing a set of basic models in language, speech, and computer vision.
— BharatGen will provide generative AI models and applications as a public utility, focusing on India's socio-cultural and linguistic diversity. It aims to address India's greater concerns, such as social fairness, cultural preservation, and linguistic variety, while also guaranteeing that generative AI reaches all sectors of society.
— BharatGen connects with Atmanirbhar Bharat's goal by developing foundational AI models exclusively for India. It will support both text and speech, ensuring coverage of India's unique linguistic environment.

BHASHINI: Launched in July 2022 under the National Language Technology Mission, BHASHINI is an AI-based language translation tool designed to facilitate real-time translation of Indian languages to establish a National Public Digital Platform for languages and increase the amount of content available in Indian languages.
— It aims to provide translation services in 22 scheduled Indian languages to break through linguistic barriers and enable people to access digital services smoothly. The BHASHINI project is designed to integrate technological advancements in governance with multiple language integration, fostering national integration and creating a more inclusive society by adopting artificial intelligence tools.

SabhaSaar: On the occasion of Independence Day last year, an AI-powered tool named 'SabhaSaar' was rolled out in Tripura and thereafter made available to other states.'SabhaSaar' leverages the power of AI to generate structured minutes of meetings from gram sabha videos and audio recordings.
— It will bring uniformity in minutes of the gram sabha meetings across the country. Panchayat officials can use their e-GramSwaraj login credentials to upload video/audio recordings on 'SabhaSaar'.
— 'SabhaSaar' is built on Bhashini. The tool generates a transcription from a video or audio, translates it into a chosen output language, and prepares a summary. It enables transcription in all major Indian languages like Hindi, Bengali, Tamil, Telugu, Marathi and Gujarati, in addition to English.

Chitralekha: It is an open source platform for video subtitling across various Indic languages, using ML model support. It offers support for multiple input sources, transcription generation process and voice over.

Challenges and concerns are associated with the rapid growth of AI

In recent years, AI has become an integral part of human lives and is increasingly shaping our daily interactions with the world. However, there are some concerns associated with it.

AI operates through a complex interdependence between software, hardware and energy. It requires large data centers that operate continuously to train, deploy, and update AI models in real time. These data centers are intensely energy dependent and demand uninterrupted, high-quality electricity to ensure reliability and speed.

Even routine AI-driven services rely on constant data processing that places sustained pressure on electricity grids. Hence, the **growth of AI is also increasing the global energy demand exponentially**. According to the International Energy Agency (IEA), globally, data centre electricity consumption has grown by 12 per cent per year since 2017 and will rise to around 945 TWH by 2030.

Thus, one of the foremost challenges is **grid stress**. Data centres consume electricity continuously and at a high load, which places disproportionate strain on local energy distribution. With India's installed data capacity expected to reach 2.5 GW by 2027, grid strain is expected to intensify.

Another challenge relates to AI infrastructure, which—particularly for training and deploying large generative AI models—**requires massive amounts of water** to cool hardware. Estimates suggest that AI-related infrastructure worldwide may soon consume up to 6 times the annual water use of Denmark, a country with a population of around six million. This is a serious concern in a world where nearly a quarter of the global population still lacks access to clean water and adequate sanitation.

Policy and institutional gaps are also matter of concern. Despite the rapid expansion of data centres, India lacks a comprehensive national data centre policy. The Draft Centre Policy 2020 was announced by the Ministry of Electronics and Information Technology, but it was not formally adopted or implemented. Presently, data centres are largely operated under state-level policies, which remain fragmented and are largely focused on investment incentives rather than systematic sustainability.

Additionally, in the context of land use, water governance, and environmental safeguards, ministries and different tiers of government often lack coordination, working in silos. Again, India still appears to have a **major regulatory gap for data centres**. There are no compulsory energy efficiency

rules, and most sustainability standards are voluntary, followed mainly by large companies. There is also no clear policy or financial support for green data centres making clean power storage and sustainable cooling costly.

Institutional capacity is another concern. State utilities and regulators often lack the technical expertise to assess the long-term implications of large digital loads, especially when combined with smart grids and algorithmic management systems. Data governance and energy governance are treated separately, even though digital infrastructure increasingly depends on algorithmic control of electricity flows.

What's the way forward?

To address the above mentioned challenges and concerns, India would need an **integrated AI-energy policy framework** that recognises data centres as strategic energy consumers and not merely commercial consumers. Their requirements need to be incorporated into long-term power planning, grid design, and demand management strategies. For this, strong coordination between different ministries, along with the alignment of policies, would be crucial.

Equally important is the clean energy transition. Nuclear power, including SMRs, can provide stable, low-carbon baseload electricity for data centres and AI systems. At the same time, greater use of treated wastewater for cooling can help reduce pressure on freshwater resources.

This can be complemented with policy support for green standards and financing. Mandatory energy-efficiency rules, water use limits, and emissions reporting can help manage resource use, while incentives for renewable power, storage, efficient cooling and low-carbon construction can help smaller players adopt sustainable practices. If India aligns AI growth with clean energy and institutional reforms, it can build a digital economy that is competitive, resilient and environmentally sustainable.

3. Kerala to Keralam

Kerala will soon be Keralam. The loud political message accompanying the change, however, seems to have drowned out its cultural and historical significance. The Union cabinet's approval for the Kerala government's nearly-two-year-old proposal for name change came through at the prodding of BJP's state unit, that too when the assembly election is just around the corner. Prime Minister Narendra Modi said the decision "reflects the will of the people". It is the will of Kerala's people only in the sense that the state legislature unanimously passed a resolution for the name change in 2024, after a 2023 resolution for it was returned citing procedural issues.

While it's now certain that Kerala will have a new name pending some procedural hurdles, it must be noted that similar proposals from West Bengal have been repeatedly rejected. Since the days of Jyoti Basu as chief minister, West Bengal has proposed to change its name at least four times, with options such as Paschim Bangla, Paschim Banga and Bangla suggested. All the proposals were turned down citing procedural difficulties in changing a state's name and the alternatives' similarity to 'Bangladesh'.

However, West Bengal may soon learn from Kerala's experience that such rechristening is not just a simple update—it entails long-term administrative, legal and social consequences and high financial costs. It may necessitate altering official records, state emblems, websites, legal documents and official seals. Changes may be required for the names of institutions. People may face issues with records, documents and bank accounts, leading to confusion and confrontation.

Considering these, it must be assessed as to what Kerala stands to achieve by altering its slightly anglicised—if at all—name. Its boundaries will not change, nor will its economy. The name change will have no bearing on its achievements, challenges and difficulties. For the ordinary Keralite, it's merely the case of adding an extra 'm' in how the name is spelled in English; in Malayalam, it has always been Keralam. Though the demand is essentially rooted in the state's history, culture and linguistic background, the timing of the decision is thoroughly political. So, the name change is expensive symbolism at best and political opportunism at worst.

4. US Supreme Court strikes down Trump's global tariffs

The US Supreme Court on 20 February, 2026 ruled that President **Donald Trump did not have the authority** to impose sweeping import tariffs on its trade partners under a national economic emergency law called the International Emergency Economic Powers Act (IEEPA).

The top court's 6-3 majority decision upholds the earlier decisions by two lower courts dents Trump's use of tariffs as a foreign policy tool.

"When Congress grants the power to impose tariffs, it does so clearly and with careful constraints. It did neither in IEEPA," Chief Justice John Roberts said in the majority opinion. The top court currently has a 6-3 conservative majority, with three of the nine judges (Justices Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett) appointed by Trump. Kavanaugh was among the dissenters.

The Supreme Court ruling, while far from convenient for Trump, does not remove tariffs from the table going forward; it simply means the Congress has to be brought on board. Whether that happens is a different question altogether.

Now, Trump has signed a proclamation using an alternative law — Section 122 of the Trade Act of 1974 — which would allow him to impose a new 10% temporary tariff on goods from all countries.

What is the IEEPA, which Trump cited as the basis for tariffs?

US President Jimmy Carter enacted IEEPA in 1977 to replace the outgoing Trading with the Enemy Act of 1917 (TWEA), whose sweeping powers were used by President Richard Nixon in 1971 to impose a 10% tariff on all imports, even as the US struggled to resolve a balance-of-payments crisis amidst the collapse of the fixed exchange-rate system.

Under IEEPA, the US President has the power "to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat."

Before Trump, the Act was used to impose sanctions on other nations, with Carter declaring a national emergency in the wake of the 1979 Iran hostage crisis to freeze all Iranian government assets in the US. This emergency has been renewed annually by eight successive presidents over 40 years, leaving the US in a virtual state of emergency ever since. George W Bush did something similar in 2001 following the September 11 attacks. As of September 1, 2025, 77 national emergencies have been declared under IEEPA, of which 46 are ongoing, according to a Congressional Research Service report.

However, no US President before Trump had interpreted IEEPA to impose tariffs. The executive order announcing the sweeping 'Liberation Day' tariffs of April 2, 2025, said the US is facing a "national emergency" due to the "foreign trade and economic practices" and the "absence of reciprocity" in trade relationships.

But what does the apex court's decision mean for the US and the global trade policy environment?

Are refund an option?

The money from the IEEPA tariffs has boosted the US federal government's coffers, with non-partisan research body The Budget Lab at Yale pointing out on Friday that the latest data from the US Customs and Border Protection implied $142 billion would have been collected from these tariffs over the course of 2025. But what happens to them now?

"SCOTUS did not rule out allowing importers to claim refunds on any IEEPA tariffs they may have paid. While there are a range of questions regarding the process firms will go through to obtain refunds, it is likely that a substantial portion of the revenue raised via IEEPA in 2025 will be returned to firms," The Budget Lab at Yale said on Friday.

However, any refund process is likely to be far from straightforward.

"The Court says nothing today about whether, and if so how, the Government should go about returning the billions of dollars that it has collected from importers. But that process is likely to be a 'mess,' as was acknowledged at oral argument," Justice Brett Kavanaugh, who voted against the majority ruling, wrote in his dissent.

The accountancy firm PwC had estimated last year the potential refund opportunities for various countries in case the Supreme Court struck down the IEEPA tariffs. As per their analysis, exports from India had faced tariffs to the tune of $487 million for trade conducted until October 2025, out of a total of $108 billion. "Even if refunds are ultimately permitted, the recovery process could be complex and resource intensive," PwC had warned in a report, saying that companies would need to navigate complex customs procedures.

How Trump again imposed tariffs

Whether refunds for the IEEPA tariffs are permitted or not, what is more important is how the Trump administration dealt with the setback it suffered from the country's top court.

There were clear indications that the Trump administration had anticipated such an outcome, with Treasury Secretary Scott Bessent saying back in November 2025 that there were "lots of other authorities that can be used", although IEEPA is "by far the cleanest". "The others are more cumbersome, but they can be effective," Bessant had told CNBC.

The other legal routes to tariffs in front of the Trump administration can be classified into two categories. The first being broad-based, but with constraints and possible legal challenges, according to Japanese investment bank MUFG, belongs to Section 122 of the Trade Act of 1974 and Section 338 of the Tariff Act of 1930.

And indeed, hours after the Supreme Court ruling, Trump issued a proclamation to impose a 10% global tariff on almost all imports to the US under Section 122. This Section allows the temporary imposition of 15% tariffs for up to 150 days in response to "fundamental international payments problems".

Section 338 of the Tariff Act of 1930 gives the President the authority to impose tariffs of up to 50% on imports from countries that have "discriminatory" provisions for US trade. "In extreme cases, imports from these countries can be completely banned," Commerzbank economists Bernd Weidensteiner and Christoph Balz said in a note.

But both these routes, the former of which has already been adopted, are vulnerable to legal challenges, according to MUFG research.

The second set of options is "narrow and sectoral" and requires time, MUFG said, although they have a strong legal footing. These options include Section 232 of the Trade Expansion Act of 1962, which allows an investigation into whether certain imports are detrimental to US national security. If confirmed, Trump will have "almost unlimited powers to restrict these imports", Commerzbank said. This route is already in use by the US for steel and aluminium.

Another "narrow and sectoral" option is Section 301 of the Trade Act of 1974, which gives the President authority to act against unfair or excessive foreign regulations that may burden American trade.

While Trump has said tariffs are crucial to reinforcing US manufacturing and rebalancing its trade, the revenue from these import taxes cannot be ignored, given the US federal government's large budget deficit. "There are therefore considerable political incentives to impose tariffs on a different legal basis, even if these may then be lower in scope," Commerzbank's Weidensteiner and Balz said.

5. UP's anti-conversion law does not bar interfaith live-in relationships

Source – Indian Express

The Allahabad High Court on February 23, 2026 held that interfaith couples living together are entitled to police protection and are not barred from cohabiting by the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021.

Justice Vivek Kumar Singh allowed a batch of 12 writ petitions filed by interfaith couples – seven involving Muslim women and Hindu men, and the rest, Hindu women and Muslim men – that had sought **protection from harassment** by their families.

The judgment is the latest ruling in the ongoing, often contradictory, legal discourse within the High Court regarding the rights of interfaith unmarried live-in couples in Uttar Pradesh.

Question of law

The primary legal question before the court was whether an interfaith live-in relationship constitutes an offence under the 2021 Act if the partners have not applied for conversion under the Act.

The government counsel argued that the Act applies not just to marriage but to relationships "in the nature of marriage", according to the explanation to Section 3(1) of the Act. Consequently, couples that had not followed the mandatory procedure for conversion – which involves a declaration before the district magistrate – were not entitled to state protection since their "act… is unlawful and illegal".

The state relied on a 2023 Division Bench judgment of the High Court in **Kiran Rawat Vs. State of U.P., i**n which the court had denied protection to an unmarried interfaith couple living together. The court had stated that under Muslim personal law, sexual relationships outside marriage are impermissible and punishable.

The court's reasoning

Justice Singh rejected the state's objections by distinguishing the scope of the 2021 Act from the fundamental rights of adults to choose their partners.

The court examined Section 3 of the Act, which prohibits conversion by misrepresentation, force, fraud, undue influence, allurement, or marriage. Justice Singh noted that for the Act to apply, "conversion from one religion to another religion is necessary."

In the cases before him, the petitioners explicitly stated they were living together without converting. The court pointed out that Section 4 of the Act empowers an aggrieved person to lodge a first information report for an offence under the Act.

However, in these cases, "no F.I.R. or complaint has been lodged against any person that religion of one petitioner was converted or attempted to be converted," it was noted.

The court held that being in a live-in relationship without conversion does not contravene the Act. It went on to reason that "[e]ven the interfaith marriage, per se, is not prohibited under the Act" because the Act prescribes a procedure for converting one's religion before marrying.

Addressing the state's reliance on the Kiran Rawat judgment regarding Muslim law, Justice Singh acknowledged that Kiran Rawat discussed the punishment for sexual relations outside marriage under Islamic law. He noted that "a person cannot be punished according to Muslim Law/Islam" since it has no standing in Indian criminal law.

The High Court leaned on Supreme Court judgements, including **Lata Singh vs. State of UP from 2006 and Shafin Jahan vs Asokan K M from 2018,** which established that an adult's right to choose a partner is a fundamental right under Article 21 of the Constitution, guaranteeing the right to life and personal liberty.

Justice Singh wrote, "To disregard the choice of a person who is of the age of majority would not only be antithetic to the freedom of choice of a grown-up individual but would also be a threat to the concept of unity in diversity."

The court also invoked a state government order dated August 31, 2019, that was issued after the High Court nudged earlier that year, to give effect to the Supreme Court's directions from 2018 in the **Shakti Vahini vs. Union of India verdict to combat "honour killings".**

This order mandates that the district magistrate or superintendent of police "must deal with the complaint regarding threats administered to such a couple/family with utmost sensitivity" and must provide "safe houses" and security to couples, regardless of their marital status, who face threats from their families or khap panchayats. Justice Singh directed the police to strictly comply with this order.

Divergent rulings

While Justice Singh's ruling offers relief to the petitioners, it stands in contrast to several other recent rulings by different benches of the Allahabad High Court, creating a complex legal landscape.

For instance, in **Shilpa @ Shikha Vs. State of U.P. in 2024**, a division bench dismissed a petition to quash an FIR against an interfaith couple. That bench accepted the argument that the couple had not applied for conversion under the 2021 Act, holding that the Act's procedure for conversion is mandatory even for live-in relationships.

Conversely, other benches have taken a stance similar to Justice Singh. In **Baby Aaliya Vs. State of U.P. in 2025**, another division bench granted protection to an interfaith couple, stating that "parents, who are major, are entitled to live together, even if they have not undergone marriage." Earlier, in **Kamini Devi**

Vs. State of U.P. in 2020, another division bench had upheld the legitimacy of live-in relationships.

In 2024, the Supreme Court, in **Devu G Nair Vs. State of Kerala**, issued guidelines stating that courts must grant "ad-interim measure, such as immediately granting police protection" to intimate partners – including inter-faith couples – facing threats "before establishing the threshold requirement of being at grave risk of violence and abuse," emphasising that such protection is vital to maintain their "privacy and dignity".

Despite the clarity of Justice Singh's reasoning, his judgment does not settle the position of law in Uttar Pradesh. Justice Singh delivered his verdict as a single judge. The conflicting judgments in Kiran Rawat and Shilpa were delivered by division benches, which hold higher precedential value than single-judge benches.

Until a larger bench of the High Court or the Supreme Court definitively resolves whether the 2021 Act applies to live-in relationships where no conversion is sought, interfaith couples in the state may continue to receive varying judicial outcomes depending on which bench hears their plea.

6. Important Supreme Court Cases

February 2026

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S.N.	Subject	Case Reference
1.	Once the specific provision under Order VII Rule 11 CPC, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint.	P. Suresh Vs. D. Kalaivani and Ors., decided on 03.02.2026
2.	Police can't proceed with further investigation on their own, and it is mandatory to obtain a leave of the court before doing further investigation under Section 173(8) Cr.P.C./Section 193(9) BNSS.	Pramod Kumar and Ors. Vs. State of U.P. and Ors., decided on 04.02.2026
3.	Child custody decisions cannot rest on welfare alone. The courts must also take into account a range of other relevant factors, including the conduct of parents, their financial capacity, standard of living, and the comfort and education of the children.	Mohtashem Billah Malik Vs. Sana Aftab, decided on 04.02.2026
4.	A promise to marry a woman with a subsisting marriage is void in law and cannot sustain a repeated rape charge under Section 376(2)(n) IPC.	Pramod Kumar Navratna Vs. State of Chhattisgarh and Ors., decided on 05.02.2026
5.	Once the existence of an ancestral, income-yielding property is established, any subsequent acquisition made by the Karta during the subsistence of a joint Hindu family is presumed to be joint family property, unless the person claiming self-acquisition discharges the burden of proof with cogent evidence.	Dorairaj Vs. Doraisamy (D) through LRS. and Ors., decided on 05.02.2026
6.	If a party wishes to introduce a photostat copy, they must explain the circumstances under which the copy	Tharammel Peethambaran and Anr. Vs. T. Ushakrishnan and Anr., decided on 06.02.2026

	was prepared and who possessed the original at the time the photograph was taken. Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65. If the original itself is found to be inadmissible through failure of the party who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents. The introduction of secondary evidence is a two-step process, wherein:- **First,** the party must establish the legal right to lead secondary evidence, and **Second,** they must prove the contents of the documents through that evidence. The twin requirements are conjunctive.	
7.	The position of law is well settled, once anticipatory bail is granted, it ordinarily continues without fixed expiry. The filing of a charge-sheet, taking of cognizance, or issuance of summons does not terminate protection unless special reasons are recorded.	Sumit Vs. State of Uttar Pradesh and Anr., decided on 09.02.2026
8.	The grounds of coercion, undue influence and more importantly misrepresentation, resulting in an inequitable partition, cannot be peremptorily rejected while considering an application under Order VII, Rule 11 CPC	J. Muthurajan and Anr. Vs. S. Vaikundarajan and Ors., decided on 10.02.2026
9.	The High Court does not function as a revisional or supervisory Court while exercising jurisdiction under Section 14-A SC/ST Act but assumes	Dr. Anand Rai Vs. State of Madhya Pradesh and Anr., decided on 10.02.2026

	the role of a first appellate court. A mechanical affirmation of the order of the Special Court, without independent scrutiny, would therefore be inconsistent with settled appellate jurisprudence and would amount to a failure to exercise jurisdiction. Even where the appellate Court ultimately agrees with the reasoning of the Courts below, the judgment must disclose that the material was independently examined	
10.	Set aside the controversial judgment of the Allahabad High Court which had held that allegations of grabbing a minor girl's breast and loosening the string of her pyjama did not amount to an attempt to commit rape, but only to "preparation". Hon'ble Supreme Court held that the acts were not mere 'preparation' but 'attempt'.	In Re: Order dated 17.03.2025 Passed by the High Court of Judicature at Allahabad in Criminal Revision No. 1449/2024 and Ancillary Issues, decided on 10.02.2026
11.	When a claim of a right is legal and justified, relief must follow.	Mahendra Prasad Agarwal Vs. Arvind Kumar Singh and Ors., decided on 10.02.2026
12.	Issued directions to High Courts to ensure disclosure of necessary information in bail applications.	Zeba Khan Vs. State of Uttar Pradesh and Ors., decided on 11.02.2026
13.	The ground raised by the absconder/ accused that other co-accused in the FIR have been acquitted by the trial Court does not ipso facto entitle him to the relief of anticipatory bail on the ground of parity, particularly when the accused himself failed to cooperate with the Court and delayed the trial of the other co-accused by absconding. Absconder is entitled to anticipatory bail in exceptional cases where prima facie no case is made out.	Balmukund Singh Gautam Vs. State of Madhya Pradesh and Anr., decided on 13.02.2026
14.	Section 27 Evidence Act clearly speaks of information received from a	Rohit Jangde Vs. State of Chhattisgarh, decided on

	person accused of any offence while in the custody of the police leading to a discovery of a fact being enabled of proof in the trial. Court ruled that "custody" need not mean formal arrest and could include surveillance or restraint.	17.02.2026
15.	A surviving partner in a suicide pact can be held guilty of abetment of suicide, ruling that mutual commitment to die together provides the psychological impetus necessary to attract liability under Sections 306 and 107 IPC.	Gudipalli Siddhartha Reddy Vs. State C.B.I., decided on 17.02.2026
16.	Compensation payable to the victim is only restitutory in nature, and it cannot be considered as equivalent to or a substitute for punishment,	Parameshwari Vs. State of Tamil Nadu and Ors., decided on 17.02.2026
17.	Degrees obtained before University was declared defunct remain valid	Priyanka Kumari and Ors. Vs. State of Bihar and Ors., decided on 18.02.2026
18.	Illegality in search for want of proper authorization cannot render the materials or evidence gathered during the search invalid.	Dr. Naresh Kumar Garg Vs. State of Haryana and Ors., decided on 23.02.2026
19.	At the stage of considering a bail application, a detailed appreciation of the evidence is impermissible.	Shobha Namdev Sonavane Vs. Samadhan Bajirao Sonvane and Ors., decided on 23.02.2026
20.	Once it is established that an unlawful assembly existed and the accused intended to commit murder in furtherance of the common object of such assembly, the individual attribution of the fatal injury fades into insignificance. It is trite law that Section 149 IPC embodies the principle of vicarious liability and renders every member of an unlawful assembly guilty of the offence committed in prosecution of the common object.	Sitaram Kuchhbedia Vs. Vimal Rana and Ors., decided on 23.02.2026
21.	Issued comprehensive directions to ensure the effective utilisation and	Suhas Chakma Vs. Union of India and Ors., decided on

	expansion of Open Correctional Institutions (OCIs) across the country, holding that they must function as meaningful institutions of reform and rehabilitation.	26.02.2026
22.	The period of limitation in criminal prosecutions begins from the date when the identity of all accused persons becomes known to the competent authority, and not from the date of the first complaint.	State of Kerala and Anr. Vs. M/s. Panacea Biotec Ltd. and Anr., decided on 26.02.2026

IN THE SUPREME COURT OF INDIA

P. Suresh
Vs.
D. Kalaivani & Ors.

[Civil Appeal No. 739 of 2026
@ SLP (Civil) No. 20423 of 2025]

Head Note – Once the specific provision under Order VII Rule 11 of the CPC, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint.

Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.

High Court committed a manifest error in exercising its powers under Article 227 of the Constitution to strike down the plaint. It ought to have asked the defendant to take recourse to, in accordance with law, when specific provisions available in the Code of Civil Procedure, 1908 in the nature of Order VII Rule 11.

JUDGMENT

N.V. Anjaria, J.

1. Leave granted.

2. Could the High Court entertain an application invoking and exercising its powers of superintendence under Article 227 of the Constitution, even where a specific remedial provision available in the Code of Civil Procedure Code, 1908 (hereinafter referred to as 'CPC') relating to the subject matter - issue is the focal point arising to be addressed in the present appeal.

2.1 What is challenged in this appeal at the instance of the appellant - original plaintiff, is the judgment and order passed by the High Court of Madras dated 03.06.2025 in CRP No. 3197 of 2024 and CMP No. 17106 of 2024, which were the proceedings of the Civil Revision Petition filed by the defendant under Article 227 of the Constitution, whereby, the High Court allowed the Revision Petition and struck off the plaint in Original Suit No. 93 of 2020 before the Court of District Munsif, Tambaram.

3. Outlining the facts would be relevant to notice the case pleaded in the plaint. The suit instituted by the appellant-plaintiff before the District Munsif Court, Tambaram was for the relief of permanent injunction against the defendants and their agents from interfering with the possession and enjoyment of the suit property by the plaintiff. The suit property comprised of Survey No. 125/1A, Survey No. 125/1C, and Survey No. 230/1B, which was described in their specified boundaries of Patta No. 320.

3.1 The case of the plaintiff was that the land originally belonged to one Sambandam Chettiar, who sold the same to the mother of the appellant named Meena under a registered sale deed dated 20.10.1975, Document No. 3994 of 1975. The said Meena - wife of Paramasivam, was in exclusive possession of the suit property and she died intestate on 07.12.1985. It was further averred that the plaintiff as her sole legal heir inherited the property and has been in exclusive possession and enjoyment of the same and further that the plaintiff got revenue records mutated in his favour in Patta No. 11941.

3.1.1 It was further averred in the plaint that the suit property, an open land, was to be bound by the fence. It was stated that at that time, defendant No. 2 trespassed and prevented the plaintiff from erecting the fence. It was averred that the defendants claimed to be the relatives of Sambandam Chettiar. The plaintiff stated that since the defendants threatened to encroach upon the suit property, the cause of action arose for instituting the Original Suit No. 93 of 2020.

3.2 In the written statement filed by the defendants, the transaction of sale in favour of the plaintiff's mother Meena was disputed by contending that the sale document was fabricated. It was sought to be contended that the certified copy of the sale deed filed along with the plaint used to be the property of another document and further that the sale deed was not signed by the said Sambandam Chettiar. It was the case of the defendants that the document did not pertain to the suit sale but it was a mortgage deed executed by a third party.

3.2.1 It was then contended that the said Sambandam Chettiar and his mother owned the suit property which they had purchased in the years 1922 and 1928 under registered sale deeds, and that agricultural operations were carried out in the lands using the services of coolies. The defendants contended that in the year 1940, when their mother died, all the properties were inherited and that they were in possession and enjoyment of the same. It was stated that in the year 2020, the defendants tendered kist for the land covered under Patta No. 320, but the Village Administrative Officer refused to receive the same, stating that the ownership of the land/Patta had changed.

3.3 By raising the above and other contentions, the defendants put forward their case inter alia that the question of trespassing into the suit property by them did not arise as the title of the property belonged to them and that the case of the plaintiff for injunction was based on fabricated documents and that the suit was fraudulent.

3.4 In the Civil Revision Petition filed before the High Court under Article 227 of the Constitution by the defendants, it was contended that although the plaintiff was claiming exclusive title over the property, he did not seek the declaration of his title. The principles of exercising powers under Order VII Rule 11, CPC and the provisions of Order VI Rule 16 of CPC were pressed into service on behalf of the defendant-petitioners, praying before the High Court to strike off the plaint in exercise of powers under Article 227 of the Constitution.

3.5 The High Court noted the case and averments, the defence of the defendants, and proceeded to record finding that the certified copy of the sale deed produced by the plaintiff pertained to some third party and did not relate to the plaintiff. The High Court further recorded a finding that the document was a forged document and that the suit filed by the plaintiff was a false suit. According to the High Court, since the suit was once dismissed for default on 05.07.2022 and the plaintiff did not take any steps for about a year, it showed that the plaintiff did not show interest for long, and that it implied that the defence of the defendants was a valid defence.

The High Court viewed that the ground of fraud was substantially established by the defendants. According to the High Court, the continuation of the suit was not necessary. On such grounds, the High Court exercised its Constitutional jurisdiction under Article 227 of the Constitution, allowed the civil revision petition, and struck off the plaint.

4. Heard learned advocate Mr. Abdulla Naseeh for the petitioner and learned senior advocate Mr. V. Prabhakar with learned advocate on record Mr. S. Rajappa for the respondents, at length.

4.1 By referring to various judgments of this Court, it was submitted on behalf of the appellant that the High Court was not justified in the facts of the case in exercising the powers under Article 227 of the Constitution and pursuant to exercise of such powers, to set aside the plaint. It was submitted that the powers under Article 227 of the Constitution are supervisory, to be exercised sparingly. More particularly, when specific provision in the form of Order VII Rule 11, CPC exists in the statute book under which the defendant could have filed its application, a manifest error was committed by the High Court, it was submitted.

4.2 Learned counsel for the respondent, on the other hand, submitted that the supervisory powers of the High Court under Article 227 are wide enough and when the High Court found that the suit-plaint was liable to be struck off, no exception could be taken for invoking the powers. Learned counsel for the respondent also referred to the provision of Order VI Rule 16, CPC, which permits the Court to strike off the pleadings.

5. Article 227 of the Constitution invests the power of superintendence over all courts by the High Court. Sub-Article(1) thereof provides that every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

As per sub-Article(2), without prejudice to the generality of the provisions in sub-Article (1), the High Court may (a) call for returns from such courts; (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts and (c) prescribe forms in which the books and accounts etc. to be kept by the officers of courts. As per sub-Article (3), the High Court may also settle tables of fees. Sub-Article (4) provides that nothing in the Article shall deem to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

5.1 The scope, ambit, amplitude and nature of the powers of a High Court under Article 227 of the Constitution are discussed and delineated by this Court in catena of decisions. Article 227 is perceived to be a custodian of justice, which is in the nature of extraordinary supervisory powers, discretionary in nature. In Shalini Shyam Shetty vs. Rajendra Shankar Patil1, this Court cautioned that an improper and frequent exercise of this power will be counterproductive and would divest this extraordinary power of its strength and vitality. It was observed that this discretionary power has to be exercised very sparingly.

5.1.1 The reserve of exceptional power of judicial intervention is not to be exercised just for granting of relief in individual cases but should be directed for the promotion of public confidence in the administration of justice. It is emphasized that though the power under Article 227 may be unfettered, its exercise is subject to high degree of judicial discipline. The Court observed in Shalini Shyam Shetty (supra), 'The power of interference under Article 227 is to be kept to the minimum to ensure that the wheel of justice does not come to halt and the foundation of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.'

5.2 Similarly, in State vs. Navjot Sandhu2, the powers of the High Court under Article 227 came to be explained by this Court observing that the powers available to the High Court under Article 227 of the Constitution are not meant for and not to be exercised just for the purpose of correcting errors. It was held:

'It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise.'

(Para 28)

5.3 In A. Venkateshubbiah Naidu vs. S. Chellappan3, this Court held that 'though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is a wellrecognised principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies before he resorts to a constitutional remedy.'

5.4 In Rajendra Diwan vs. Pradeep Kumar Ranibala and Anr.4, this Court reiterated that the supervisory power under Article 227 of the Constitution available to the High Court is not for a routine exercise, it is meant to keep the courts and tribunals within the bounds of their jurisdiction or where grave miscarriage of justice has occurred or there is a flagrant violation of law. What was stated was that the jurisdiction under Article 227 cannot be exercised 'in the cloak of an appeal in disguise', it cannot be converted into an alternative appellate forum.

5.5 In K.Valarmathi and Ors. vs. Kumaresan5, this Court reiterated the same principles for exercising the powers under Article 227 of the Constitution by the High Courts as under,

'Essence of the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise. Nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 1908.'

(Para 9)

5.5.1 It was further observed, which observation may also be pertinently reproduced, 'Civil Procedure Code is a self-contained Code and Order VII Rule 11 therein enumerates the circumstances in which the trial court may reject a

plaint. Such rejection amounts to a deemed decree which is appealable before the High Court under Section 96 of the Code. This statutory scheme cannot be upended by invoking supervisory jurisdiction of the High Court under Article 227 to entertain a prayer for rejection of plaint.'

(Para 10)

5.6 In Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others vs. Tuticorin Educational Society and Others6, the appellants therein had filed a suit for declaration and permanent injunction. In the said suit proceedings, the trial court passed order granting an injunction. Respondent No. 5 in the suit called in question the order of granting injunction by filing a regular appeal under Order XLIII Rule 1(r) of the Civil Procedure Code, 1908. But the Defendant Nos. 1 and 6 challenged the said order of injunction not by filing regular appeal but by invoking the powers of the High Court under Article 227 of the Constitution. The High Court allowed the said civil revision petition and set aside the order of injunction granted by the trial court.

5.6.1 The exercise of supervisory powers under Article 227 of the Constitution by the High Court to challenge the injunction order was strongly disapproved by this court, observing that the High Court ought to have seen that when remedy of appeal under Section 104 read with Order XLIII Rule 1(r), CPC, was directly available, Defendant Nos.1 and 6-Respondent Nos. 1 and 2 before this Court ought to have taken recourse to the same.

5.6.2 In Virudhunagar (supra), by categorizing the cases where the remedy is available under the provisions of the Civil Procedure Code and the cases where such remedial provisions exist under special statutes, this Court emphasised that in cases falling under the first category, where there is availability of remedy in terms of the provisions of the Civil Procedure Code, the existence of such remedy has to be treated as almost a complete bar against applying powers under Article 227 of the Constitution in that regard.

5.6.3 The Court observed thus, 'courts should always bear in mind a distinction between (i) cases where such alternative remedy is available before civil courts in terms of the provisions of Civil Procedure Code, and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi-judicial authorities and tribunals.

In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under

Article 227, even a decree passed in a suit, on the same grounds on which Respondents 1 and 2 invoked the jurisdiction of the High Court.'

(Para 12)

5.7 The statement of law observed by a Three-Judge Bench of this Court in Radhey Shyam vs. Chhabi Nath7, while overruling the earlier decision in Surya Dev Rai vs. Ram Chander Rai8, was recollected, that 'orders of civil courts stand on a different footing from the orders of authorities or tribunals or courts other than judicial/ Civil Court', stating further as under,

'Therefore wherever the proceedings are under the Civil Procedure Code and the forum is the civil court, the availability of a remedy under the CPC, will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the Constitution. Hence, the High Court ought not to have entertained the revision under Article 227 especially in a case where a specific remedy of appeal is provided under the Civil Procedure Code itself.'

(Para 13)

6. In the case on hand, the High Court has exercised its supervisory powers under Article 227 of the Constitution and proceeded to set aside the plaint. The invocation of such powers are sought to be justified by the defendants - respondents by stating that the amplitude of such power is vast and pervasive, which was duly exercised by the High Court to strike off the erroneous plaint. A shelter is also taken from the provision of Order VI Rule 16, CPC to submit that it is a provision under which frivolous or vexatious proceedings could be struck off, reading it with powers of superintendence under Article 227 of the Constitution.

6.1 For easy reference, the provision of Order VI Rule 16 CPC is extracted hereinbelow,

'16. Striking out pleadings.

The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading-

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trail of the suit, or

(c) which is otherwise an abuse of the process of the Court.'

6.1.1 The bare perusal of the aforementioned provision mandates procedural defects whereby the courts can exercise their discretionary power to strike out any matter in any pleading. Such discretion could be exercised cautiously and only when the parameter stipulated under the said provision are apparent, such as, when the matter in the pleading is unnecessary, scandalous, frivolous or vexatious or it is of such a nature it tends to prejudice, embarrass or delay the fair trial of the suit or it is otherwise an abuse of the process of the court.

6.2 Now, there is a specific provision under the CPC in the nature of Order VII Rule 11, which deals with the rejection of the plaint, which mentions specific grounds on which the court may reject the plaint. The said provision is reproduced herein,

'11. Rejection of plaint.

The plaint shall be rejected in the following cases:

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9.'

6.2.1. The provision says that the plaint shall be rejected in the following cases, firstly, if it does not disclose a cause of action. Now, the cause of action is a bundle of facts. Whether cause of action exists for the purpose of validly instituting the suit or not would necessarily require a factual inquiry. The second ground is that the relief claimed when undervalued and the plaintiff, on being required by the Court to correct the valuation and pay the deficit court fee within the time which may be fixed by the Court, fails to do so. The third ground mentioned for rejection of the plaint is similar with regard to the plaint which is insufficiently stamped and the plaintiff has failed to supply the requisite stamp paper within the time fixed by the court.

6.2.2 The fourth ground is about the suit appearing from the statement in the plaint to be barred by any law. Though this may be a legal consideration, the attendant facts would become relevant and the issue may not always be finally adjudged without application of facts. The fifth ground is that the plaint is not filed in duplicate. This is curable defect and a procedural aspect. The sixth ground is where the plaintiff fails to comply with the provisions of Rule 9, which is also not to be immune from consideration of facts of the case.

6.2.3 As far as the ground of correction of valuation for supplying of the stamp paper is concerned, the proviso mentions that time may be extended by the Court, for the reasons to be recorded, if the court is satisfied that the plaintiff was prevented by any cause of exceptional nature. There is no gainsaying that there will have to be factual inquiry in the process of determination for rejection of plaint and for the satisfaction to be arrived at by the Court with regard to the extension of time, which the court may grant.

Therefore, it would be entirely proper to conclude that when the grounds for rejection of the plaint, provided in statutory provision, require the consideration of the facts of the case, such issue should not be gone into by exercising supervisory jurisdiction under Article 227 of the Constitution, which even otherwise is supposed to be exercised by the Court sparingly and not just for the purpose of correcting purported errors. In any view, the overriding criteria in law is that the supervisory jurisdiction cannot be applied to substitute the remedy available specifically in the CPC itself.

6.3 While the principal issue addressed in the present appeal is about the principle whether the High Court could have exercised its supervisory jurisdiction under Article 227 of the Constitution to strike off the plaint, even though a specific provision for rejection of the plaint under Order VII Rule 11, CPC was available to the defendants to be taken recourse to, it is also to be noted additionally that the dispute in the suit was essentially a title dispute between the parties. Secondly, the defence of the defendants was that the suit was fraudulent and based on false documents. The High Court accepted the said contentions and struck down the plaint vide its powers under Article 227 of the Constitution.

6.3.1 In Shalini Shyam Shetty1, this Court in Paragraph 64 of the judgment has flagged the growing tendency among the High Courts to entertain writ petitions in cases of property disputes, partition suits, matters relating to the execution of decrees, landlord-tenant disputes, money decrees and in respect of such other various cases and has disapproved the same and held that the High Courts could not in a routine manner entertain petitions under Article 227.

6.3.2 It has to be acknowledged that almost all civil suits would involve disputed question of facts. The averment in plaint quite often than not, raise controversy which, in ultimate analysis, is to be addressed and adjudicated by leading evidence. As these are the disputes of civil nature to be dealt with by the civil court, and the invocation of Constitutional powers thereover in a routine manner may not be necessary nor is advisable. This proposition, in its analogousness, would justify holding that powers under Article 227 of the Constitution would not be available to be exercised where there is an alternative remedy.

6.4 For the very above reasoning, the reliance placed on the provision of Order VI Rule 16, CPC to support the impugned order and to justify the exercise of powers under Article 227 of the Constitution for striking out the plaint, is misconceived in law. Order VI Rule 16, CPC deals with the question of striking out pleadings, to provide that the Court may, at any stage of the proceedings, order to be struck out or amended in any matter in any pleading which is unnecessary, scandalous, frivolous, or vexatious or which may tend to prejudice or embarrass the fair trial of the suit or which is otherwise an abuse of the process of Court.

6.4.1 Evidently, this provision deals with the striking out of a part or a section of the pleading which suffers from any of the kinds mentioned in the provision, such as unnecessary, scandalous, frivolous, vexatious, prejudicial, embarrassing or delaying the fair trial or abuse of the process of law. It would be stretching beyond the logic of law to interpret and imply that Order VI Rule 16 can be utilized and employed for striking down the entire plaint. Striking down the plaint or rejection of plaint on the legal grounds available in Order VII Rule 11, CPC is entirely different than striking out the infirm or abusive pleadings. Under the guise of invoking Order VI Rule 16, CPC, therefore, justification for using the powers under Article 227 of the Constitution cannot be extended.

7. When the powers under Article 227 of the Constitution are of supervisory nature and when the aforestated settled dictum of law is that the High Court does not act as a court of appeal or a court of error, it would logically follow that the powers under Article 227 would not be exercised when the non-exercise of such powers does not result into miscarriage of justice or deprivation of remedy in law to a party.

7.1 It is to be conceived as one of the prohibited area for exercising Article 227 powers where, in respect of the grievance for which party has remedy in law, these powers are surely to be invoked. The principle is therefore to be emphasized that the exercise of supervisory jurisdiction under Article 227 of the Constitution has to be treated as an exceptional resort when an alternative

efficacious civil remedy by way of appeal or revision or any other, like Order VII Rule 11, CPC in the present case, is available to the party for the redressal of the grievance.

7.2 The proposition that the availability of alternative remedy shall be legitimately construed to displace the exercise of Constitutional jurisdiction by the High Court, is true not only for the purpose of exercising powers under Article 226 of the Constitution but also for the purpose of invoking Article 227 of the Constitution.

7.3 In the garb of exercising supervisory jurisdiction under Article 227 of the Constitution, the High Court is not expected to engulf the specific statutory remedy or provision in law and, thus, become a supervisor over the court below or the tribunal, as the case may be. It would be a legally wise exercise of discretion for the High Court to adopt and adhere to such self-imposed discipline and to insist that the aggrieved party should take recourse to such alternative remedy or statutory provision available in law, especially, for the case falling in category indicated in Virudhunagar6 (supra) where remedy available in the CPC for the cases falling under category/other law also, where such specific statutory remedy is available, the dictum laid down herein is true to grant extent.

7.4 As stated above, embargo in this regard would have to be construed as near total when provision is available in CPC. It is held, therefore, that once the specific provision under Order VII Rule 11 of the CPC, is available, the High Court cannot exercise powers under Article 227 to reject or strike off the plaint. For such relief, the specific provision under Order VII Rule 11, CPC, will have to be resorted to, on the grounds mentioned in the said provision.

8. In adopting such approach, the High Court would be giving due regard to the legislative intent. When the legislature has enacted specific remedial provision to be taken recourse to by the person aggrieved to challenge the orders and decisions of the court to seek redress in law accordingly that remedy alone will have to be sought for.

9. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.

10. For all the aforesaid reasons and discussions, this court is of the view that High Court committed a manifest error in exercising its powers under Article 227 of the Constitution to strike down the plaint. It ought to have asked the defendant to take recourse to, in accordance with law, when specific provisions available in the Code of Civil Procedure, 1908 in the nature of Order VII Rule 11. The impugned judgment and order of the High Court, therefore, deserves to be set aside.

10.1 As a result, the judgment and order dated 03.06.2025 passed by the High Court of Madras in CRP No. 3197 of 2024 and CMP No. 17106 of 2024 striking off the plaint of Original Suit No. 93 of 2020 before the Court of District Munsif, Tambaram, is hereby set aside.

11. The appeal is allowed. Consequently, the suit is restored to its original file and parties are directed to appear before the trial court for further proceedings on 16.02.2026 without awaiting further notice. Liberty is reserved for the defendants to file application under Order VII Rule 11, CPC, to be considered strictly in accordance with law. There shall be no costs. In view of the disposal of the main appeal, all interlocutory applications, as may be pending, stand disposed of.

.....J. [Aravind Kumar]

.....J. [N.V. Anjaria]

New Delhi;

February 03, 2026.

1 (2010) 8 SCC 329
2 (2003) 6 SCC 641
3 (2000) 7 SCC 695
4 2019 (20) SCC 143
5 2025 SCC OnLine SC 985
6 (2019) 9 SCC 538
7 (2015) 5 SCC 423
8 (2003) 6 SCC 675

IN THE SUPREME COURT OF INDIA

Pramod Kumar and Ors.
Vs.
State of Uttar Pradesh and Ors.

[Civil Appeal No._____ of 2026
arising out of SLP (Criminal) No. 350 of 2024]

Head Note – Police can't proceed with further investigation on their own, and it is mandatory to obtain a leave of the court before doing further investigation under Section 173(8) CrPC/Section 193(9) of BNSS.

The power to direct further investigation in a case rests solely at the discretion of the Magistrate/Court concerned. In the event, the police/ investigation agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves. Once such an application is filed by the investigation agency, the Magistrate/Court would apply its judicial mind, in light of the facts and circumstances of the particular case and the reasons demonstrated by the investigating agency, in order to exercise its discretion for exercise of its power to decide whether or not further investigation is to be ordered under the purview of Section 173(8) CrPC.

It is true that though there is no specific requirement in the provisions of Section 173(8) Cr.P.C. to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court. The courts, in some of the decisions, have also taken a similar view. The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to be read into, and is a necessary implication of the provisions of Section 173(8) Cr.P.C. The doctrine of contemporanea expositio will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process.

JUDGMENT

Vijay Bishnoi, J.

1. Leave Granted.

2. This appeal has been preferred by the Appellants challenging the Judgment dated 20.11.2023 (hereinafter referred to as "impugned judgment") passed in Criminal Misc. Writ Petition No. 4000 of 2022 by the High Court of Judicature at Allahabad, Lucknow Bench (hereinafter referred to as "the High Court"). The writ petition filed by the Appellants was dismissed by the High Court, wherein it refused to quash the Orders dated 06.06.2019 and 26.04.2021 passed by the Respondent No. 1 and Respondent No. 4, respectively.

3. The sole question that arises for our consideration in the present appeal is whether after submitting a final report under Section 173(2) of the Criminal Procedure Code (for short "CrPC") (also refer to Section 193(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS")), the police/investigating agency can conduct further investigation under Section 173(8) of CrPC (also refer to Section 193(9) of BNSS) without obtaining the leave of the Magistrate/ Court concerned?

FACTUAL MATRIX

4. A fascicule of facts pertinent for the disposal of this appeal are that, on 19.11.2013, an FIR bearing Case Crime No. 70/2013 (hereinafter referred to as "the FIR") was registered against seven accused persons including the Appellants herein by the Respondent No. 6 (hereinafter referred to as "the original complainant") for the offence punishable under Sections 376D, 352, 504, 506 respectively of the Indian Penal Code, 1860 (for short, "IPC") at Mahila Police Station, Sub-district Sadar, District Firozabad.

5. During the investigation, owing to multiple applications being moved by the original complainant alleging danger to his life and his family members' lives, the investigation was initially transferred from the Mahila Police Station to the Crime Branch, Firozabad, and subsequently to the Crime Branch, Mathura.

6. After completion of the investigation, the Investigating Officer submitted the Final Report No.17/14 dated 30.05.2014 (hereinafter referred to as "the Closure Report"), stating that no offence was made out against the accused persons (including the Appellants herein) in light of the contradictions between the statements of the original complainant under Section 161 and 164 CrPC. The relevant extract of the closure report is reproduced herein under:

"On the basis of information of the informant, the aforesaid case was registered and investigation was undertaken. There is contradiction between the statements U/s. 161 and 164 Cr.P.C. of the informant. There is enmity/litigation pending between the informant and the accused persons. The statements of the informant are not supported by other evidences. Hence, the offence is not confirmed. In absence of evidences, it is impossible to file

challan against the accused persons before the Court. Hence, the case is closed by FR. Kindly approve it."

7. After receiving the Closure Report, the Court of First Additional Civil Judge, (J.D.)/Judicial Magistrate, Firozabad, issued several notices to the original complainant. However, despite service of notices, he did not appear before the court, nor did he file any protest petition. The Court of First Additional Civil Judge, (J.D.)/Judicial Magistrate, Firozabad, after considering the Closure Report, has accepted the same vide order dated 14.09.2015, noting that the material on record did not support the prosecution's case. The relevant extract of the Order is reproduced herein under:

"The case file was presented today. Notice has been sent to the informant several times. Despite the notice has been duly served to the informant several times, he had not filed any objection/protest petition against the final report. It is clear from the case diary and police documents and evidences available in the file that the statements u/s 161 CrPC and statements u/s 164 CrPC of the informant and the person with whom the victim had gone to the bridge on a motorcycle to search for her brothers, it has been confirmed from her statements/affidavit, that neither the victim met that day nor she was taken to the bridge on a motorcycle and none of the statements of witnesses recorded by the IO have confirmed the incident.

Even perusal of the medical report does not confirm any kind of external or internal injury and the statements made by the victim are also not confirmed by the medical report. Thus, according to the medical report, no clear inference can be made that the victim was raped. It is also clear from the perusal of the file that the informant had requested for the investigation of the said case, apart by the local police, shall be conducted by the Crime Branch, on which the case was investigated by the Crime Branch, Mathura.

The investigation was carried out by several Investigating Officers of Crime Branch, Mathura and after the investigation, the mobile phones of the accused were matched through cell track by Mr. Narendra Singh, and the location of any of the accused persons was not found at the spot at the time of the incident, which has been recorded in the case diary by the IO and any of the witness had not confirmed the statement of the victim, on the basis of which the final report in the case No. 17/14 dated 30-5-14 has been submitted by the IO on 30.05.2014 which prima facie appears to be legal.

Therefore, in compliance of Hon'ble High Court's circular no. 31/2012 Admin, G. II, Allahabad dated 11-12-2012 and Hon'ble High Court Allahabad's criminal miscellaneous petition no. 2520/2012 Pradeep Kumar Srivastava vs. State of UP and others u/s 482/378/507 Order passed in S.P. No. dated 27-7-

2012 and circular letter no. of Honorable High Court Allahabad no. 10435 date 03.09.2014 and letter no. 420/2015 dated 17.01.2015, the final report no. 17/14 is accepted. It should be attached in the file."

8. Subsequently, after a span of about 3 years, the original complainant filed a Criminal Revision Petition (later registered as Criminal Miscellaneous Case No. 440 of 2017) before the Court of District and Sessions Judge, Firozabad, for setting aside the aforesaid order dated 14.09.2015, wherein the Closure Report was accepted. The said case is presently pending before the Court of District and Sessions Judge, Firozabad.

9. Thereafter, one Dr Ashu Kumar filed a complaint before the National Human Rights Commission (hereinafter referred to as "NHRC") alleging several deficiencies in the investigation conducted by police officials. The Assistant Registrar (Law) of the NHRC after considering the said complaint, passed an Order dated 06.03.2019, citing several discrepancies in the investigation done by investigating authority and, consequently, directed the Director General of Police, Uttar Pradesh (hereinafter referred to as "the DGP") to conduct a fact finding enquiry into the conduct of officials of Police Station Ekka, Police Station Narkhi, by an officer not below the rank of the Superintendent of Police and submit a report regarding the same within a period of 6 weeks. The NHRC further directed the Chief Secretary to pay an amount of Rs. 2 lakhs to the prosecutrix and Rs. 1 lakh each to the original complainant as well as the father of the prosecutrix, and submit a compliance report within 6 weeks.

10. In compliance thereof, the Under Secretary, Government of Uttar Pradesh, forwarded a letter dated 06.06.2019 to the Director, CBCID, informing that in pursuance of the directions of the NHRC, it has been decided that the matter should be investigated by CBCID and further directing him to complete the investigation within a period of 6 weeks and submit a final progress report.

11. In view of the aforesaid, the Under Secretary vide letter dated 12.02.2021, informed the NHRC that an investigation pursuant to the conduct of the officers involved in the present case is underway. Further, it was also informed that in order to reveal the truth of the accusations involved in the case, it is recommended that further investigation under Section 173(8) should be conducted in FIR No. 70/2013.

12. With the approval of the Director General of Police, CBCID, an Inspector of CBCID (hereinafter referred to as "IO") was nominated for carrying out further investigation of the present case under Section 173(8) of the CrPC and pursuantly, the newly appointed IO filed an application dated 22.04.2021 before the Court of First Additional Civil Judge (J.D.)/Judicial Magistrate,

Firozabad, seeking permission to conduct further investigation in the instant case under Section 173(8) of the CrPC.

13. Thereafter, vide communication dated 26.04.2021, the Superintendent of Police, Agra informed the Additional Superintendent of Police/Divisional Officer, Crime Branch, A.A.D., Agra, of the nomination of the IO in the present case and also directed him to make available the special report relating to the further investigation (in 10 days), the draft of the plan (in 20 days) and the monthly progress report in the prescribed formats to the headquarters on time and complete the investigation as soon as possible and send the final progress to the headquarters.

14. In furtherance of the said investigation, the IO sent a notice to the accused persons (including the Appellants) for the collection of their samples to conduct a DNA test. Their blood samples were collected on 05.05.2022.

15. Consequently, the Appellants filed Criminal Misc. Writ Petition No. 4000 of 2022 before the High Court challenging the Order dated 06.06.2019 and 26.04.2021.

16. The High Court, vide Order dated 23.06.2022, initially granted interim protection from arrest to the Appellants. However, in the same Order, it directed that the investigation shall continue and that the Appellants shall cooperate with the investigation.

17. During the pendency of the Writ Petition, the Director, Forensic Science Laboratory, State of Uttar Pradesh, submitted the DNA Test Report dated 21.09.2022 stating that the accused persons, including the Appellants, were not the biological father of the fetus of the prosecutrix.

18. Later, the High Court vide the impugned judgment observed that the allegations of rape were made against several accused, and the prosecutrix also filed a protest petition against the final report submitted by the investigating officer. The DNA sample of the aborted fetus (resulting from the pregnancy from the alleged rape) was also preserved, and the Investigating Officer had written to the Court praying that a DNA test may be carried out to find out who was actually the accused amongst the several accused, who was involved in the commission of rape. The High Court, thus, held that it found no good grounds to entertain the petition and dismissed the same.

19. Aggrieved, the Appellants preferred the instant appeal before this Court. During the pendency of the appeal, this Court vide Order dated 16.01.2024, issued notice and stayed the operation and effect of the communications dated 06.06.2019 and 26.04.2021, and also the investigation in the present case. The relevant portion is reproduced herein under:

"Applications seeking exemption from filing C/C of the impugned judgment and exemption from filing O.T. are allowed. Issue notice. In the meantime, operation and effect of the communications dated 06.6.2019 and 26.4.2021 directing investigation in Case Crime no.70/13 U/s. 376D, 352, 504, 506 IPC registered at PS Mahila Police Station, District Firozabad shall remain stayed."

20. Pursuant to the Order dated 16.01.2024, notices were issued to the Respondents and were served on all except Respondent No. 7. Respondent No. 6 did not appear before this Court even after notice was served to him on 30.01.2024. Further, notice could not be served upon Respondent No. 7 and therefore, a report from the Trial Court was called upon wherein it was mentioned that as the notice was unserved with remarks "no such person found". Consequently, this Court vide Order dated 28.08.2025 deleted the name of Respondent No. 7 at risk of the Appellants. The relevant portion of the Order dated 30.09.2024 is reproduced herein under:

"Service is complete on respondent nos. 1 to 6 but none has entered appearance. As per report of concerned Trial Court, notice could not be served on respondent no.7 due to remarks "no such person found". However, ld. Counsel for the petitioner submits that an application for deletion of the name of respondent no.7 from the array of parties will be filed. Be filed within one week. If filed, process as per rules. However, if application is not filed, list again on 06.01.2025."

Accordingly, vide Order dated 28.08.2025, the name of Respondent No. 7 was deleted from the appeal. The extract of the said order is reproduced herein under:

"Application for deleting the name of respondent no. 7 is allowed at the risk of the petitioners."

CONTENTION OF THE PARTIES

21. Mr. Divyesh Pratap Singh, the learned counsel for the Appellants submitted that the Superintendent of Police, Agra on recommendation of the State of Uttar Pradesh directed further investigation under Section 173(8) Cr.P.C. without obtaining prior permission from the competent Court, even though a closure report had already been accepted.

The Learned counsel for the Appellant contended that once the final report is accepted, only the criminal Court has the power to order further investigation and such power cannot be exercised by the police or any executive authority. Further, the so-called "further investigation" is in fact an impermissible de-novo or fresh investigation, as it was ordered after about seven years without any new or additional material and was initiated from the very first stage,

including demands for DNA samples after several years, which amounts to filling up lacunae in the prosecution case.

22. The Learned Counsel for the Appellants further contended that the final report dated 30.05.2014 was filed after a thorough investigation and was accepted by the Court on 14.09.2015 after due notice to the original informant, who did not file any objection or a protest petition. It was also contended that the DNA report dated 21.09.2022 clearly concluded that the accused persons, including the Appellants, are not the biological fathers of the prosecutrix's aborted foetus, which debunks the very genesis of the case and directly contradicts the allegations of the alleged incident. The learned counsel placed reliance on the judgment passed by this Court in Vinay Tyagi v. Irshad Ali, reported in (2013) 5 SCC 762, wherein it was held that it is a part of procedure of the investigating authority to seek leave of the Court before conducting "further investigation".

23. The learned Additional Advocate General for the State of U.P., Mr Apoorva Agarwal, argued that there is no bar under Section 173(8) against conducting further investigation. It was argued that "further investigation" is merely a continuation of the earlier investigation, and there is nothing in the CrPC to suggest that the Court is obliged to hear the accused while considering an application for further investigation under Section 173(8) of CrPC. The learned AAG also placed reliance upon the case of Dharam Pal v. State of Haryana reported in (2016) 4 SCC 160, wherein this Court held that the Police Officer has unrestricted power under Section 173(8) CrPC to conduct further investigation.

24. We have heard the parties and perused the material available on record.

ANALYSIS

25. The power of the investigation agency to order further investigation in any criminal case is derived from the aegis of Section 173(8) CrPC (also refer to Section 193(9) BNSS), which is reproduced as follows: "(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under Sub-Section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding, such evidence in the form prescribed; and the provisions of Sub-Sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under Sub-Section (2). Thus, the powers of the investigation agency for further investigation are not in dispute herein. However, what catches attention here and which is also the crux of the controversy in the

present case, is which authority can pass an order directing the investigation agency to undertake further investigation under Section 173(8).

26. The issue regarding the procedure to be followed for directing further investigation in a case has been dealt by this Court in the case of Vinay Tyagi (supra), wherein this Court while dealing with the contours of Section 173(8) relating to further investigation, propounded that the police ought to follow the procedure of seeking permission from the Court to conduct "further investigation" and file a supplementary chargesheet. The relevant paragraphs from the judgment are reproduced as under:

"40. Having analysed the provisions of the Code and the various judgments as aforeindicated, we would state the following conclusions in regard to the powers of a Magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code:

40.1. The Magistrate has no power to direct "reinvestigation" or "fresh investigation" (de novo) in the case initiated on the basis of a police report.

40.2. A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.

40.3. The view expressed in Sub-para 40.2 above is in conformity with the principle of law stated in Bhagwant Singh case [Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537 : 1985 SCC (Cri) 267] by a three-Judge Bench and thus in conformity with the doctrine of precedent.

40.4. Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).

40.5. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the court to the extent that even where the facts of the case and the ends of justice demand, the court can still not direct the investigating agency to conduct further investigation which it could do on its own.

40.6. It has been a procedure of propriety that the police has to seek permission of the court to continue "further investigation" and file supplementary charge-sheet. This approach has been approved by this Court in a number of

judgments. This as such would support the view that we are taking in the present case." add 49 and 50

(Emphasis Supplied)

In this very judgment, this Court, while noting that although there is no explicit mandate under Section 173(8) CrPC to seek the leave of the Court before conducting further investigation, nevertheless, over time, a practice has been developed to seek permission of the Court. Therefore, the practice of seeking the leave of the Court will have to be read into the provisions of Section 173(8), and it is essentially a prerequisite for directing further investigation. This Court therein held as follows:

"49. Now, we may examine another significant aspect which is how the provisions of Section 173(8) have been understood and applied by the courts and investigating agencies. It is true that though there is no specific requirement in the provisions of Section 173(8) of the Code to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court.

The courts, in some of the decisions, have also taken a similar view. The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to be read into, and is a necessary implication of the provisions of Section 173(8) of the Code. The doctrine of contemporanea expositio will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process.

50. Such a view can be supported from two different points of view: firstly, through the doctrine of precedent, as aforenoticed, since quite often the courts have taken such a view, and, secondly, the investigating agencies which have also so understood and applied the principle. The matters which are understood and implemented as a legal practice and are not opposed to the basic rule of law would be good practice and such interpretation would be permissible with the aid of doctrine of contemporanea expositio. Even otherwise, to seek such leave of the court would meet the ends of justice and also provide adequate safeguard against a suspect/accused."

(Emphasis Supplied)

The proposition of the law laid down in the case of Vinay Tyagi (supra) has been further affirmed by the Three Judge Bench of this Court in the case of

Vinubhai Haribhai Malviya and Others versus State of Gujarat and Another, reported in (2019) 17 SCC 1.

27. This Court has dealt with a similar situation in the case of Peethambaran Versus State Of Kerala & Anr., reported in the (2024) 16 SCC 65, wherein the District Police Chief, i.e., Superintendent of Police, ordered further investigation. This Court therein, while quashing the order passed by the District Police Chief, held that the power to order further investigation rests either with the Magistrate concerned or a higher court, but not with an investigation agency. The relevant paragraphs from the judgment are reproduced as follows:

"19. The Chief Police Officer of a district is the Superintendent of Police who is an officer of the Indian Police Service. Needless to state, an order from the District Police Chief is not the same as an order issued by the Magistrate concerned. Referring to Vinay Tyagi [Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , this Court in Devendra Nath Singh v. State of Bihar [Devendra Nath Singh v. State of Bihar, (2023) 1 SCC 48 : (2023) 1 SCC (Cri) 270] noted that there is no specific requirement to seek leave of the court for further investigation or to file a supplementary report but the investigating agencies, have not only understood it to be so but have also adopted the same as a legal requirement.

The doctrine of contemporanea exposito aids such an interpretation of matters which have been long understood and implemented in a particular manner to be accepted into the interpretive process. In other words, the requirement of permission for further investigation or to file a supplementary report is accepted within law and is therefore required to be complied with.

20. In the facts at hand, it is clear that such a permission was never taken, granted or ordered. Consequently, FR-II is without basis. In FR-I it has been stated that in the absence of any documents in respect of the financial transactions, the instant case may be treated as a false case. This, then would necessarily imply that after due investigation conducted by a duly authorised person, the conclusion is that the ingredients of the section mentioned in the FIR have not been met and no case is made out.

28. In terms of second question, the above discussion makes clear that the District Police Chief, Kottayam could not have ordered further investigation, as that power rests either with the Magistrate concerned or with a higher court and not with an investigating agency."

(Emphasis Supplied)

28. In light of the legal position as settled by this Court through the above judgments, it is safe to say that the power to direct further investigation in a case rests solely at the discretion of the Magistrate/Court concerned. In the event, the police/ investigation agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves.

Once such an application is filed by the investigation agency, the Magistrate/Court would apply its judicial mind, in light of the facts and circumstances of the particular case and the reasons demonstrated by the investigating agency, in order to exercise its discretion for exercise of its power to decide whether or not further investigation is to be ordered under the purview of Section 173(8) CrPC.

29. In the present case, the Under Secretary of the State of Uttar Pradesh, vide its letter dated 06.06.2019, directed that the investigation in the matter would be conducted by the CBCID. The Under Secretary also recommended that further investigation under Section 173(8) CrPC be conducted through its letter addressed to the NHRC dated 12.02.2021. Consequently, the Investigating Officer of the CBCID wrote a letter dated 22.04.2021 to the Judicial Magistrate, Firozabad, requesting to grant permission to conduct further investigation u/S. 173(8) CrPC and provide a copy of the case diary. However, the Court did not pass any order to the extent of requisitioning the Investigating Officer to conduct further investigation.

30. Further, vide letter dated 26.04.2021, the Superintendent of Police informed the Additional Superintendent of Police/Divisional Officer, Crime Branch, A.A.D., Agra, about the nomination of the IO in the present case and directed him to complete the investigation expeditiously, submit monthly progress reports, and forward the final report upon completion of the investigation.

31. Thus, it is amply clear that the Superintendent of Police acted in complete defiance of the procedure laid down under the law while passing orders directing further investigation without seeking leave of the Court. It is an unbecoming conduct from the officer of such a rank to exercise unfettered powers, in excess of its jurisdiction, thereby undermining the authority vested in the Court of law.

32. The learned AAG relied upon the judgment of this Court in Dharam Pal (supra) to suggest that the investigating authority has unrestricted powers to conduct further investigation and is only required to inform the Court about the

same. However, we find the reliance placed by learned AAG to be misplaced as the facts of the said case are completely in contrast with the present one. In Dharam Pal (supra), this Court was dealing with a situation wherein the complainant sought transfer of the investigation to the CBI, alleging several lapses in the investigation.

The High Court declined such a transfer, noting that the trial had already commenced and several witnesses had been examined. This Court, therein, while setting aside the judgment of the High Court, transferred the investigation (de novo) to the CBI and held that while the constitutional courts can direct fresh/de novo/reinvestigation. Additionally, in Dharam Pal (supra), this Court, while referring to Vinay Tyagi (supra), has held that the Magistrate is empowered to direct "further investigation" as per its discretion and based upon the facts and circumstances of the case.

33. In view of the above discussion, the impugned judgment dated 20.11.2023 passed by the High Court is set aside. In addition to that, the Orders dated 06.06.2019 and 26.04.2021 passed by the Respondent No. 1 and Respondent No. 4, respectively, directing further investigation, are also quashed and set aside.

34. We further make it clear that the opinions expressed herein should cause no prejudice to the criminal revision preferred by the original complainant or any other proceeding related to FIR No. 70/2013. The Trial Court shall decide the Criminal Miscellaneous Case No. 440 of 2017 and any other proceeding, if any, on its own merits.

35. Accordingly, the appeal is allowed. Pending applications, if any, shall stand disposed of.

.....J. (Rajesh Bindal)

.....J. (Vijay Bishnoi)

New Delhi,

February 04, 2026

IN THE SUPREME COURT OF INDIA

Mohtashem Billah Malik
Vs.
Sana Aftab

[Civil Appeal No._____ of 2026
arising out of S.L.P. (C) No. 28934 of 2025]

Head Note – There is no dispute with the proposition that in matters of custody, the paramount consideration is the welfare of the children but nonetheless there are a host of other factors which weigh before the court while passing the final order of custody. These host of factors may include the conduct of the parties, their financial capacity, their standard of living, as well as the comfort and education of the children. Therefore, it may not be entirely correct on the part of the High Court in holding that such factors are not very relevant and that the custody of the minors has to depend upon their welfare alone.

JUDGMENT

Pankaj Mithal, J.

1. Leave granted.

2. This appeal is in relation to an unfortunate dispute regarding the custody of two minor sons namely Malik Karim Billah born on 17.10.2017 and Malik Rahim Billah born on 04.11.2019 to the appellant-husband and the respondent-wife.

3. Both the appellant-husband and the respondent-wife are Indian citizens and are well educated. They were married on 28.07.2015 in Srinagar in accordance with the Muslim Personal Law. As the appellant-husband was serving as an electrical engineer in Qatar since 2013, both of them started residing at Qatar immediately after the marriage where the aforesaid two sons were born to them out of the wedlock.

4. Sometime later, on account of matrimonial discord, both of them preferred separate divorce petitions, namely, Case No.882/20211 and Case No.1300/20212 before the Family Court at Qatar. Both the petitions were decided by a common judgment and order dated 29.03.2022 and a decree of judicial divorce based on mutual abuse was granted. The appellant-husband was directed to pay alimony, enjoyment compensation, monthly child support, custodian payment and for payment of custodian accommodation.

The custody of the minors was given to the respondent-wife while guardianship was given to the appellant-husband. At the same time, the appellant-husband was directed to deliver all personal documents of the minors to the respondent-wife including their IDs, Medical Certificates, Birth Certificates and any evidential documents of the children except the passports which were to remain in the custody of the appellant-husband being the guardian of the minors.

5. However, the respondent-wife travelled to India on 17/18.08.2022 by procuring fresh passports for the children or probably on the basis of duplicate or otherwise and started residing at Srinagar. Allegedly, the respondent-wife removed the minors from Qatar to India during their academic session, without the knowledge and consent of the appellant-husband, and without obtaining the original passports etc. or without prior permission from Qatar Courts.

6. The appellant-husband filed Habeas Corpus Writ Petition (Crl) No.636/2022 before the High Court of Jammu & Kashmir and Ladakh at Srinagar alleging that his minor sons are in illegal custody of the respondent-wife.

7. The aforesaid writ petition gave rise to LPA No.216/20223. The said LPA was disposed of on 01.12.2022 in the light of the statement made by the respondent-wife who was present in court and which was even reduced to writing and placed on record that she will go back to Qatar well before the reopening of the school of the elder son Malik Karim Billah on or before 02.01.2023 so that his education may not suffer and that she will undertake all necessary steps for obtaining residency permit for her younger son Malik Rahim Billah.

8. The aforesaid appeal having been disposed of in terms of the above statement, gave finality to the undertaking of the respondent-wife. The respondent-wife, for reasons best known to her, failed to keep her undertaking. She visited Qatar in the third week of December, 2022 but did not take the minors along with her.

9. In view of the violation of the aforesaid undertaking, the appellant-husband applied for the revocation of the custody of the minors which was given to the respondent-wife before the Qatar court. The said custody order of the minors in favour of the respondent-wife was revoked by the Qatar court on 31.10.2023 and the custody was ordered to be given to the appellant-husband. Thus, the custody of the minors in favour of the respondent-wife was terminated.

10. The appellant-husband simultaneously initiated proceedings for contempt in Srinagar vide CCP(D) No.4/2023 against the respondent-wife for violating the undertaking given by her on 01.02.2022 before the Division Bench in the

LPA. The Contempt Court vide Order dated 06.08.2024 held the respondent-wife to be guilty of not honouring the commitment given by her to the court and for not even expressing any remorse for her conduct.

Therefore, the court held her guilty of committing contempt of the court and sentenced her with a token fine of Rs.100/- to be deposited with the Registrar Judicial of the court within one month. She was issued warning to remain careful and conscious in future while making any statement and giving undertaking to the court. Since the LPA was disposed of in terms of the undertaking which has been violated by her, the LPA was ordered to be restored for consideration on merits.

11. This being the background, the appellant-husband initiated fresh proceedings before Family Court, Srinagar under Section 25 of the Guardians and Wards Act, 1890, seeking custody of the two minor children. The Family Court on 02.01.2025 allowed the petition and granted custody of the minors to the appellant-husband. The said order of the Family Court has been reversed by the High Court in appeal preferred by the respondent-wife vide judgment and order dated 08.09.2025.

12. Under challenge in this appeal is the aforesaid judgment and order of the High Court dated 08.09.2025 by which the order of the Family Court granting custody of the minors to the appellant-husband has been set aside and the custody has been ordered to be restored to the respondent-wife.

13. We have heard Ms. Meenakshi Arora, senior counsel for the appellant-husband and Mr. Altaf Hussain Naik, senior counsel for the respondent-wife.

14. Ms. Meenakshi Arora, senior counsel appearing for the appellant-husband had argued that the respondent-wife had removed the minors from Qatar in the middle of their academic session. The elder son Malik Karim Billah at the relevant time was studying in the Qatar International School4 (a Gold Standard British Curriculam School) and the younger son Malik Rahim Billah in the Grandma British Nursery School. They travelled to India leaving their education in between on 17/18th August 2022. The respondent-wife misled the court by alleging that she had admitted the minors in a school i.e. Foundation Word School in Srinagar. She even produced documents claiming that Malik Karim Billah was studying at Alama Iqbal Institute of Education, Srinagar in Class II.

However, the admission form of Delhi Public School5 reveal that the elder son Malik Karim Billah who was admitted there on 19.03.2024 had last attended QIS, Qatar, before being admitted to DPS in Class I, and the children were never admitted to Alama Iqbal Institute of Education, Srinagar, which

happened to be a school run by the relatives of respondent-wife. The very fact that the respondent-wife removed the children from the school at Qatar in between the session and admitted them in DPS only in March 2024, means that for two years the children were not sent to any school.

15. It is also argued that even in DPS the attendance of the children is only about 60% as against the mandatory requirement of 75%. The said conduct of the respondent-wife making the education of the children suffer disentitles her the custody of the minors. A further argument was made that in view of the various precedents of this Court, a parent who is indulging in doing a wrong by removing a child from a school mid-session and shifting to another country cannot take advantage of his/ her own wrongdoing.

16. The second argument of Ms. Meenakshi Arora is that the children, especially the elder one is quite grown up and capable of taking an intelligent decision. Therefore, in view of the report of the counselor of the Family Court submitted in the contempt proceedings who had met the children a number of times and opined that the children had a more comfortable relationship with the father, coupled with the fact that even the witnesses produced by the respondent-wife admitted that the children were not comfortable in Srinagar and were unhappy to continue to live there. The custody ought to be restored to the appellant-father and the minors be allowed to travel to Qatar with him.

17. She next argued that not only the conduct of the respondent-wife, but also failure on her part to furnish any plausible explanation for shifting the children mid-session from Qatar to Srinagar, and that too without obtaining the consent of the appellant-husband and the original passports from him, is sufficient enough to disentitle her to the custody of the minors.

18. Lastly, she submitted that the work schedule of the respondent-wife clearly shows that she is required to travel to different parts of India in connection with her work, thereby leaving the children and their education at stake, and hence, tilts the scale of custody of the minors in favour of the appellant-husband, who has a flexible work schedule with an option to work from home enabling him to take care of the minors himself.

19. Per contra, Shri Altaf Hussain Naik, senior counsel appearing for the respondent-wife, submitted that there is no error or illegality in the judgement and order passed by the High Court, as in matters of custody the paramount interest is the welfare of the children and the High Court has repeatedly emphasized that the welfare of the children is best served in the hands and care of the respondent-wife.

He further submitted that the financial capacity of the appellant-husband or the conduct of the respondent-wife is not very material while deciding the custody of the children, as the welfare and interest of the minors outweighs all these aspects. He lastly submitted that both the children are settled and studying in a reputed school in Srinagar and that their annual progress report is more than satisfactory, and thus it cannot be said that their education is lacking in any manner or is suffering on account of their shifting from Qatar to India.

20. The High Court while passing the impugned judgement has proceeded on the premise that the Family Court had restored the custody of the minors to the appellant-father primarily on the conduct of the parties, the standard of living and income of the parents, and lastly, on the age and gender of the minors and the preference shown by them. The High Court held that none of the above aspects are relevant for deciding the custody of the minors and that the paramount consideration is only the welfare of the children.

21. The High Court further recorded that, although the minors may have exhibited an inclination to stay with their father and to accompany him to Qatar, much importance cannot be attached to such gestures of the children, as after the conclusion of the hearing and reserving the judgement, the Court had interacted with the minors in chambers for about 40 minutes (in the absence of the parents) and noticed that the elder child did not express any resentment towards either of the parents. Further, in response to the query as to who would look after him while in Qatar, the elder child responded by saying that probably a maid would do so. As such, the Court went on to hold that the inclination of the children was also not very clear as to whether they wished to accompany the appellant-father to Qatar.

22. We have gone through the entire judgement and order passed by the High Court in the light of the submissions advanced by the parties and have also perused the documents on record. What we clearly notice from the above is that there is no dispute with the proposition that in matters of custody, the paramount consideration is the welfare of the children but nonetheless there are a host of other factors which weigh before the court while passing the final order of custody. These host of factors may include the conduct of the parties, their financial capacity, their standard of living, as well as the comfort and education of the children. Therefore, it may not be entirely correct on the part of the High Court in holding that such factors are not very relevant and that the custody of the minors has to depend upon their welfare alone.

23. The High Court while writing the opinion had referred to the fact that the respondent-wife had travelled and moved the minors to India without the consent of the appellant-father, who was guardian and without obtaining the original passports from him but rather by procuring fake or duplicate or fresh

passports while original already existed for travel purposes. However, the court below has not considered the effect and impact of this conduct while granting the custody to the respondent-wife.

24. We are of the opinion that the impact of the aforesaid conduct of the respondent-wife was a material aspect which ought to have been considered by the High Court while passing the order of the custody.

25. Secondly, the High Court completely failed to consider the impact of the judgement and order of the Qatar Court dated 31.10.2023, by which the custody order in favour of the respondent-wife was revoked for the reason that she misconducted herself by removing the children from the jurisdiction of the Court, and that too without the consent of the appellant-father and the permission of the Court. The revocation of the order of custody was a crucial material for the purpose of determining the custody of the children. In fact, there was no subsisting order of custody of children in favour of the respondent-wife; rather, there was an order in favour of the appellant-husband appointing him as the guardian of the minors. All these aspects were highly relevant for passing an order of custody of the minors.

26. Thirdly, the Court below also ignored the impact of the order of the Contempt Court holding the respondent-wife guilty of committing contempt of the court for violation of her own undertaking given to the High Court on 01.12.2022 that she will return to Qatar by 02.01.2023 for the continuation of the minor's education but travelled alone leaving the minors behind in India, which had led to the disposal of the LPA without consideration on merits.

27. The aforesaid contempt order has attained finality and is conclusive, and as such, the respondent-wife cannot resile from her guilty conduct. 28. Lastly, in a criminal case regarding abuse and assault filed against the appellant-husband the Qatar Court had given a clean chit to him and there is no subsisting conviction for assault, which clearly demonstrates that the misconduct as alleged against him has not been proved so as to disentitle him from the company of the children.

29. Apart from the above, not only the findings recorded by the Family Court, Srinagar indicate that the minor children had shown inclination to accompany the appellant-father to Qatar, but the mediation report placed before this Court also contains material observations which bear directly on the issue of custody.

30. As per the mediation report, both children expressed an inclination towards joining their father. Though they had limited or no conscious memory of life in Qatar, where they were born, they nonetheless conveyed a desire to explore and reside there. When specifically asked as to who would look after them in

Qatar, the elder child stated that the presence of his father would be sufficient and that someone would inevitably be available to care for them. Both children appeared comfortable with the prospect of being without their mother. The younger child repeatedly expressed his wish to go with the father and was visibly distressed during the interaction. It was also recorded that both children speak only English, and found difficulty in conversing with local children.

31. The High Court has completely ignored the aforesaid material and crucial aspects while passing the impugned order. While these aspects may not, by themselves, be the sole reason for determining custody, they are nevertheless necessary and relevant factors, and their cumulative effect was at least relevant for determining the custody arrangement.

32. In view of the aforesaid facts and circumstances, we are of the opinion that the impugned judgement and order dated 08.09.2025 passed by the High Court of Jammu & Kashmir and Ladakh cannot be sustained in law and is liable to be set aside.

33. Accordingly, it is hereby set aside and the matter is remanded to the High Court for reconsideration on its own merits in accordance with the law most expeditiously, preferably within a period of four months from the day a certified copy of this order is placed before the court concerned.

34. The Civil Appeal is allowed with no order as to costs.

.....J. [Pankaj Mithal]

.....J. [S.V.N. Bhatti]

New Delhi;

February 04, 2026

1 Mohtashem Billah Malik Mohamed vs. Sanaa Aftab
2 Sanaa Aftab vs. Mohtashem Billah Malek Mohamed
3 Mohtashem Billah Malik vs. Union of India and Ors.
4 In short 'QIS'
5 In short 'DPS'

IN THE SUPREME COURT OF INDIA

Pramod Kumar Navratna
Vs.
State of Chhattisgarh and Ors.

[Criminal Appeal No._____ of 2026
arising out of SLP (Crl.) No. 4452 of 2025]

Head Note – A promise to marry a woman with a subsisting marriage is void in law and cannot sustain a repeated rape charge under Section 376(2)(n) IPC.

It has been time and again settled by this Court, that the mere fact that the parties indulged in physical relations pursuant to a promise to marry will not amount to a rape in every case. An offence under Section 375 of the IPC could only be made out, if promise of marriage was made by the accused solely with a view to obtain consent for sexual relations without having any intent of fulfilling said promise from the very beginning and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations.

The Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n) of the IPC by identifying the essential ingredients to constitute the said offence i.e. there should be a promise of marriage made by the accused solely with a view to obtain consent for sexual relations and without having any intent of fulfilling said promise from the very beginning, and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. Such genuine cases that deserve prosecution of the accused must be clearly demarcated from the litigation that arises from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind.

JUDGMENT

Nagarathna, J.

1. Leave granted.

2. This appeal arises out of order dated 03.03.2025 passed by the High Court for the State of Chhattisgarh at Bilaspur in WPCR No.117/2025 dismissing the Writ Petition filed under Article 226 of Constitution of India preferred by the accused-appellant herein and thereby refusing to quash the proceedings arising out of the FIR No.213/2025 dated 06.02.2025 registered at Sarkanda Police

Station, District Bilaspur under Section 376(2)(n) of the Indian Penal Code, 1860 (for short, "IPC") that was registered by the complainant-respondent No.3.

3. Briefly stated, the facts of the case are that the complainant-respondent No.3, an Advocate by profession, solemnized marriage with one Mitendra Kumar Dhirde on 02.06.2011 and subsequently gave birth to a boy named Ojash on 12.04.2012. Thereafter, owing to matrimonial discord between the couple, the husband sought divorce by filing the divorce petition Civil Case No.F/232A/2018 against the complainant-respondent No.3 on 10.12.2018 under Section 13(1)(ia) of Hindu Marriage Act, 1955 before the Family Court, Raigarh, Chhattisgarh.

The contentions and grievances of the parties in the said divorce petition are not germane to the facts of the present case and hence are not dealt with herein. Suffice it to say that the said divorce petition was dismissed by the Family Court on 27.11.2024 and an appeal No.FA(MAT)/11/2025 against the said order was preferred by the husband of the complainant-respondent No.3 on 10.01.2025 which is currently pending adjudication before the High Court of Chhattisgarh at Bilaspur. Therefore, at the time of disposal of the present petition, the complainant-respondent No.3 is married and has a son.

4. It is stated that on 18.09.2022, the complainant-respondent No.3 had come into contact with the accused-appellant who is also an Advocate by profession, at a social event wherein both developed a mutual liking and fondness for each other and thereafter stayed in contact with each other.

5. On 06.02.2025, the complainant-respondent No.3 lodged an FIR No.213/2025 dated 06.02.2025 at Police Station Sarkanda at District Bilaspur, Chhattisgarh under Section 376(2)(n) of the IPC against the accused-appellant alleging that he had raped her on a false promise of marriage. The allegations against the accused-appellant contained in the said FIR can be crystallised as hereunder:

i. That the complainant-respondent No.3 got acquainted with the accused-appellant during a social event wherein both the parties developed a cordial relationship based on their similar profession. The accused-appellant thereafter, on a regular basis, used to pick up and drop the complainant-respondent No.3 to and from her house. That, the accused-appellant was told by the complainant-respondent No.3 that there were divorce proceedings pending before the Family Court between her and her husband.

ii. On 18.09.2022, while going to a Mahan Bada Jarhabhata meeting, the accused-appellant took the complainant-respondent No.3 to his friend's house

in Geetanjali Phase- 02, Sarkanda on the pretext of picking up some of his essential documents from the said location.

iii. Thereafter, in the guise of seeking help from the complainant-respondent No.3, the accused-appellant raped her. Upon protest and threat of lodgement of police complaint, the accused-appellant told the complainant-respondent No.3 that he likes her and wants to marry her and thereafter he proceeded to apply vermilion on her head.

iv. Subsequently, on different occasions the accused-appellant indulged in physical relations with the complainant-respondent No.3 whilst he kept verbally assuring her that he will marry her and meet and talk to her family about the same.

v. Thereafter, the complainant-respondent No.3 informed the accused-appellant that she was pregnant with his child. Upon hearing the said information, he became evasive about the topic of marriage and said that he was neither ready for a social marriage nor for a child and consequently forced her to consume tablets for abortion.

vi. On 27.01.2025, the complainant-respondent No.3 visited the residence of the accused-appellant to confront him and his family about the said situation and was received with hostility by the members of the family of the accused-appellant who proceeded to assault and threaten the complainant-respondent No.3 with dire consequences and threw her out of the house.

6. Thereafter, alleging harassment and blackmail on behalf of the complainant-respondent No.3, the accused-appellant lodged a complaint before Superintendent of Police, District Bilaspur on 06.02.2025 wherein he alleged that the complainant-respondent No.3 had been harassing him and his family with demand of marriage whilst threatening to commit suicide if the said demands of marriage were not met. It has further been alleged by the accused-appellant in the said complaint that he had never thought about marrying her but instead always saw her as a good friend and a colleague with whom he shared workspace.

7. Apprehending arrest in connection with the FIR No.213/2025, the accused-appellant preferred Anticipatory Bail Application under Section 482 of BNSS in MCRCA No.285/2025 before the High Court of Chhattisgarh at Bilaspur. The said Anticipatory Bail Application was allowed by the High Court by its order dated 03.03.2025. While allowing the said Anticipatory Bail Application, the High Court observed that upon perusal of the statement made by the complainant-respondent No.3 under Section 183 of BNSS, it appeared that she was married and had a 10-11 years old son and had indulged in a consensual

relationship with the accused-appellant. Pursuant thereto, the accused-appellant was formally arrested on 28.03.2025 and thereafter released on bail.

8. On the same day i.e. 03.03.2025 when the accused-appellant was allowed the relief of anticipatory bail by the High Court of Chhattisgarh in MCRCA No.285/2025, the WPCR No.117/2025 filed by him seeking relief of quashment of the FIR No.213/2025 and all consequential proceedings thereto was dismissed. While dismissing the said Writ Petition, the High Court observed that the complainant-respondent No.3 has made vivid allegations against the accused-appellant that on the pretext of marriage, she was induced into sexual intercourse after which, ultimately, he refused to marry her.

On the point of quality of consent, it was observed that the misconception of fact or pretext of marriage are questions of fact which require proper investigation and therefore, at the nascent stage of investigation, it cannot be said with a certainty that the allegations levelled by the complainant-respondent No.3 are false and no prima facie offence has been made out and therefore the High Court, in its wisdom, found no ground to interfere with the proceedings emanating from the said FIR.

9. In the interregnum, the Investigating Officer submitted Final Report No.269/2025 under Section 192 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS' for short) on 02.04.2025 against the accused-appellant alleging commission of offence u/s 376(2)(n) of the IPC and in pursuance thereto, Sessions Case No.89/2025 has been instituted before the Court of District and Sessions Judge, Bilaspur to try the accused-appellant for the aforesaid offence.

10. We have heard the learned counsel for the accused-appellant and learned counsel for respondent No.1-State as well as the complainant-respondent No.3. We have perused the material on record.

11. Learned counsel for the accused-appellant submitted that the alleged victim is a thirty-three years old married lady and an advocate by profession with a son aged 10-11 years old and therefore has knowledge of her well-being and hence by any stretch of imagination, it cannot be said that she was duped on the pretext of marriage considering her marital status and her occupation. It was further submitted that she voluntarily developed physical relationship with the accused-appellant which continued up to January 2025 which in itself goes on to show that she was a consenting party with the accused-appellant and hence no offence of rape is made out even from the contents of the FIR itself.

Further, it has been alleged that the accused-appellant himself was the victim of the act of the complainant-respondent No.3 as she had been blackmailing

him for which the he had filed a complaint to the Superintendent of Police on 06.02.2025 and therefore, in the absence of any prima facie ingredients to constitute the offence of rape, he cannot be prosecuted for the same. He further submitted that the accused-appellant had also applied for grant of anticipatory bail registered as MCRCA No.285/2025 before the High Court of Chhattisgarh which was allowed vide the order dated 03.03.2025. Therefore, in view of the facts and circumstances of the case, the petition may be allowed and the impugned FIR may be quashed.

12. Per contra, the learned counsel for the respondent No.1-State contended that the facts of the present case are not only heinous but also grave in nature for which the accused-appellant, if found guilty, would be liable to be punished. Furthermore, it has also been contended that through the investigation, there has been a recovery of WhatsApp conversation exchanged between the accused-appellant and the complainant-respondent No.3 wherefrom it is apparent that the accused-appellant was aware that the complainant-respondent No.3 was having a matrimonial dispute with her husband and therefore in a pre-planned manner induced her into a physical relationship for satisfying his lust under the false pretext of marriage and thereafter impregnated her without having any actual intention to honour his promise. Therefore, it was argued that any argument on the consent of the prosecutrix stands vitiated at the very threshold by fraud and misconception induced by the accused-appellant.

13. On the other hand, the learned counsel for the complainant-respondent No.3 has contended that the police officials after due investigation found that offence has been made out against the accused-appellant and consequently Charge-sheet No.269/2025 has been filed on 02.04.2025 under section 376(2)(n) of the IPC and Sessions Case No.89/2025 has been instituted. It was further contended that the accused-appellant, being an advocate himself, knows the implications of law and has committed the sexual offence with intention and full knowledge.

That apart, it was contended by the counsel that the accused-appellant is not appearing before the Sessions Judge and therefore is delaying the trial and he has an alternative remedy of arguing the case before the Sessions Judge on the point of discharge instead of pursuing the remedy of quashing the FIR before this Court. It has been pointed out by the learned counsel that only fourteen witnesses have been listed in the chargesheet for examination and hence there is no scope for delay of trial and the same may be concluded within six months and therefore all the questions regarding the consent of the complainant-respondent No.3 and its quality can be decided at the stage of trial itself.

14. We have given our thorough consideration to the arguments advanced at the Bar and the material on record.

15. In the instant case the allegations in the FIR are under Section 376(2)(n) of the IPC. An offence of rape, if established in terms of Section 375 of the IPC, is punishable under Section 376 of the IPC. In the present case, the second description of Section 376 is relevant which is set out below:

"376. Punishment for rape.- (1). Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

2. Whoever,-

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.-For the purposes of this sub-section,-

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861 (5 of 1861);

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children."

16. Section 376(2)(n) of the IPC provides for enhanced punishment in cases where rape is committed repeatedly on the same woman. It mandates rigorous imprisonment for a term of not less than ten years which may extend to life imprisonment for the remainder of the person's natural life. The object of this provision is to address aggravated instances of sexual assault where the offence is not a single incident but has occurred repeatedly on the same victim.

The expression "repeatedly" employed in the provision is of significance. It contemplates more than one act of sexual assault, committed at different points in time on the same victim. Courts have consistently interpreted this phrase to mean a series of acts that are separate in nature and not a continuation of a single transaction. In genuine cases under Section 376(2)(n) of the IPC, the pattern is usually unmistakable; it is an initial act of sexual assault, followed by multiple acts under fear, pressure, captivity, or continued deceit, often when the woman is rendered vulnerable and unable to escape the situation.

17. At the outset, we refer to the ratio in the case of Naim Ahamed vs. State (NCT of Delhi), (2023) 15 SCC 385 whereby this Court had decided a similar matter, wherein allegedly, the prosecutrix had also given her consent for a sexual relationship with the accused-appellant therein, upon an assurance to marry. The prosecutrix, who was herself a married woman having three children, had continued to have such a relationship with the accused-appellant, at least for about five years till she gave the complaint. In the conspectus of such facts and circumstances, this Court had observed as under:

"21. The bone of contention raised on behalf of the respondents is that the prosecutrix had given her consent for sexual relationship under the misconception of fact, as the accused had given a false promise to marry her and subsequently he did not marry, and therefore such consent was no consent in the eye of the law and the case fell under Clause Secondly of Section 375 IPC. In this regard, it is pertinent to note that there is a difference between giving a false promise and committing breach of promise by the accused.

In case of false promise, the accused right from the beginning would not have any intention to marry the prosecutrix and would have cheated or deceived the prosecutrix by giving a false promise to marry her only with a view to satisfy his lust, whereas in case of breach of promise, one cannot deny a possibility that the accused might have given a promise with all seriousness to marry her, and subsequently might have encountered certain circumstances unforeseen by him or the circumstances beyond his control, which prevented him to fulfil his promise. So, it would be a folly to treat each breach of promise to marry as a false promise and to prosecute a person for the offence under Section 376. As stated earlier, each case would depend upon its proved facts before the court."

18. It has been time and again settled by this Court, that the mere fact that the parties indulged in physical relations pursuant to a promise to marry will not amount to a rape in every case. An offence under Section 375 of the IPC could only be made out, if promise of marriage was made by the accused solely with a view to obtain consent for sexual relations without having any intent of fulfilling said promise from the very beginning and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual

relations. The issue for consideration is whether, given the facts and circumstances of the case and after examining the FIR, the High Court was correct in refusing to quash the ongoing criminal proceedings against the accused-appellant arising out of FIR No.213/2025 dated 06.02.2025 and the Charge-sheet No.269/2025.

19. Upon a careful consideration of the record in the present case, we are unable to discern any material that would warrant the invocation of Section 376(2)(n) of the IPC. The facts of the present case unmistakably indicate towards a classic case of a consensual relationship turning acrimonious. Upon perusal of the records of the case, it is evident that the complainant-respondent No.3 is a married lady with a ten years old child.

The said marriage was solemnized on 02.06.2011 and although divorce proceedings are currently pending adjudication between her and her husband, by no stretch of imagination can it be held that the complainant-respondent No.3 was eligible for being married with the accused-appellant on 18.09.2022, the date on which the first of the multiple instances of acts of rape on the false pretext of marriage has been committed by the accused-appellant are alleged.

Therefore, even for the sake of argument, if the contention of the respondent No.1- State and the complainant-respondent No.3 is accepted that there indeed was a false promise of marriage based on which the accused-appellant indulged in sexual activities, such a promise would not be legally enforceable or even capable of being acted upon as the victim herself was not eligible for marriage, neither on the date of the first alleged act of offence i.e. 18.09.2022 nor on any subsequent dates wherein the parties indulged in the sexual activities, till the point of the date of registration of FIR i.e. 06.02.2025. The said embargo arises from sub-clause (i) of Section 5 of the Hindu Marriage Act,1955 which categorically prohibits marriage between two individuals if either of them have a living spouse. The said position of law has been reiterated under subclause (i) of Section 4 of the Special Marriage Act, 1954.

20. In other words, the law prohibits bigamous unions and therefore disallows parties from entering into a second marriage during the subsistence of their first marriage. It is, therefore, difficult to accept the view that the complainant-respondent No.3, who herself is an advocate, was oblivious to the said settled position of law and hence was duped and induced by the accused-appellant into having sexual relations with him on different occasions on the pretext of marriage especially when both the parties were cognizant of the marital status of the complainant-respondent No.3.

21. At this juncture, it is also pertinent to mention that the complainant-respondent No.3 is a thirty-three years old woman and an advocate by

profession and not a naïve or gullible woman incapable of taking decisions for herself. It would be remiss not to mention, at the cost of repetition, that the complainant-respondent No.3 is herself an advocate and therefore she should have exercised her prudence and discretion before engaging the already burdened State machinery into a roving criminal litigation.

22. The Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n) of the IPC by identifying the essential ingredients to constitute the said offence i.e. there should be a promise of marriage made by the accused solely with a view to obtain consent for sexual relations and without having any intent of fulfilling said promise from the very beginning, and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. Such genuine cases that deserve prosecution of the accused must be clearly demarcated from the litigation that arises from the cases of consensual relationships between consenting adults going acrimonious on account of dispute and disagreement or a future change of mind.

In view of the aforesaid settled position of law, the respondent No.1-State and the complainant-respondent No.3 has failed to place any material on record to show how the accused-appellant on the subsequent meetings managed to repeatedly coax and dupe the complainant-respondent No.3 into having physical relations with him on the false pretext of marriage considering the fact that within initial meetings, both parties were aware about the marital status of the victim and therefore it cannot be, by any stretch imagination said that the consent of the complainant-respondent No.3 has been vitiated or obtained on fraud and misrepresentation made by the accused-appellant.

23. At this stage, it is material to refer to the decision of this Court in Mahesh Damu Khare vs. State of Maharashtra, (2024) 11 SCC 398, wherein the following observations were made:

"29. It must also be clear that for a promise to be a false promise to amount to misconception of fact within the meaning of Section 90 IPC, it must have been made from the very beginning with an intention to deceive the woman to persuade her to have a physical relationship. Therefore, if it is established that such consent was given under a misconception of fact, the said consent is vitiated and not a valid consent."

24. On a perusal of the allegations made in the present case, it is an admitted fact that the complainant-respondent No.3, within the first initial meetings told the accused-appellant that she was a married woman with divorce proceedings pending before the Family Court. Therefore, in the same breath, she cannot be allowed to claim and allege that she was also coaxed by the accused-appellant

into having a physical relationship with him on the false pretext of marriage as the two facts cannot stand together on the same plane and simultaneously as both are antagonistic and antithetical to each other. In our opinion, the facts of the present case clearly indicate a consensual relationship gone sour whereas both the parties should have exercised restraint and should have refrained from involving the State into their personal relationship turning rancour.

25. At this juncture, it is important to place reliance upon the observations in Prashant vs. State of NCT of Delhi, (2025) 5 SCC 764, wherein this Court speaking through one of us (Nagarathna, J.) observed that a mere break-up of a relationship between a consenting couple cannot result in the initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marriage. Furthermore, this Court in Samadhan vs. State of Maharashtra, 2025 SCC OnLine SC 2528 through one of us (Nagarathna, J.) observed that this Court has, on numerous occasions, taken note of the disquieting tendency wherein failed or broken relationships are given the colour of criminality.

The offence of rape, being of the gravest kind, must be invoked only in cases where there exists genuine sexual violence, coercion, or absence of free consent. To convert every soured relationship into an offence of rape not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. Such instances transcend the realm of mere personal discord. The misuse of the criminal justice machinery in this regard is a matter of profound concern for the judiciary already facing a heavy load and calls for condemnation.

26. In this regard, it would be apposite to rely on the judgment in the case of State of Haryana vs. Bhajan Lal, 1992 Suppl (1) SCC 335 ("Bhajan Lal") with particular reference to paragraph 102 therein, where this Court observed thus:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power Under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the Accused.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the Accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the Accused and with a view to spite him due to private and personal grudge."

27. On a careful consideration of the aforementioned judicial dictum, we find that the offence alleged against the accused-appellant herein is not made out at all. In fact, we find that the allegation of rape on false pretext of marriage even when taken on its face value, does not amount to an offence of rape and hence not liable for punishment under Section 376(2)(n) of the IPC in the instant case and therefore, the judgment of this Court in the case of Bhajan Lal squarely apply to the facts of these cases. Therefore, it is neither expedient nor in the interest of justice to permit the present prosecution emanating from the FIR and consequent Sessions Case No.89/2025 to continue.

28. In view of the aforesaid discussion and keeping the judicial dicta laid down by this Court in mind we set aside the impugned order dated 03.03.2025 of the High Court and consequently, FIR No.213/2025 dated 06.02.2025 registered with Sarkanda Police Station at district Bilaspur and the Chargesheet No.269/2025, and the consequent proceedings arising out of the said proceedings in Sessions Case No.89/2025 are quashed. The appeal is allowed in the aforesaid terms.

.....J. (B.V. Nagarathna)

.....J. (Ujjal Bhuyan)

New Delhi;

February 05, 2026.

IN THE SUPREME COURT OF INDIA

Dorairaj
Vs.
Doraisamy (D) through LRS. and Ors.

[Civil Appeal No(s). 2129-2130 of 2012]

Head Note – Once the existence of an ancestral, income-yielding property is established, any subsequent acquisition made by the Karta during the subsistence of a joint Hindu family is presumed to be joint family property, unless the person claiming self-acquisition discharges the burden of proof with cogent evidence.

Where acquisitions are made during the subsistence of the joint family, and where ancestral properties yielding income are shown to exist, properties acquired in the name of the Karta are ordinarily regarded as joint family properties unless the contrary is proved.

JUDGMENT

Satish Chandra Sharma, J.

FACTUAL MATRIX

1. The present Civil Appeals arise out of a long-drawn family dispute concerning partition, and alienation of agricultural properties situated primarily in and around Perambalur Taluk, Tiruchirappalli District. The dispute pertain to 79 items of immovable properties, all of which are set out with survey numbers, extents, and boundaries in the plaint schedule consisting mainly of agricultural lands.

At each stage of adjudication, the concerns have primarily pertained to the nature and character of the suit properties; the extent to which certain alienations are binding on the coparcenary; and the legal effect of an alleged testamentary disposition purported to have been executed shortly before the demise of the family patriarch. The litigation has resulted in concurrent findings of fact, subject to limited and item-specific modifications at the appellate stages.

2. The genealogy of the parties is admitted and forms the foundational backdrop of the lis. One Pallikoodathan was the common ancestor. He had three sons, namely Chidambaram, Sengan, and Natesan.

- Chidambaram predeceased the institution of the suit. Upon his death, his minor children pursuant to the orders passed by the competent court were represented through their natural guardian, Sengan, and subsequently through other legal representatives as brought on record.
- Natesan's branch is represented through his legal heirs.
- Sengan, the central figure in the dispute, was the father of the Plaintiff Duraisamy and the second Defendant Dorairaj.

During his lifetime, Sengan resided with his sons and managed the agricultural affairs of the family. Several suit properties stood in his name, while others were acquired in the names of his sons or through transactions involving the heirs of his deceased brother Chidambaram. Sengan died during the pendency of the suit on 27.11.1989.

3. The suit for partition being O.S. No. 99 of 1987 was instituted by Duraisamy, seeking partition and possession of his one-fourth share in the suit schedule properties. The case was founded on the premise that the suit properties constituted joint Hindu family properties, either by reason of being ancestral in origin or by reason of having been acquired from the income derived from ancestral properties during the subsistence of the joint family.

It was pleaded that the family remained joint in residence, cultivation, enjoyment, and management, and that there had never been any partition, either oral or written. As per the plaint, Sengan, being the senior-most male member, acted as the Karta of the Hindu joint family, and properties purchased in his name or in the names of other family members were, in substance, acquisitions made for and on behalf of the family.

4. Primary contention was that the said acquisitions were made at a time when the family lived and functioned jointly, pooling its resources, and that Appellant (D2) herein did not possess independent income at the relevant point of time, particularly during the late 1960s and early 1970s to justify exclusive ownership of the properties standing in his name. However, the Appellant (D2) provided that substantial number of suit items were the self-acquisitions of Sengan, purchased from his own income generated through diverse sources including agricultural affairs, money-lending, panchayat-related works, and other sources. Further, it was pleaded that several properties were purchased by Dorairaj himself from his independent income earned as a contractor and businessman, particularly after the mid-1960s.

5. A central factual assertion in the plaint related to Item No(s). 14 and 15 of the suit schedule properties, described as ancestral agricultural lands situated in Thoramangalam Village. These lands were stated to have devolved from Pallikoodathan and were pleaded to constitute the principal source of income

for the family. Reliance was placed upon revenue records, including Adangal extracts for Fasli years 1390 to 1395 (1980- 1985), to demonstrate continuous cultivation. It was specifically pleaded that these lands were supported by wells and oil motor pumps, and that agricultural operations over several years yielded income sufficient to sustain the family and facilitate acquisition of other properties.

6. A substantial portion of the factual controversy also relates to a series of registered sale deeds executed by Sengan in favour of Dorairaj, covering multiple suit items. These alienations were effected under various sale deeds dated 16.12.1968, 05.07.1985, 01.08.1986, and 08.05.1987 pertaining to suit items including Item No(s). 1 to 7, 9, 10, 13, 16, 18, 19, 20 to 25, 31, 33 to 41, 52, 54 to 60, and 63.

These documents referred to discharge of debts, medical expenses, and other family needs. Dorairaj claimed that these alienations were valid and binding, having been effected for lawful necessity, and asserted that possession and revenue entries stood mutated in his favour pursuant thereto. Plaintiff, however, disputed the necessity and binding nature of these transactions, contending that the consideration was either illusory or sourced from joint family funds, and that alienations in favour of one coparcener could not bind the others in absence of genuine necessity.

7. Another set of transactions involved alienations made by Sengan in his capacity as guardian of the minor children of his deceased brother Chidambaram, pursuant to permissions obtained in guardianship proceedings. Certain suit items, including Item No(s). 15, 27 to 30, 32, 44, 67, and 69, were sold in this manner. While Dorairaj/Appellant herein contended that these alienations were valid and binding, having been effected in accordance with court orders, the Plaintiff pleaded that such transactions did not divest the properties of their joint family character and could not result in exclusive ownership in favour of the Appellant herein.

8. During the pendency of the suit, Sengan died on 27.11.1989. Shortly thereafter, reliance was placed by certain defendants on an unregistered Will dated 24.11.1989, said to have been executed three days prior to his death, purporting to bequeath the entirety of his properties in favour of certain grandchildren. Plaintiff disputed the genuineness and validity of the Will, alleging suspicious circumstances relating to the age and health of the testator, the manner of execution, the use of thumb impression, and the exclusion of natural heirs.

9. The Trial Court framed issues relating to the nature and character of the suit properties; the existence of joint family properties; the validity of the

alienations; the effect of the alleged Will; and the entitlement of the parties to partition and consequential reliefs. Vide, judgement dated 22.04.1992 in O.S. No. 99 of 1987, the Trial Court declared that the Plaintiff was entitled to 1/4th share in the suit properties excluding Item No(s). 15, 27, 28, 29, 30, 32, 44, 67, 69, 26, 31, 1 to 7, 9 to 13, 18, 19, 20, 21 to 25, 33, 36, 39, 40, 41, 52, 55, 57, 60, and 63; and certain other properties sold under documents not forming part of the plaint schedule. The suit was decreed accordingly, without costs.

10. Aggrieved, by the judgement of the Trial Court, the Plaintiff preferred A.S. No. 160 of 1994, while Defendant(s) 3 to 7 preferred A.S. No. 161 of 1994, before the 1st Additional District Judge, Tiruchirappalli. Vide judgement dated 26.09.1995, the First Appellate Court modified the preliminary decree and declared the Plaintiff entitled to a 5/16th share in the suit schedule properties.

11. Second Appeals bearing S.A. No(s). 1561 and 1562 of 1995 were thereafter preferred before the High Court of Judicature at Madras. Vide judgment dated 12.08.2009, the High Court partly allowed the appeals and held that the Plaintiff was entitled to 5/16th share, excluding:

- Item No. 74, which had been purchased by Dorairaj from Mookayee, who was not a coparcener;
- Item No. 66 and 4 cents out of 12 cents in Item No. 36, covered by Exhibit B75, as these did not form part of the coparcenary.

It is against this backdrop of concurrent and modified findings that the present Civil Appeals have been filed.

SUBMISSIONS BY THE PARTIES

12. Ld. Senior Counsel for the Appellant (D2) at the outset submits that the Courts below have erred in holding that the suit properties constitute joint Hindu family properties in entirety. It is contended that the Plaintiff failed to provide facts necessary to establish the existence of any income-yielding joint family property capable of supporting subsequent acquisitions. As per the Appellant, the plaint was conspicuously silent on the manner in which the suit properties are alleged to have been acquired from any common family source.

13. It is contended that mere proof of ancestral origin of Item No(s). 14 and 15 does not, by itself, justify the inference that all subsequent acquisitions are presumed to bear the character of joint family property. The Appellant maintains that the Plaintiff failed to demonstrate a clear nexus between the ancestral properties and the acquisitions standing in the name of individual family members.

14. It is submitted that the first Defendant, Sengan, had substantial and continuous independent sources of income over several decades. Reliance was placed on documentary and oral evidence to show that Sengan was engaged in government service, panchayat administration, money-lending, temple trusteeship, and later as a Sub-Jail contractor.

15. It is contended that the said independent earnings fully explain the acquisitions made in his name and negate the presumption that such properties were purchased from any common family fund. The Appellant submits that the courts below failed to properly appreciate this evidence while mechanically invoking presumptions relating to joint family property.

16. It is further submitted that appellant himself had independent sources of income and financial capacity to acquire properties in his own name from as early as 1963 and continuously thereafter till 19.04.1991. It is contended that there was no justification for the courts below to discard or disbelieve the purchases made by the Appellant during this period.

17. Learned counsel emphasises that a series of registered covenants evidencing purchases and subsequent transactions effected, including Ex(s). B-2, B-10, B-13 to B-19, B-67, B-73, B-75, B-76 and B-104 are to be considered. These documents, as per the Appellant, clearly demonstrate a consistent pattern of independent acquisition, enjoyment, and in certain cases alienation, wholly inconsistent with the understanding of joint family ownership.

18. Reliance is placed on Ex(s). B-121 to B-141, including Ex(s). B-125, B-126, B-127, B-128, B-129, B-131, B- 132, B-133, B-134, B-135, B-137 and B-142, which consist of contract orders, completion certificates, income records, and allied documents to establish the income out of which such purchases are made. These, establish beyond doubt that the Appellant was engaged in gainful commercial and contractual activities and had sufficient independent income to fund the acquisitions.

19. Primary concern of the Appellant is that the courts below failed to undertake an objective evaluation of the aforesaid documents and unjustly discarded the same without assigning legally sustainable reasons. It is submitted that such an approach has resulted in serious prejudice to the Appellant.

20. It is further submitted that even assuming the existence of a joint family, the alienations effected by the first Defendant in his favour were legally valid and binding. It is contended that the first Defendant, being the admitted head of the family, was indebted and medically indisposed and that the sales effected under including Ex(s). B-17, B-18 and B-19 were necessitated by compelling

circumstances, including medical expenses and discharge of certain debts. Reliance is placed on promissory notes, hospital records, and other contemporaneous documents to substantiate the plea of necessity. It is argued that alienations effected for lawful necessity cannot be questioned by other coparceners.

21. With regard to properties originally belonging to Chidambaram, it is submitted that the first Defendant was appointed guardian of Chidambaram's minor children by order of the District Court, Tiruchirappalli. Pursuant to the permission obtained, sale deeds including dated 16.12.1968 (Ex. B-2) was executed in favour of the Appellant. It is contended that the sale proceeds were utilised to discharge Chidambaram's debts and that the transactions were lawful, binding, and immune from challenge.

22. The Appellant also assails the rejection of the Will dated 24.11.1989 (Ex. B-200), contending that it was duly executed and proved through the scribe and attesting witnesses. It is largely submitted that the courts below erred in treating the Will as suspicious and in failing to appreciate the evidence in its proper perspective.

23. Reliance is placed on admissions made by the Plaintiff during cross-examination, including admissions relating to independent transactions, payment of consideration under sale deeds and existence of debts explaining the joint family character of the suit properties. It is contended that these admissions disentitle the Plaintiff from asserting joint family ownership and operate as estoppel against him.

24. On the contrary, Respondent(s) submit that the existence of a joint Hindu family and the ancestral origin of Item No(s). 14 and 15 are admitted. It is contended that once ancestral properties yielding income were shown to exist and acquisitions were made during the subsistence of the joint family, the burden shifted to the Appellant to establish self-acquisition, which he failed to do.

25. It is further submitted that the Trial Court undertook a meticulous item-wise scrutiny of alienations, upheld those supported by necessity, and excluded others. The High Court, far from acting unfairly, granted relief to the Appellant by excluding Item No. 74, Item No. 66, and part of Item No. 36 from partition.

26. The Respondent(s) also submit that the rejection of the Will attained finality, having not been challenged at the appropriate stage. The Appellant cannot now seek to resurrect the issue in second appeal.

ANALYSIS AND FINDINGS

27. Having given anxious consideration to the record and contentions made by the parties; impugned judgment of the High Court reflects a correct appreciation of the pleadings, exhaustive analysis of the record and settled principles governing partition of joint Hindu family properties.

28. At the outset, it must be emphasized that the High Court correctly identified that the relationship between the principal parties was admitted, and that the suit was instituted by one coparcener against the others during the subsistence of the joint family. The genealogy traced to Pallikoodathan and his three sons was not in dispute, nor was the fact that Sengan (D1) and his three sons namely, Duraisamy (Plaintiff), Durairaj (D2), and the deceased Rajakannu, constituted a coparcenary at the relevant time. The High Court therefore approached the controversy on a settled factual foundation, without allowing any other dispute to cloud the core issues.

29. The principal contention by the Appellant before the High Court, and reiterated before us, is that the First Appellate Court erred in holding that the suit properties were joint family properties, particularly in the absence of what was described as an "income-bearing joint family nucleus". The High Court primarily placing its reliance on MLJ (II) 1976 225 (Pattusami Padayachi v. Mullaiammal and others); 1954 1 SCC 544 Shrinivas Krishnarao Kango v. Narayan Devji Kango and Ors. noted that proof of the mere existence of a joint family does not by itself render all properties as joint family properties, but equally, once it is established that ancestral properties yielding income existed and acquisitions were made during the continuance of the joint family, the burden shifts to the person asserting self-acquisition.

30. In this context, the High Court undertook a detailed examination of Item No(s). 14 and 15, which were admittedly ancestral properties. The plea of the Appellant that these lands were perpetually water-logged, and incapable of yielding income was carefully examined. On the contrary, reliance was placed on revenue records (Ex(s). B-201 to B-206), which categorically evidenced cultivation over several fasli years and disclosed the existence of wells and oil-engine pump sets. The High Court further examined the Appellant's reliance on the alleged independent income of Sengan (D1). It accepted that Sengan had engaged in various jobs over his lifetime, including service and contractual work.

However, it correctly rejected the simplistic assumption that the mere existence of some independent earnings would automatically negate the contribution of joint family income. The High Court observed that Hindu law does not require other coparceners to establish with precision the exact source of funds for each acquisition made by the Karta. Where acquisitions are made during the subsistence of the joint family, and where ancestral properties yielding income

are shown to exist, properties acquired in the name of the Karta are ordinarily regarded as joint family properties unless the contrary is proved.

31. Significantly, the High Court also examined the factual position of the Appellant (D2) during the relevant period. On the basis of material on record, it noted that he was pursuing his studies till about 1966 and that his claim of having amassed substantial savings sufficient to purchase properties while still a student was subjected to careful scrutiny. The High Court's reasoning on this aspect is neither conjectural nor speculative; it is rooted in a realistic appraisal of the evidence and the surrounding circumstances.

32. On the plea of prior partition or division in status, the High Court recognised that separate enjoyment of portions, installation of irrigation facilities, or even obtaining borrowings individually, do not by themselves establish partition in law. What is required is a clear and unequivocal intention to sever the joint status. The High Court correctly emphasized that all relevant conveyances described the interests conveyed as undivided shares, that there was no mutation evidencing division, and that there was no separate payment towards borrowings. In the absence of any declaration or conduct evidencing an intention to divide, the inference of continued joint family status was inevitable.

33. The High Court then addressed with notable clarity; the validity of alienations effected by Sengan (D1) in favour of the Appellant (D2) as per various sale deeds Ex(s). B-17 to B-19. It correctly distinguished between alienations for proved legal necessity and those which were legally impermissible. The Courts below undertook an item-wise scrutiny of each transaction and upheld those alienations where legal necessity was established, while excluding others where such necessity was not proved. The High Court affirmed this calibrated approach, reiterating that alienations by a Karta in favour of one coparcener must be proved to be for legal necessity and that vague or general recitals are insufficient to bind the interests of other coparceners. However, it protected D2's right to establish actual medical expenses during final decree proceedings.

34. Of particular significance is the High Court's approach to Ex. B-2, qua properties sold by Sengan as guardian of the minor sons of Chidambaram. The High Court in paragraph 82 to 89 meticulously analysed the surrounding circumstances, the court permission obtained, the recitals in the sale deed, and the endorsements on the promissory note. It found glaring inconsistencies and rightly concluded that the Trial Court had upheld Ex. B-2 without adequate reasoning. The First Appellate Court's correction of this error was therefore fully justified.

35. Likewise, on the issue of the Will dated 24.11.1989 (Ex. B-200), the High Court's reasoning is both legally and factually compelling. It noted that the testator was habitually signing documents but affixed only a thumb impression as far as this document is concerned; that the Will was allegedly executed barely 72 hours prior to death; that it was scribed by a close relative instead of a professional scribe; and that the scribe's presence itself was doubtful due to election duty. These circumstances clearly warranted a finding of suspicion. Importantly, the High Court also noted that the rejection of the Will by the Trial Court had not been challenged by D2 at the appropriate stage and had therefore attained finality. The Appellant cannot be permitted to approbate and reprobate at different stages of litigation.

36. The High Court further dealt with the impleadment applications filed by alleged heirs of Rajakannu. It correctly held that there was no evidence of collusion in the suit, that the share of Rajakannu was already represented, and that permitting impleadment at such a belated stage would unsettle proceedings that had otherwise attained finality. This approach reflects a proper balance between substantive justice and procedural discipline.

37. Finally, the High Court exercised its powers with restraint and precision by granting limited relief to the Appellant. Item No(s). 66 and 74, as well as a portion of Item No. 36 were clearly shown to have been purchased from third parties, accordingly, were excluded from partition as they were the exclusive properties of D2. Save and except these limited modifications, the High Court affirmed the judgment and decree of the First Appellate Court.

CONCLUSION

38. For the reasons recorded hereinabove, we are of the considered view that the impugned judgement is reasoned and borne out from the material on record. Except to the limited extent expressly modified therein, this Court finds no ground to take a view different from that taken by the High Court.

39. Accordingly, the Civil Appeals are dismissed. No order as to cost.

.....J. [Sanjay Karol]

.....J. [Satish Chandra Sharma]

New Delhi

February 05, 2026

IN THE SUPREME COURT OF INDIA

Tharammel Peethambaran and Anr.
Vs.
T. Ushakrishnan and Anr.

[Civil Appeal No._____ of 2026
@ SLP (C) No. 11868 of 2024]

Head Note – If a party wishes to introduce a photostat copy, they must explain the circumstances under which the copy was prepared and who possessed the original at the time the photograph was taken.

Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65. If the original itself is found to be inadmissible through failure of the party who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.

The introduction of secondary evidence is a two-step process, wherein:-
First, the party must establish the legal right to lead secondary evidence, and
Second, they must prove the contents of the documents through that evidence. The twin requirements are conjunctive.

Principles of Law

1. Primary Evidence Is the Rule

The fundamental principle of the Indian Evidence Act is that facts have to be established by primary evidence. Section 64 mandates that documents must be proved by primary evidence, which is considered the "best evidence". Primary evidence is the rule, while secondary evidence is an exception admissible only in the absence of primary evidence. A party is generally required to produce the best evidence available; so long as the superior evidence (the original) is within a party's possession or reach, they cannot introduce inferior proof (secondary evidence).

2. Foundational facts must be established

Before secondary evidence can be admitted, the party relying on it must lay a factual foundation. This involves two steps: First, the party must prove that the original document actually existed and was executed. Secondly, the party must establish valid reasons as to why the original cannot be furnished.

3. Secondary evidence inadmissible if original document is inadmissible

Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65.

Importantly, if the original document is itself found inadmissible due to failure to prove its validity, the same party cannot then seek to rely on secondary evidence of its contents.

4. Section 65 is exhaustive

Section 65 of the Evidence Act is exhaustive and states the specific circumstances under which secondary evidence is permissible. To introduce secondary evidence, a party must satisfy the conditions of one of the clauses (a) through (g) of Section 65.

5. Admissibility does not equal proof

Further, admitting a document as secondary evidence does not automatically prove its contents. The secondary evidence must be authenticated by foundational evidence showing that the alleged copy is, in fact, a true copy of the original. For instance, if a party wishes to introduce a photostat copy, they must explain the circumstances under which the copy was prepared and who possessed the original at the time the photograph was taken.

6. Marking a document as exhibit is not proof

Mere admission of a document or making it an exhibit does not dispense with the requirement of proving it in accordance with the law. The court has an obligation to examine the probative value of the document and decide the question of admissibility before making an endorsement on the secondary evidence. If the foundational facts, such as the loss of the original or the explanation for its non-production, are not established, the court cannot legally allow the party to adduce secondary evidence.

7. No Mandatory application required

There is no requirement that an application must be filed to lead secondary evidence. While a party may choose to file such an application, secondary evidence cannot be ousted solely because no application was filed. It is sufficient if the party lays the necessary factual foundation for leading secondary evidence either in the pleadings or during the course of evidence.

8. Circumstances under section 65

The judgment illustrated the conditions for secondary evidence in the following chart:

9. Two-Step Conjunctive Test

The introduction of secondary evidence is a two-step process, wherein, first, the party must establish the legal right to lead secondary evidence, and second, they must prove the contents of the documents through that evidence. The twin requirements are conjunctive.

JUDGMENT

S.V.N. Bhatti, J.

1. Leave granted.

2. The appeal is at the instance of the 1st and 2nd Defendants in O.S No. 197 of 2013 before the Senior Civil Judge, Kozhikode. The 1st Respondent filed OS No. 197 of 2013 for declaration, perpetual injunction, and damages for use and occupation. The Plaintiff is admittedly the owner of the Plaint ASchedule consisting of three items of immovable property. A few household items are mentioned in Plaint B-Schedule. The Plaintiff is the 1st Defendant's sister. The Plaintiff resides in Mumbai, and the 1st Defendant resides in Kozhikode. The 1st defendant is the brother-in-law of the 2nd and 3rd Defendants. Stated chronologically, on 31.07.1998, the Plaintiff is said to have executed a Power of Attorney ("PoA") in favour of the 1st defendant.

The PoA is exhibited by the Plaintiff as Exhibit A-4 and by the Defendants as Exhibit B-2, a notarised photocopy. On 15.03.2007, the 1st Defendant, in the purported authority given to him through the PoA/Exh. B-2, executed registered sale deeds nos. 262 and 263 of 2007 in favour of the 2nd and 3rd Defendants. The Plaintiff, having come to know of the sale in favour of the 2nd and 3rd Defendants, through the lawyer's notice dated 20.04.2007, cancelled the PoA. The 1st Defendant refers to a receipt dated 23.04.2007, said to have been executed by the Plaintiff, acknowledging the receipt of Rs. 6,00,000/-, forming part of the sale consideration under the sale deeds dated 15.03.2007.

The 1st Defendant issued a reply notice dated 05.05.2007 to the Plaintiff's legal notice dated 20.04.2007. In this background, O.S No. 597 of 2007 was filed before the Munsiff Court I, Kozhikode, renumbered as OS No. 197 of 2013 before the Senior Civil Judge, Kozhikode. The pleadings on both sides are considered in detail by the impugned judgment. Reference to pleadings as

are necessary for disposing of the appeals is made in the Judgment. The Plaintiff claims title to item nos. 1 and 2 of the Plaint A-Schedule through the assignment deed dated 31.07.1998. Item no. 3 of the Plaint A-Schedule is claimed through the Partition Deed no. 317 of 1998.

3. The Plaintiff avers that the 1st Defendant has sent a draft PoA dated 31.07.1998/Exh. A-3 by post to her address in Mumbai for the execution of the PoA. Exh. A-3 is a general power of attorney. The Plaintiff, not interested in granting general power to the 1st Defendant to deal with the Plaint ASchedule, has scored out the clauses dealing with the power to mortgage, alienate, etc in Exh. A-3. The Plaintiff admits execution of the PoA, i.e. Exh. A-4, which grants specific power and not general power to alienate the plaint schedule properties. The Plaintiff states that the PoA/Exh. B-2, relied on by the defendant, is a sham and fudged document.

Therefore, by referring to a fudged PoA, execution of assignment deed nos. 262 and 263 of 2007 is illegal, unenforceable and not binding on the Plaintiff. The agent exceeded the authority given to him and the sale deeds do not bind the principal. In other words, the Plaintiff asserts that the 1st Defendant/agent does not have the power to alienate or exceed the power granted to him under the PoA/Exh. A- 4, signed and sent by the Plaintiff. The Plaintiff denies the execution of receipts dated 20.12.2006 (Exh. B-6) and 23.04.2007 (Exh. B-7) for Rs. 11,00,000/- towards the sale consideration. Hence, the suit for the reliefs prayed for.

4. The 1st Defendant admits that the Plaintiff is the owner as per the records, but the possession of the house is with the 1st Defendant. On the fact in issue at stake between the parties, the 1st Defendant asserts that the Plaintiff executed the PoA/Exh. B-2 authorising the Defendant to have the power of management, mortgage and alienation. The sub-registrar verified the 1st Defendant's competence to execute the sale deed on behalf of the Plaintiff and accepted the sale deeds (Exh. A7 and A8) dated 15.03.2007, executed in favour of the 2nd and 3rd Defendants for registration.

The said sale deeds executed are valid, legal and bind the Plaintiff as principal, because the 1st Defendant, as agent, acted under the comprehensive powers granted to him under Exh. B-2 by the Plaintiff. Resiling from the power vested in favour of the 1st Defendant is contradictory and contrary to the conduct of the Plaintiff in receiving Rs. 11,00,000/- under receipts (Exh. B-6 and B-7) dated 20.12.2006, and 23.04.2007, respectively. The Plaintiff, as beneficiary of the sale consideration, is not entitled to challenge the action of the 1st Defendant.

5. The Trial Court, on consideration of the oral evidence of PW 1 and the documentary evidence of Exhibits A-1 to A-9, DWs 1 and 2, and Exhibits B-1 to B-26, dismissed the suit. The issues settled by the Trial Court are as follows:

"1. Whether the plaintiff had executed a power of attorney authorizing the 1st defendant to sell the properties described in the plaint A schedule?

2. Whether the power of attorney alleged to have been executed by the plaintiff on 31.7.199[8] is a valid genuine and properly executed document?

3. Whether the power of attorney alleged to have been executed by the plaintiff on 31.7.1998 empowers the 1st defendant to execute a valid conveyance in respect of the properties described in the plaint Aschedule?

4. Whether the defendant had executed registered sale deeds in favour of defendants 2 and 3 on the strength of a forged and fabricated power of attorney as alleged?

5. Whether the plaintiff is entitled to get a declaration as prayed for?

6. Whether the plaintiff is entitled to get a permanent prohibitory injunction as prayed for?

7. Whether the plaintiff is entitled to get a mandatory injunction as prayed for?

8. Whether the plaintiff is entitled to get damages for use Occupation at the rate of Rs. 3,000/- per month from 20.4.2007?

9. Whether the plaintiff is entitled to get share of mesne profits as alleged?

10. Reliefs and Costs ?"

6. The Trial Court examined all the issues together, and the gist of the Trial Court's findings is that the Trial Court compared the draft PoA (Exh. A- 4) with the one used for the sale (Exh. B-2) and found that words providing for "sale" were added to the end of existing clauses. These additions lacked "cohesion" with the original document. It also noted that the spacing between letters in the added "sale" words was significantly different from the rest of the document (monospace vs. proportional), indicating they were inserted later. The 1st Defendant failed to produce the original PoA (Exh. B-2) despite being its holder.

The Trial Court found his explanation that it was given to the Plaintiff's husband to be inconsistent and contradictory. Under Section 33 of the Registration Act, 1908, a PoA used for executing sale deeds must be properly

authenticated. The Trial Court held that since the PoA was unregistered and its genuineness was unproven, the resulting sale deeds (Exh. A-7 and A-8) were invalid. While 1st Defendant claimed to have paid the plaintiff Rs. 11,00,000/-, the Trial Court found this evidence insufficient to validate the unauthorised sale deeds.

The sale prices shown in the deeds were also lower than the amount he allegedly paid her, undermining his credibility. The Trial Court (i) declared that the sale deed nos. 262 and 263 of 2007 (Exh. A-7 and A-8) were invalid and void; (ii) The Trial Court granted the relief of injunction as well; (iii) Further directed, through a mandatory injunction, 1st Defendant to vacate and surrender the house situated on item no. 1 of the Plaint A-Schedule to the Plaintiff within two months; and (iv) rejected the claim for damages for use and occupation.

7. The 1st Defendant filed A.S. No. 166 of 2014 before the District Judge, Kozhikode, and the First Appellate Court allowed the appeal, resulting in the dismissal of O.S. No. 197 of 2013. The First Appellate Court examined the issues and recorded the findings, which can be classified under the following heads:

Rejection of Independent Ownership Claims (Benami and Oral Sale)

7.1 The 1st Defendant's claim of purchasing items nos. 1 and 2 in the Plaintiff's name using his own funds was barred under the provisions of the Benami Transactions (Prohibition) Act, 1988. Similarly, regarding item no. 3, it was held that the immovable property was worth more than Rs. 100, and cannot be orally sold to the 1st Defendant without a registered document as per Section 17 of the Registration Act.

Validity and Existence of the Power of Attorney

7.2 Plaintiff in the legal notice (Exh. A-5) stated that she was "cancelling" the PoA. If the Plaintiff had never executed a valid power of attorney, there would have been no need to cancel it. Furthermore, PW1 admitted during cross-examination that she had seen the original PoA at her lawyer's office. Hence, the plaintiff was deliberately withholding the original PoA. Plaintiff's prior conduct in executing powers of attorney in favour of her father and brother proves that the Plaintiff was well aware of the legal formalities required for executing a PoA. Now, the stand she has taken undermines her claim of ignorance.

Admissibility of Secondary Evidence (Exh. B2)

7.3 Since the Plaintiff withheld the original power of attorney, the 1st Defendant produced a photocopy (Exh. B2) as secondary evidence under Section 66 of the Indian Evidence Act. Section 8(1)(a) of the Notaries Act, 1952 and Section 114(e) of the Indian Evidence Act hold that the PoA, which was notarised by a Notary, carry a presumption of valid execution and authentication.

Objections under the Registration Act

7.4 The Plaintiff's challenge under Section 33 of the Registration Act (requiring Registrar's authentication for the PoA) was also rejected because the plaintiff had relied on a similarly Notary-attested PoA for her own partition deed (Exh. B12). The other objection under Section 28 of the Registration Act that the sale deeds (Exh. A7 and A8) were registered in Kozhikode rather than the jurisdictional SRO at Kakkodi, where the land is situated, was also rejected because the Sub-Registrar in Kozhikode held the charge of District Registrar, giving him jurisdiction to accept a document for registration.

Confirmation of Sale Receipts (Exh. B6 and B7)

7.5 Plaintiff had accepted sale consideration totalling Rs. 11 lakhs, receipts Exh. B-6 dated 20.12.2006 for Rs. 5,00,000/- and Exh. B-7 dated 23.04.2007 for Rs. 6,00,000/-. Expert witness (CW1) confirmed that the signature on the receipt Exh. B6 matched the Plaintiff's specimen signature. Regarding the second receipt (Exh. B7), the First Appellate Court, after making a comparison with the naked eye, concluded that the disputed signature was by the same author, i.e., the Plaintiff.

Validity of Sale Deeds and Possession of Documents

7.6 The Plaintiff did not explain as to why the 1st Defendant was in possession of all the original title deeds, including the prior sale agreement, purchase certificate, and partition deed. It was inferred that these were entrusted to the 1st Defendant for the purpose of selling the property. Consequently, the sale deeds executed by the 1st Defendant in favour of the 2nd Defendant and 3rd Defendant were valid.

8. The Plaintiff assailing the above findings filed the second appeal before the High Court, and through the impugned judgment, the High Court restored the findings of the Trial Court, and its consideration is summarised:

8.1 The original of Exh. B-2 is not marked. Without following the procedure under Sections 65 and 66 of the Evidence Act, Exh. B-2, a photostat copy does not satisfy the requirements of secondary evidence. The 1st Defendant traces the authority to sell the property to Exh. B-2. The non-marking of the original

of Exh. B-2, coupled with non-compliance with Sections 65 and 66 of the Evidence Act, would render the assertion untenable.

8.2 The High Court concluded that the original PoA - Exh B-2 was not duly executed by the Plaintiff. It compared the clauses in the draft/copy - Exh. A- 4 with the disputed PoA/Exh. B-2. It was observed that the words providing for "sale" in the disputed PoA had no cohesion with the former parts of the clauses. Crucially, the spacing between the letters in the added words relating to "sale" was monospace, whereas the rest of the document used proportional spacing, indicating interpolation/fabrication. The High Court rejected the Defendant's claim regarding the original PoA.

It noted inconsistencies in the Defendant's evidence regarding the whereabouts of the original document. It was finally noted that in the draft PoA/Exh. A-3 sent by the Defendant to the Plaintiff, the specific clause providing for sale and mortgage (Clause b) had been deleted from the final version - Exh. A-4/Exh. B-2, thus supporting the Plaintiff's claim that she did not grant power to sell. Consequently, the High Court held that the sale deeds executed by the Defendant using the invalid POA were void, thereby restoring the Trial Court's decree.

9. Hence, the 1st and 2nd Defendants are in appeal challenging the impugned judgment.

10. We have heard learned senior counsel Mr. Pijush Kanti Roy and Mr. Siddharth Bhatnagar for the parties.

11. The Defendants assail the impugned judgment, as exceeding the jurisdiction of the High Court under Section 100 of the Code of Civil Procedure, 1908. The impugned judgment has not framed substantial questions of law for consideration. Still, by re-appreciating the evidence, it interfered with the findings of fact recorded by the First Appellate Court. The primacy of opinion available to the view of the First Appellate Court is not accorded in the impugned judgment. The illegality in the impugned judgment is a reappreciation of oral and documentary evidence to record findings on facts in issue.

Therefore, the impugned judgment, since it exceeded the jurisdiction of the High Court under Section 100 of the CPC, is liable to be set aside. Adverting to the merits, the Defendants contend that in the case on hand, the execution of PoA is not in dispute. Still, the core issue is whether the PoA/Exh B-2 granted comprehensive authority to deal with scheduled property or was it a limited power assigned to the 1st Defendant/Exh. B-2, a notarised photocopy of PoA, is a complete answer on the extent of power granted to the 1st Defendant.

The clauses are clear and categorical, authorising the 1st Defendant to sell the Plaint A-Schedule Property. The acts of the 1st Defendant conform to the authority and are well within the power granted to the Defendant under Exh. B-2. The Plaintiff, having ratified the act of the 1st Defendant, by receiving Rs. 11,00,000/- through Exh. B6 and B7, dated 20.12.2006 and 23.04.2007, cannot resile and challenge the validity of the sale deeds dated 15.03.2007.

11.1 The 1st Defendant has discharged the burden fastened on him, and, on a combined reading of Section 85 of the Evidence Act, read with Section 33 of the Registration Act, the execution or extent of the power under the PoA is a non-issue. The High Court committed an illegality by failing to apply the available presumption to the sale deeds dated 15.03.2007. The 1st Defendant contends that the purported clauses authorising him to alienate are not manipulated or fudged; this is evidenced by the draft PoA/Exh. A-3 that was sent by the 1st Defendant to the Plaintiff.

12. The Plaintiff contends that the First Appellate Court committed a serious illegality by relying on PoA/Exh. B-2. The findings of fact recorded by the First Appellate Court are contrary to the evidence or result of incorrect construction of the documents. The 1st Defendant admits that the original of Exh. B-2 is not available to him. Further, to place on record, Exh. B-2, a notarised photocopy of a PoA procedure for adducing secondary evidence must be followed.

In the admitted scenario, neither is an original nor a photocopy on record after complying with the requirements of adducing secondary evidence. Exh. B-2, since it is not an original document, but a notarised PoA, cannot be the document of source for the authority said to have been given by the Plaintiff to the 1st Defendant. The requirements, either under Section 33 of the Registration Act, or Section 85 of the Evidence Act, fall for consideration only if the original deed or Exh. B-2 is produced after complying with the requirements of secondary evidence.

The photocopy is not a piece of evidence. The High Court has not conducted an independent reappreciation of oral and documentary evidence, but tested the findings of fact on the oral and documentary evidence adduced by the parties. Such a procedure is within the scope and jurisdiction of the High Court. The unauthorised act of the 1st Defendant will not bind the Plaintiff, and no title is conveyed to the 2nd and 3rd Defendants through Exh. A-7 and A-8.

13. The arguments on both sides are noted, and the record is perused and appreciated.

14. The controversy centres around the disputed circumstance, namely, the power of agency given by the plaintiff to the 1st defendant through Exh. B-2, if the documentary evidence in Exh. B-2 satisfies the requirement of law, whether it is fudged with additions, etc. Inasmuch as the 1st Defendant can convey title to the 2nd and 3rd Defendants only when the authority to do so is proved as pleaded by him.

The admitted circumstances are that the Plaintiff is the owner of the Suit A-Schedule Properties, the Plaintiff resides in Mumbai, the 1st defendant resides in Kozhikode, and was authorised to, according to the Plaintiff, manage the property and according to the 1st Defendant, he was authorised to act as an agent of the Plaintiff for all purposes. The Plaintiff denies having given general power, including the alienation of the Suit ASchedule in favour of the 1st Defendant. The 1st Defendant asserts and claims that the PoA in his favour includes the power to alienate the Suit A-Schedule Property.

15. In the admitted and disputed circumstances, the issue boils down to whether the 1st Defendant proved the case as pleaded in the written statement. The burden is on the 1st Defendant. For clarity, we excerpt the averments in the written statement on the execution, scope and content of PoA, which reads as under:

"the plaintiff handed over to the first defendant all the powers to handle, sell, mortgage the above said property as his own and a power of attorney draft was prepared and sent as per the plaintiff's instructions. Plaintiff herself voluntarily prepared it as her on style and signed it and sent it to the 1st Defendant. the plaintiff has nowhere (sic) stated why the 1st defendant was entrusted with the power to dispose of the property, sell it etc. From these circumstances it is proved that the 1st defendant also had the authority over the above said property.

0The draft Power of Attorney produced by the Plaintiff along with the plaint was sent by the 1st defendant. Similarly the 1st respondent (defendant) admits the letter sent along with it. But no letter has been sent by the 1st defendant after getting the Power of Attorney. The Power of Attorney issued by the plaintiff also empowered the 1st defendant to sell the property. The registrar allowed to register the document after fully understanding the contents. Up to this point, the plaintiff has not raised an argument that the officials of the Register Office and these defendants have conspired to create the Sale deeds."

These pleadings will be considered at the appropriate stage.

16. We now turn to whether the High Court exceeded its jurisdiction under Section 100 of the Code of Civil Procedure, 1908, while reversing the

judgment of the First Appellate Court. The defendants argue that the High Court's findings were recorded on reappreciation of oral and documentary evidence. The Plaintiff contends that the High Court has not reappreciated the evidence but has examined whether the evidence was misread/documents were not correctly interpreted, and whether inadmissible documents were relied upon by the first appellate Court. The broad parameters for exercising the jurisdiction under Section 100 of the Code of Civil Procedure are summed up hereunder:

16.1 The Code of Civil Procedure (Amendment) Act, 1976, introduced a specific embargo on the High Court's jurisdiction under Section 100 to ensure the finality of findings of fact and to confine its jurisdiction to cases involving a substantial question of law.1 Consequently, the general rule is that findings of fact recorded by the trial and appellate courts are binding and will not be disturbed, even if they appear to be erroneous.2

16.2 However, this restriction is not absolute. Where the findings of fact are founded on assumptions, conjectures or surmises, or suffer from the vice of perversity, the High Court is well within its jurisdiction to interfere with findings of fact. The legality of a finding of fact, when challenged on the ground of perversity, itself constitutes a question of law and, therefore, may give rise to a substantial question of law under Section 100 of the CPC.3

16.3 A finding may be termed perverse where it is arrived at by ignoring or excluding relevant and material evidence, by considering irrelevant material, or where it is based on no evidence or on wholly unreliable evidence. A decision based on no evidence is not confined to cases of complete absence of evidence, but also includes cases where the evidence on record, taken as a whole, is incapable of reasonably supporting the findings recorded. A finding that outrageously defies logic, suffers from irrationality, or is such that no reasonable person acting judicially could have arrived at it, is equally perverse in the eye of the law. Findings resting on the ipse dixit of the court or on conjecture and surmises reflect non-application of mind and stand vitiated on that ground as well.4

16.4 Insofar as documentary evidence is concerned, an inference drawn from the contents of a document is ordinarily a question of fact. However, the legal effect of a document's terms, its construction involving the application of legal principles, or a misconstruction thereof gives rise to a question of law.5

16.5 While exercising jurisdiction under Section 100 of the CPC, the High Court must be satisfied that the case involves not merely a question of law but a substantial question of law having a material bearing on the rights of the parties. A substantial question of law may arise where the legal position is

debatable or unsettled. It may also occur in cases where statutory provisions or binding precedents well settle the legal position. Still, the courts below have decided the matter by ignoring settled principles or by acting in direct contravention of them. In such cases, the substantial question of law arises not because the law is uncertain, but because the decision violates the settled position of law.6

16.6 Section 103 of the CPC enables the High Court, in a second appeal, to determine an issue of fact, provided the evidence on record is sufficient, in two contingencies: first, where an issue necessary for the disposal of the appeal has not been determined by the lower appellate court or by both courts below; and second, where such issue has been wrongly determined by reason of a decision on a question of law as referred to in Section 100 of the CPC.7

16.7 Section 103 does not operate as an exception to, or a substitute for, Section 100, but is intended to advance the same legislative purpose. The power under Section 103 CPC can be exercised only in exceptional circumstances and with circumspection. Before invoking this provision, the High Court must record a clear finding that the findings of fact recorded by the courts below are vitiated by perversity. In the absence of such a categorical finding, the exercise of power under Section 103 would fall outside the permissible limits of Section 100 of the CPC.8

17. Therefore, we examine whether the findings in the impugned judgment are based on reappreciation of evidence, or on a finding of misreading of evidence, wrong interpretation of documents, and reliance on inadmissible evidence, Exh. B-2.

18. The evidence of DW1 is important, and in chief examination the witness denied the Plaintiff's claims, stating that while the Plaint A-Schedule properties (Items 1 and 2) were purchased in the Plaintiff's name from their brother Mohandas, this was done solely due to Mohandas's insistence and the plaintiff's love and affection to assist DW1, who could not raise the full funds immediately. DW1 claimed he had originally entered into an agreement to sell with Mohandas for Rs.7 lakhs and paid an advance of Rs.1 lakh, and later the plaintiff provided Rs.6 lakhs to complete the purchase. Further, he has been in exclusive possession of the property since 1984, residing there with his family, and denied being merely a caretaker.

Regarding Item 3, he claimed to have orally purchased it from the Plaintiff for Rs. 2 lakhs. That Plaintiff voluntarily prepared, signed, and notarised a PoA empowering him to sell the property and sent it to him. Furthermore, DW1 had settled all financial obligations to the Plaintiff by paying Rs.5,00,000/- on 20.12.2006 and Rs.6,00,000/- on 23.04.2007, for which the plaintiff signed

receipts. Further, the Plaintiff's suit was an afterthought driven by ulterior motives, and he had sold the property to the 2nd and 3rd Defendants with full authority and with the Plaintiff's knowledge. The appreciation of the chief examination of DW-1 would not show the crucial aspect of clauses in Exh. B2.

18.1 During cross-examination, he admitted he did not know where the original PoA was. The cross-examination further reads that a witness named Muraleedharan retrieved the documents from the office of the Subregistrar and handed the original POA to the Plaintiff's husband. He admitted that he had nothing to say as to why this significant fact was omitted from his pleadings. When confronted with a photocopy of the POA, he admitted that it lacked witness signatures and contained no notary endorsement. He denied sending the draft PoA to the Plaintiff. Regarding the payment receipts, he admitted they were written in his own handwriting on the Plaintiff's husband's letterhead and were not stamped.

He admitted he did not affix a revenue stamp to the receipts and justified it by saying the plaintiff was her sister. He admitted to filing a previous cheque case (CC No. 667/09) against a woman named K.K. Rajani, and that the accused in that case alleged that DW1 had forged her signature. Subsequently, DW1 withdrew the case as not pressed rather than pursuing it. He admitted that he continued to reside in the house on the property. That he did not accompany the buyer Sunil Kumar to register the subsequent sale of the property and did not know who currently possesses item no. 3. He admitted the house ownership in the Panchayat records were still in the name of plaintiff.

19. The crux of the matter depends on whether Exh. B-2 can be treated as documentary evidence warranting interpretation of the clauses and the alleged contradictions with Exh. A-3 and A-4. Exh. B-2 is a photocopy, or a mechanical copy, of the purported PoA. This, therefore, implies that Exh. B-2 is, at best, secondary evidence. Secondary evidence is evidence that proves the contents of an original document through a medium that is one step removed from the source. Section 63 of the Indian Evidence Act provides an exhaustive list of what constitutes secondary evidence. This includes certified copies, copies made from the original by mechanical processes ensuring accuracy, copies compared with such copies, counterparts of documents against parties who did not execute them, and oral accounts of the contents given by a person who has seen the document.

20. The broad parameters summarising the procedure to be followed for introducing secondary evidence are reiterated and read thus:

20.1 The fundamental principle of the Indian Evidence Act is that facts have to be established by primary evidence.9 Section 64 mandates that documents

must be proved by primary evidence, which is considered the "best evidence". Primary evidence is the rule, while secondary evidence is an exception admissible only in the absence of primary evidence. A party is generally required to produce the best evidence available; so long as the superior evidence (the original) is within a party's possession or reach, they cannot introduce inferior proof (secondary evidence).10

20.2 Before secondary evidence can be admitted, the party relying on it must lay a factual foundation. This involves two steps: First, the party must prove that the original document actually existed and was executed. Secondly, the party must establish valid reasons as to why the original cannot be furnished.11

20.3 Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65.12 If the original itself is found to be inadmissible through failure of the party who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.13

20.4 Section 65 of the Evidence Act is exhaustive and states the specific circumstances under which secondary evidence is permissible. To introduce secondary evidence, a party must satisfy the conditions of one of the clauses (a) through (g) of Section 65.14

20.5 Further, admitting a document as secondary evidence does not automatically prove its contents. The secondary evidence must be authenticated by foundational evidence showing that the alleged copy is, in fact, a true copy of the original. For instance, if a party wishes to introduce a photostat copy, they must explain the circumstances under which the copy was prepared and who possessed the original at the time the photograph was taken.15

20.6 Mere admission of a document or making it an exhibit does not dispense with the requirement of proving it in accordance with the law. The court has an obligation to examine the probative value of the document and decide the question of admissibility before making an endorsement on the secondary evidence. If the foundational facts, such as the loss of the original or the explanation for its non-production, are not established, the court cannot legally allow the party to adduce secondary evidence.16

20.7 There is no requirement that an application must be filed to lead secondary evidence. While a party may choose to file such an application, secondary evidence cannot be ousted solely because no application was filed. It is sufficient if the party lays the necessary factual foundation for leading secondary evidence either in the pleadings or during the course of evidence.17

21. Therefore, the introduction of secondary evidence is a two-step process, wherein, first, the party must establish the legal right to lead secondary evidence, and second, they must prove the contents of the documents through that evidence. The twin requirements are conjunctive.

22. The High Court recorded a finding which is not challenged, that the PoA produced by the 1st Defendant is a notarised photocopy, and not the original document. The 1st Defendant is obligated to follow the procedure for adducing secondary evidence, and thereafter, claim presumption, if any, available to a document so adduced in evidence. It is axiomatic that secondary evidence is permissible only as an exception to the requirement of adducing primary evidence.

23. The case on hand falls within the meaning of mechanical copies. In law, the existence of Exh. B-2, in the absence of laying down a factual foundation and following procedure, ought to be ignored for the purpose of appreciating the 1st Defendant's claim on the power to alienate Plaint A-Schedule Property. It is apposite to refer to one of the views expressed by the First Appellate Court by examining the signature in Exh. B-2, and recording a finding against the plaintiff. It is axiomatic and fairly established by the authorities18 of this Court that courts should not by itself compare disputed signatures without the assistance of any expert, when the signatures with which the disputed signatures compared, are themselves not the admitted signatures.

In our considered view, neither Section 33 of the Registration Act nor Section 85 of the Evidence Act would come into application if the primary requirement of adducing secondary evidence is discharged by the party relying on the document. Section 85 of the Evidence Act falls under Chapter V, titled Documentary Evidence. In the absence of an original or at least a secondary evidence, it is impermissible to apply Section 85 of the Indian Evidence Act to conclude the execution and extent of authority given by the plaintiff to the 1st defendant. No order is brought to our notice through which secondary evidence is brought on record before the Trial Court.

A photocopy of a document is no evidence unless the same is proved by following the procedure set out. Relying on Exh. B-2, the First Appellate Court acted on inadmissible evidence and accepted the existence of power to alienate. Exh. B-2/photocopy is no evidence, and the incorrect reliance on no evidence, has been rightly corrected by the High Court through the impugned judgment. The High Court has considered the misreading of evidence by the Appellate Court and, by applying the correct principles of law, allowed the second appeal.

24. Therefore, the Civil Appeal is without merit and is dismissed accordingly. No order as to costs. Pending application(s), if any, stand disposed of.

.....J. [Pankaj Mithal]

.....J. [S.V.N. Bhatti]

New Delhi;

February 06, 2026.

1 Ramathal v. Maruthathal, (2018) 18 SCC 303.

2 Jagdish Singh v. Natthu Singh, (1992) 1 SCC 647.

3 Dinesh Kumar v. Yusuf Ali, (2010) 12 SCC 740.

4 Bharatha Matha v. R. Vijaya Renganathan, (2010) 11 SCC 483.

5 Hero Vinoth v. Seshammal, (2006) 5 SCC 545, ¶24.

6 Ibid.

7 Sitaramji Badwaik v. Bisaram, (2021) 15 SCC 234.

8 Municipal Committee, Hoshiarpur v. Punjab SEB, (2010) 13 SCC 216, ¶26.

9 Jagmail Singh v. Karamjit Singh, (2020) 5 SCC 178. (Para 14)

10 Smt. J. Yashoda v. K. Shobha Rani (2007) 5 SCC 730.

11 Ibid; Kaliya v. State of Madhya Pradesh, (2013) 10 SCC 758.

12 H. Siddiqui (D) By Lrs. v. A. Ramalingam AIR (2011) SC 1492.

13 Smt. J. Yashoda v. K. Shobha Rani (2007) 5 SCC 730.

14

Condition for Secondary Evidence	**Statutory Clause**	**Type of Secondary Evidence Allowed**
Adversary Possession	Section 65(a)	Any secondary evidence (after notice).
Written Admission	Section 65(b)	The written admission itself.
Loss or Destruction	Section 65(c)	Any secondary evidence.
Immovable Original	Section 65(d)	Any secondary evidence.

Public Document	Section 65(e)	Only a certified copy.
Law-Specified Document	Section 65(f)	Only a certified copy.
Voluminous Records	Section 65(g)	Testimony of a skilled examiner.

15 Ashok Dulichand v. Madahavlal Dube and Another (1975) 4 SCC 664; Chandra v. M. Thangamuthu, (2010) 9 SCC 712.

16 Rakesh Mohindra v. Anita Beri, (2016) 16 SCC 483.

17 Dhanpat v. Sheo Ram 2020 (16) SCC 209.

18 O. Bharathan v. K Sudhakarana, 1996 2 SCC 704.

IN THE SUPREME COURT OF INDIA

Sumit
Vs.
State of Uttar Pradesh and Anr.

[Criminal Appeal No._____ of 2026
arising out of SLP (Crl.) No. 1536/2026]

Head Note – The position of law is well settled, once anticipatory bail is granted, it ordinarily continues without fixed expiry. The filing of a charge-sheet, taking of cognizance, or issuance of summons does not terminate protection unless special reasons are recorded.

Either the Court may grant anticipatory bail or may decline. However, once having exercised its discretion in favour of the accused upon consideration of the overall matter, there was no good reason for the High Court to restrict it upto the stage of filing of the chargesheet.

Following principles were summarised :
(i) The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In the event of refusal of bail, the accused can certainly be arrested.
(ii) The investigating agency can seek order from the court under Sections 437(5) or 439(2) of Cr.P.C. respectively for arrest of the accused and his custody.
(iii) The Court, in exercise of its power under Sections 437(5) or 439(2) of Cr.P.C. respectively, can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of its power under Section 437(5) as well as Section 439(2) respectively can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.
(iv) In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it needs to obtain an order to arrest the accused from the Court which had granted the bail.

The Court also directed that a copy of its order be forwarded to the Registrar General of the Allahabad High Court to be placed before the Chief Justice.

ORDER

J.B. Pardiwala and K.V. Viswanathan, J.J.

1. Leave granted.

2. This appeal arises from the order passed by the High Court of Allahabad dated 07.01.2026 in Criminal Misc. Anticipatory Bail Application No.11038/2025 by which the anticipatory bail application preferred by the appellant came to be rejected.

3. We heard Mr. Varinder Kumar Sharma, the learned counsel appearing for the appellant and Mr. Ankit Goel, the learned counsel appearing for the respondent-State.

4. It appears from the materials on record that the First Information Report bearing No.560/2024 came to be registered with the Akbarpur Police Station, District Kanpur Dehat, State of Uttar Pradesh for the offence punishable under Section 80(2)/85 BNS and Sections 3 and 4 respectively of the Dowry Prohibition Act, 1961.

5. The appellant before us is the brother-in-law (devar) of the deceased.

6. The deceased was married to the brother of the appellant past 7 months.

7. The deceased died under mysterious circumstances at her matrimonial home. Accordingly, the FIR came to be lodged by the mother of the deceased.

8. The case at hand as alleged seems to be one of dowry death.

9. The appellant before us apprehending arrest had earlier preferred an application before the High Court seeking anticipatory bail being application no.3992/2025.

10. The High Court while granting anticipatory bail passed a very unusual order which reads thus:-

"(1) The present Criminal Miscellaneous Anticipatory Bail Application has been filed on behalf of the applicant Sumit in FIR No. 560 of 2024, under Section 85/80 BNS and 3/4 Dowry Prohibition Act, Police Station Akbarpur, District Kanpur Dehat, seeking anticipatory bail with the prayer that in case of arrest, the applicant may be released on bail.

(2) Heard the learned counsel for the applicant and the learned Additional Government Advocate and perused the file.

(3) The applicant's learned counsel argued that the applicant is innocent and has been implicated in the aforementioned sections with malicious intent to harass and intimidate him. He fears that he may be arrested in the aforementioned case, despite the lack of credible evidence against him. The applicant has been accused of the crime simply because he is her brother-in-law. The First Information Report contains no direct allegations against the applicant. The deceased was allegedly beaten and strangled on October 21, 2024, but no complaint was filed at any police station, nor was a medical examination conducted.

The deceased committed suicide after staying at her parents' home for a month. He also stated that the applicant has no criminal history and no coercive proceedings have yet been initiated against him. He further states that the applicant undertakes to cooperate during the trial and investigation and that he will be present at the time required by the investigating agency or the Court and it is assured on behalf of the applicant that he is ready to cooperate in the process of law and he will honestly make himself available before the Court as and when required and he is also ready to accept all the conditions which the Court may impose on him.

(4) The learned Additional Government Advocate argued against the accused anticipatory bail, arguing that the offense committed by the applicant is of a serious nature. Considering the facts and circumstances of the case, there is no sufficient basis for the accused release on anticipatory bail. Therefore, the accused should not be released on anticipatory bail.

(5) It may be stated that in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694, it has been held by the Hon'ble Supreme court that while adjudicating on an anticipatory bail application, the Court must consider the nature and gravity of the charges, the possibility of the accused fleeing the judicial process and that the Court must carefully evaluate all the material available against the accused and also consider the actual role of the accused.

(6) In the present case, having regard to the settled principles of law relating to anticipatory bail and having regard to the submissions of learned counsel for the parties, the nature of the allegations, the role of the applicant and all the facts and circumstances of the case, the prayer for anticipatory bail is liable to be allowed without any further consideration of the merits of the case. Accordingly, the anticipatory bail application is allowed.

(7) In case of arrest of the applicant involved in the above case crime number, he will be released on anticipatory bail (till the filing of the police charge sheet) on furnishing a personal bond of Rs. 50,000/- and two sureties of the same

amount to the satisfaction of the officer in charge of the concerned police station, subject to the following conditions:-

1. The applicant shall, if required, be present at the required time for examination by the police officer.

2. The applicant shall not make any threat, promise or inducement, directly or indirectly, to any person acquainted with the facts of the case, or to any police officer to agree not to disclose such facts before the Court or to any police officer.

3. The applicant will cooperate during the investigation and trial and will not misuse the freedom of bail. In case of violation of the above conditions, the Investigating Officer/Prosecutor shall issue notice to the applicant shall be at liberty to file an appropriate application for cancellation of the anticipatory ball granted.

(8) Accordingly, this anticipatory bail application is finally disposed of with the above observations.

11. A plain reading of the order referred to above would indicate that the anticipatory bail was granted by the High Court as prayed for but the same was limited only upto filing of the chargesheet. Once the chargesheet was filed, the protection earlier granted came to an end and in such circumstances, the appellant once again prayed for anticipatory bail by way of a fresh application which came to be rejected by the High Court.

12. We fail to understand what is the idea in restricting the grant of anticipatory bail upto the stage of completion of investigation and filing of the chargesheet.

13. Either the Court may grant anticipatory bail or may decline. However, once having exercised its discretion in favour of the accused upon consideration of the overall matter, there was no good reason for the High Court to restrict it upto the stage of filing of the chargesheet.

14. In the earlier order passed by the High Court referred to above in para 10 the High Court observed that having regard to the nature of the allegations, the role of the applicant and all the facts and circumstances of the case, the accused could be said to have made out a case for grant of anticipatory bail.

15. If the aforesaid be so, then the High Court should have indicated while declining to grant anticipatory bail by way of the impugned order as to what was so particular or what was so gross that the High Court thought fit not to grant anticipatory bail.

POSITION OF LAW

16. In Bharat Chaudhary and Anr. vs. State of Bihar and Anr. reported in (2003)8 SCC 77, this Court held that there is no restriction in Section 438 Cr.P.C. to grant anticipatory bail even when charge sheet has been filed and cognizance is taken. The relevant part of the said decision reads as thus:-

"7. From the perusal of this part of Section 438 of CrPC, we find no restriction in regard to exercise of this power in a suitable case either by the Court of Session, High Court or this Court even when cognizance is taken or a charge-sheet is filed. The object of Section 438 is to prevent undue harassment of the accused persons by pre-trial arrest and detention. The fact, that a court has either taken cognizance of the complaint or the investigating agency has filed a charge-sheet, would not by itself, in our opinion, prevent the courts concerned from granting anticipatory bail in appropriate cases.

The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail so also the need for custodial interrogation, but these are only factors that must be borne in mind by the courts concerned while entertaining a petition for grant of anticipatory bail and the fact of taking cognizance or filing of a chargesheet cannot by itself be construed as a prohibition against the grant of anticipatory bail. In our opinion, the courts i.e. the Court of Session, High Court or this Court has the necessary power vested in them to grant anticipatory bail in non-bailable offences under Section 438 of CrPC even when cognizance is taken or a charge-sheet is filed provided the facts of the case require the court to do so.".

[Emphasis supplied]

17. The very same view as aforesaid came to be reiterated in Ravindra Saxena vs. State of Rajasthan, reported in (2010) 1 SCC 684. In the said case the High Court had rejected the application seeking anticipatory bail on the ground that the chargesheet had been filed, such approach was held to be erroneous. The Court observed that a Constitution Bench in Shri Gurbaksh Singh Sibbia and Others vs. State of Punjab, reported in (1980) 2 SCC 565, clearly held that the anticipatory bail can be granted at any time so long as the applicant has not been arrested:

"7. We are of the considered opinion that the approach adopted by the High Court is wholly erroneous. The application for anticipatory bail has been rejected without considering the case of the appellant solely on the ground that the challan has now been presented.

8. We may notice here that the provision with regard to the grant of anticipatory bail was introduced on the recommendations of the Law

Commission of India in its Forty-first Report dated 24-9- 1969. The recommendations were considered by this Court in a Constitution Bench decision in Gurbaksh Singh Sibbia v. State of Punjab [(1980) 2 SCC 565 : 1980 SCC (Cri) 465].

Upon consideration of the entire issue this Court laid down certain salutary principles to be followed in exercise of the power under Section 438 CrPC by the Sessions Court and the High Court. It is clearly held that the anticipatory bail can be granted at any time so long as the applicant has not been arrested. When the application is made to the High Court or the Court of Session it must apply its own mind on the question and decide when the case is made out for granting such relief."

[Emphasis supplied]

18. In Sushila Aggarwal & Ors. vs. State (NCT of Delhi) & Anr. reported in (2020) 5 SCC 1, the following questions were referred to the larger Bench of five judges:

i. Whether the protection granted to a person under Section 438 CrPC should be limited to a fixed period so as to enable the person to surrender before the trial court and seek regular bail?

ii. Whether the life of an anticipatory bail should end at the time and stage when the accused is summoned by the court?

19. The Constitution Bench answered the reference as under:

"91.1. Regarding Question 1, this Court holds that the protection granted to a person under Section 438 CrPC should not invariably be limited to a fixed period; it should enure in favour of the accused without any restriction on time. Normal conditions under Section 437(3) read with Section 438(2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the court to impose any appropriate condition (including fixed nature of relief, or its being tied to an event), etc.

91.2. As regards the second question referred to this Court, it is 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."

[Emphasis supplied]

20. The following observations made by the Constitution Bench in paras 77.3 and 77.4 respectively of Sushila Aggarwal (supra) are also relevant which reads as under:

"77.3. In these circumstances, the mere fact that an accused is given relief under Section 438 at one stage, per se does not mean that upon the filing of a chargesheet, he is necessarily to surrender or/and apply for regular bail. The analogy to "deemed bail" under Section 167(2) with anticipatory bail leads this Court to conclude that the mere subsequent event of the filing of a charge-sheet cannot compel the accused to surrender and seek regular bail.

As a matter of fact, interestingly, if indeed, if a charge-sheet is filed where the accused is on anticipatory bail, the normal implication would be that there was no occasion for the investigating agency or the police to require his custody, because there would have been nothing in his behaviour requiring such a step. In other words, an accused, who is granted anticipatory bail would continue to be at liberty when the chargesheet is filed, the natural implication is that there is no occasion for a direction by the court that he be arrested and further that he had cooperated with the investigation.

77.4. At the same time, however, at any time during the investigation were any occasion to arise calling for intervention of the court for infraction of any of the conditions imposed under Section 437(3) read with Section 438(2) or the violation of any other condition imposed in the given facts of a case, recourse can always be had under Section 439(2)."

[Emphasis supplied]

21. In the High Court of Delhi vs. CBI reported in 2004 SCC OnLine Del 53, somewhat similar question arose whether Section 170 Cr.P.C. prevents the Trial Court from taking a charge-sheet on record unless the accused is taken into custody. The Delhi High Court observed as under:

"15. Word "custody" appearing in this section does not contemplate either police or judicial custody. It merely connotes the presentation of accused by the investigating officer before the Court at the time of filing of the charge-sheet whereafter the role of the Court starts. Had it not been so the investigating officer would not have been vested with powers to release a person on bail in a bailable offence after finding that there was sufficient evidence to put the accused on trial and it would have been obligatory upon him to produce such an accused in custody before the Magistrate for being released on bail by the Court.

16. In case the police/investigating officer thinks it unnecessary to present the accused in custody for the reason that the accused would neither abscond nor

would disobey the summons as he has been cooperating in investigation and investigation can be completed without arresting him, the IO is not obliged to produce such an accused in custody.

19. It appears that the learned Special Judge was labouring under a misconception that in every nonbailable and cognizable offence the police is required to invariably arrest a person, even if it is not essential for the purpose of investigation.

20. Rather the law is otherwise. In normal and ordinary course the police should always avoid arresting a person and sending him to jail, if it is possible for the police to complete the investigation without his arrest and if every kind of cooperation is provided by the accused to the investigating officer in completing the investigation.

It is only in cases of utmost necessity, where the investigation cannot be completed without arresting the person, for instance, a person may be required for recovery of incriminating articles or weapon of offence or for eliciting some information or clue as to his accomplices or any circumstantial evidence, that his arrest may be necessary. Such an arrest may also be necessary if the investigating officer concerned or officer in charge of the police station thinks that presence of the accused will be difficult to procure because of grave and serious nature of crime as the possibility of his absconding or disobeying the process or fleeing from justice cannot be ruled out."

[Emphasis supplied]

22. The aforesaid decision of the Delhi High Court received imprimatur of this Court in Siddharth vs. State of Uttar Pradesh & Anr., reported in (2022) 1 SCC 676, wherein it was observed as under:

"9. We are in agreement with the aforesaid view of the High Courts and would like to give our imprimatur to the said judicial view. It has rightly been observed on consideration of Section 170 CrPC that it does not impose an obligation on the officer-in-charge to arrest each and every accused at the time of filing of the charge-sheet. We have, in fact, come across cases where the accused has cooperated with the investigation throughout and yet on the charge-sheet being filed nonbailable warrants have been issued for his production premised on the requirement that there is an obligation to arrest the accused and produce him before the court.

We are of the view that if the investigating officer does not believe that the accused will abscond or disobey summons he/she is not required to be produced in custody. The word "custody" appearing in Section 170 CrPC does not contemplate either police or judicial custody but it merely connotes the

presentation of the accused by the investigating officer before the court while filing the chargesheet.

10. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made.

A distinction must be made between the existence of the power to arrest and the justification for exercise of it [Joginder Kumar v. State of U.P., (1994) 4 SCC 260 : 1994 SCC (Cri) 1172]. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the investigating officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.

12. In the present case when the appellant has joined the investigation, investigation has completed and he has been roped in after seven years of registration of the FIR we can think of no reason why at this stage he must be arrested before the chargesheet is taken on record. We may note that the learned counsel for the appellant has already stated before us that on summons being issued the appellant will put the appearance before the trial court."

23. Further, this Court in Satender Kumar Antil vs. CBI reported in (2022) 10 SCC 51 said in clear terms that the mandate laid down in Siddharth (supra) should be strictly complied with.

24. In Md. Asfak Alam vs. State of Jharkhand and Another reported in 2023 SCC OnLine SC 892 under a similar situation where the appellant therein had been granted interim protection by the High Court under Section 438 CrPC and the charge-sheet was filed before the application seeking pre-arrest bail was finally heard, the High Court rejected the pending anticipatory bail and directed the appellant to surrender before the competent authority and seek regular bail. In this backdrop, this Court observed as under:

"14. What appears from the record is that the appellant cooperated with the investigation both before 8-8-2022, when no protection was granted to him and after 8-8-2022, when he enjoyed protection till the filing of the charge-sheet and the cognizance thereof on 1-10-2022. Thus, once the charge-sheet was filed and there was no impediment, at least on the part of the accused, the court having regard to the nature of the offences, the allegations and the maximum

sentence of the offences they were likely to carry, ought to have granted the bail as a matter of course.

However, the court did not do so but mechanically rejected and, virtually, to rub salt in the wound directed the appellant to surrender and seek regular bail before the trial court. Therefore, in the opinion of this Court, the High Court fell into error in adopting such a casual approach. The impugned order of rejecting the bail and directing the appellant, to surrender and later seek bail, therefore, cannot stand, and is hereby set aside."

[Emphasis supplied]

25. Thus, the position of law is well settled: once anticipatory bail is granted, it ordinarily continues without fixed expiry. The filing of a charge-sheet, taking of cognizance, or issuance of summons does not terminate protection unless special reasons are recorded. The Constitution Bench in the case of Sushila Aggarwal (supra) held that duration is a matter of judicial discretion and cannot be confined by arbitrary timelines. In the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra, reported in (2011)1 SCC 694, this Court similarly cautioned that anticipatory bail should not hinge on procedural milestones.

26. Risk management can be taken care of by way of imposing conditions of cooperation, attendance, and non-tampering, not by imposing time limits. Where circumstances change, modification or cancellation may be sought under the BNSS, 2023, but expiry clauses inserted at inception are unsustainable.

27. In such circumstances referred to above, the impugned order passed by the High Court is set aside.

28. We order that in the event of arrest of the appellant in connection with the offence enumerated above, he shall be released on anticipatory bail subject to the terms and conditions that the Investigating Officer deem fit to impose.

29. Once the appellant is released by the Investigating Officer, he shall thereafter appear before the Trial Court and furnish fresh bail bond.

30. Before we close this matter, we would like to clarify something important. Take a case, wherein an accused has been released on bail, pending the investigation, and later upon completion of the investigation, chargesheet is filed with addition of new cognizable and non-bailable offences, then what would be the position?

31. The aforesaid question was looked into and answered by this Court in Pradeep Ram vs. State of Jharkhand and another reported in 2019 Crl. L.J. 3801, wherein this Court after discussing various decisions, more particularly, the decision in Prahlad Singh Bhati vs. NCT Delhi and another reported in (2001) 4 SCC 280 held that with the addition of a new cognizable and nonbailable offence more particularly of a serious nature, the accused becomes disentitled to the liberty earlier granted to him in relation to the offences for which the FIR came to be registered.

32. In such circumstances, the correct approach of the Court concerned should be to apply its mind afresh as to whether the accused is entitled for grant of bail in the changed circumstances.

33. In Prahlad Singh Bhati (supra), the FIR initially was registered under Sections 306 and 498A of the IPC respectively. But, subsequently, the chargesheet showed that the accused had committed offence under Sections 302 of the IPC. This Court took the view that with the change of the nature of the offence, the accused could be said to have become disentitled to the liberty granted to him in relation to the offence for which the FIR was registered, more particularly, if the offence is altered for an aggravated crime.

34. In such circumstances referred to above, we arrive at following conclusions in respect of a circumstance whereafter the grant of bail to an accused, further cognizable and nonbailable offences are added:-

(i) The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In the event of refusal of bail, the accused can certainly be arrested.

(ii) The investigating agency can seek order from the court under Sections 437(5) or 439(2) of Cr.P.C. respectively for arrest of the accused and his custody.

(iii) The Court, in exercise of its power under Sections 437(5) or 439(2) of Cr.P.C. respectively, can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The Court in exercise of its power under Section 437(5) as well as Section 439(2) respectively can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-cognizable offences which may not be necessary always with order of cancelling of earlier bail.

(iv) In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it

needs to obtain an order to arrest the accused from the Court which had granted the bail.

35. The appeal is accordingly, disposed of.

36. Pending application(s), if any, also stand disposed of.

37. Registry shall forward a copy of this order to the Registrar General, High court of Allahabad, who in turn shall place this order before Hon'ble the Chief Justice of High Court.

.....J. (J.B. Pardiwala)

.....J. (K.V. Viswanathan)

New Delhi

February 09, 2026

IN THE SUPREME COURT OF INDIA

J. Muthurajan and Anr.
Vs.
S. Vaikundarajan & Ors.

[Civil Appeal No._____ of 2026
@ SLP (C) No. 16254 of 2025]

[Civil Appeal No._____ of 2026
@ SLP (C) No. 16880 of 2025]

Head Note – The grounds of coercion, undue influence and more importantly misrepresentation, resulting in an inequitable partition, cannot be peremptorily rejected while considering an application under Order VII, Rule 11 CPC.

JUDGMENT

K. Vinod Chandran, J.

1. Leave granted.

2. Orchestrating the dissolution of a business empire built by the father, the children resorted to arbitration, conciliation and litigation to go their independent ways with their share of the pie, as is common in families with multiplying numbers and proliferating assets. Two out of the four siblings found an amicable partition through arbitration. The two remaining, along with their families are grappling with each other for an equitable partition of the huge assets and the vast properties amassed over the years.

The respective families are represented by their eldest, the brothers, Vaikundarajan and Jegatheesan who along with their immediate kin stakes equal claim to the assets, left to their joint share in the earlier arbitration and those accumulated thereafter. Vaikundarajan group relies on a Conciliation Award, strongly refuted by the Jegatheesan group, who took recourse first to arbitration, which failed and then to litigation. Assailed herein is a judgment which confirmed the rejection of a suit filed by the Jegatheesan group, allowing an application under Order VII Rule 11 of the Civil Procedure Code, 19081. We refer to the parties by their names and the documents from Civil Appeal @SLP (C) No.16254 of 2025.

3. Differences simmering for some time, surfaced in the year 2018 and Vaikundarajan group asserts that on a request made by Jegatheesan, their half-brother Ganesan, acted as a Conciliator to bring about a settlement by a fair

partition. A Partition Deed termed Kaithadi Baga Pirivinai Pathiram2 was drawn up with the entire assets included in two Schedules. The division, alleged to be as per custom, was made by Jegatheesan with Vaikundarajan at the first instance choosing Schedule 'C' and the remaining Schedule 'A' left to Jegatheesan. The parties agreed by putting their signatures on the KBPP, the translated copy of which is produced as Annexure P-1 dated 31.12.2018.

4. The Conciliation Award drawn up by Ganesan, their Conciliator/half-brother is produced as Annexure P-2 dated 02.01.2019. While Jegatheesan group accepts and admits their signatures on the KBPP, they maintain that it was just a tentative draft, not intended to be acted upon without further deliberation; especially since the document had to be stamped & registered to confer it the status of a partition deed. Jegatheesan also denies having made the division, and the group in one voice denies that there was ever a conciliation and opposes the Conciliation Award as one fabricated, without their knowledge and to which they were never parties.

The Conciliation Award was an afterthought, alleges Jegatheesan group; that document itself having been prepared far later to their group having resiled from the KBPP, which deed itself tilted the scales substantially in favor of the Vaikundarajan group. The fabrication was also intended to thwart any attempt of the Jegatheesan group to have an equitable partition by resort to legal remedies, either through arbitration or by litigation. The suit now rejected was initiated by the Jegatheesan group having failed in their attempt to initiate an arbitration as also their attempt to abruptly end the proceedings initiated by Vaikundarajan group to execute the Conciliation Award.

5. Sh. Gopal Shankaranarayanan and Sh. V. Prakash, learned Senior Counsel appeared for Jegatheesan group, the appellants/plaintiffs and Sh. Mukul Rohatgi and Sh. Niranjan Reddy, learned Senior Counsel appeared for Vaikundarajan group, the respondents/defendants.

6. Sh. Shankaranarayanan, took us through the communications immediately after the KBPP, to contend that Jegatheesan had objected to the partition as per the KBPP at the first instance and sought for an arbitration as was done before. The correspondences do not indicate a conciliation having been carried out in accordance with Part III of the Arbitration and Conciliation Act, 19963 as it existed then. None of the requirements as is mandated under Sections 61 to 74 of the Act of 1996 have been followed and the alleged Award is passed behind the back of Jegatheesan group as is evident from the documents on record.

It is pointed out that the so-called Conciliation Award surfaced long after the dialogue commenced with respect to the KBPP; which was resiled from by the Jegatheesan group since it was not an equitable partition, making it highly

suspect. Though the Jegatheesan group was unsuccessful in initiating an arbitration and putting an abrupt end to the execution proceedings, this Court preserved their rights which enabled them to initiate the present suit challenging the KBPP; as arbitrary and not one intended to be acted upon and the Conciliation Award; as one vitiated by fraud. It is pointed out from the recitals in the document dated 02.01.2019 that it is prepared on 31.12.2018, which is belied by the fact that some of the members admittedly signed it on an earlier date.

The learned Senior Counsel would urge that there was no cause for rejection of the suit at the threshold, especially when the plaint cannot be rubbished as having set up no cause of action nor is it barred by any law or vitiated by any of the other grounds found in Order VII Rule 11 of the CPC and not in the least is vexatious. A compilation of decisions is placed before us on the principles regulating consideration of an application under Order VII Rule 11, the inadequacy of the remedy under Section 47 of CPC, the law on partition deeds and conciliation awards as also to canvas the contention raised on fraud which vitiates every proceeding and renders any decree, award or order, a nullity.

7. Sh. Prakash, learned Senior Counsel takes us to the specific provision of Section 61 and argues that the minute Vaikundarajan pleads a custom, of one of the parties dividing the partible assets into two separate schedules and the other party given the first choice to take one, there can be no application of Part III. There is no Conciliation Award passed under the Act of 1996 and also considering the plea of the Award set up, being vitiated by fraud, there is no status of an Arbitral Award conferred on it to avail the remedy of execution akin to that from a decree.

It is also pointed out that the execution proceedings in which the appellants have filed objections under Section 47 of the CPC have been clubbed with the suit, for joint trial. The suit was necessitated since, Ganesan the so called Conciliator was a necessary party in the resolution of the dispute based on the challenge raised against the so-called Conciliation Award; who was not a party to the conciliation and hence was outside the scope of Section 47 of the CPC.

8. Sh. Rohatgi, learned Senior Counsel at the outset points out that there are two admitted facts which the Jegatheesan group cannot wriggle out of. All the members of their group have put their signatures to the KBPP, which is a lengthy document; a deliberate action involving considerable time for the mere execution, especially since it has been signed on all the 308 pages by the several members.

The document discloses the two Schedules and the division of assets which include, running industrial concerns, valuable shares, vast tracks of immovable

property, mining leases and so on. None of the family members, who put their signature to the document can now contend that they were not aware of the division or the assets they would be entitled to, on its execution. The second admitted fact, according to Vaikundarajan is that it was Jegatheesan who first went to Ganesan to conciliate; seriously disputed by the learned Senior Counsel appearing for Jegatheesan.

9. Yet again, Sh. Rohatgi forcefully argues that the very initiation of the suit is an abuse of process since the appellants had failed in three attempts before Courts, to wriggle out of the conciliation. The observations in the decisions are binding inter partes and disable the appellants from initiating a suit challenging the KBPP, which, read with the Conciliation Award is a decree, possible of execution under Section 36 of the Act of 1996; upheld by this Court and remedy left to raise objections, only in the execution proceedings. The attempt to initiate arbitration had failed, which forecloses such right; finding Annexure P-2 dated 02.01.2019 to be a Conciliation Award under the Act of 1996.

A further attempt was made through a revision filed, to frustrate the remedy of execution, which was rejected by the High Court with a reasoned order affirmed by this Court by dismissal of the SLP filed against that order. The execution thus is pending, and the appellants have filed their objections thereat. Without pursuing their remedy permitted by this Court, the attempt is again to challenge the KBPP and the Conciliation Award by a freshly instituted suit which has been found by the Trial Court and the High Court to be not possible under Clauses (a) and (d) of Order VII Rule 11 of the CPC.

10. In addition, it is contended that the present attempt also falls foul of Section 47 of the CPC and is in turn an abuse of process of law. Part III of the Act of 1996 and the provisions therein, are read over to urge that if the parties have agreed to a settlement and the Conciliator has endorsed the terms of the settlement it takes the character of an Award under the Act of 1996 which is a deemed decree capable of being executed under Section 36, taking recourse to the remedy under the CPC. The KBPP and the Award are inseparable and read together, it takes the form of a decree capable of execution by either party. The only possible remedy against it is under Section 34 of the Act of 1996, which having not been availed of till date, the execution has to proceed seamlessly.

The contention that despite having affixed their signatures in the KBPP, they did not read it and hence is not enforceable, are mutually destructive and per se dishonest. Insofar as the ground of abuse the learned Senior Counsel would place reliance on Shri Mukund Bhavan Trust and Others v. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Another4, Dahiben v. Arvindbhai Kalyanji Bhanusali (Gajra) D. Thr. LRs and Ors.5 and Rajendra Bajoria and Ors. v. Hemant Kumar Jalan and Ors.6 The learned Senior Counsel

also took us through the decisions inter partes to contend that the contentions taken in the suit and arguments addressed before this Court, have been negated earlier, which binds the parties who were agitating the very same cause in the earlier instances too.

11. Sh. Reddy, learned Senior Counsel would take us to the communications addressed after the KBPP was executed, to contend that though Vaikundarajan had specifically referred to Ganesan and efforts taken by him at the instance of Jegatheesan, it has not been categorically denied in the response made. It is reiterated that the remedy now available is only to pursue the objections under Section 47 of the CPC, which the appellants have resorted to. The reliefs prayed for in the objection and suit are pointed out to argue that they are similar and it would only lead to multiplicity of litigation and possibly conflicting orders.

The attempt is only to stay the Execution Proceedings and pursue the suit so as to further delay the process. Reference is specifically made to Electrosteel Steel Limited v. Ispat Carrier Private Limited7 and MMTC Limited v. Anglo American Metallurgical Co. Ltd.8 to contend that the remedy under Section 47 is a wholesome one which alone can be pursued at this point. The translation of the document dated 02.01.2019 is also seriously challenged, with another translation which indicates that the recital in Tamil is to the effect that "final deed dated 31.12.2018 was prepared".

12. The dispute between the two groups, represented by the two brothers, boils down to how the KBPP dated 31.12.2018 and the so-called Conciliation Award dated 02.01.2019 are to be construed. The Vaikundarajan group asserts that the only possible mode of construction is to read it together, which gives it the status and effect of a conciliation award under Part III of the unamended Act of 1996. The Jegatheesan group insists that there was no conciliation and the so-called Award dated 02.01.2019 is a fabricated document and the KBPP is vitiated by reason of undue influence, coercion and misrepresentation under which it was executed, also resiled from immediately after finding the partition to be unequal and inequitable.

The very fulcrum of the arguments of the Vaikundarajan group is based on the earlier litigation which according to them restrict the remedy of the appellants; the Jegatheesan group, to contest the execution filed under Section 36 of the Act of 1996. Hence, it is imperative that we look at the earlier decisions of the High Court of Madras which, inter partes, have attained finality by the dismissal of the SLPs filed, in which orders this Court made certain reservations with respect to rights of the appellants. The binding nature of the decisions of the High Court and the escape valve provided through the liberty

reserved by the High Court or this Court would in fact decide the questions raised herein.

13. After the KBPP dated 31.12.2018 was executed by all the members of the two groups, there occurred a series of correspondence between the two brothers regarding the partition. It is to be immediately noticed that, as admitted by both the parties, all the members of the two families did not put their signature on a particular day or on the day shown in the deed. In fact, the admission is to the extent that the signatures were put before and even after the date shown on the KBPP, by some members of both the families. Jegatheesan group also pleads in their suit that some of their family members were abroad between 29.12.2018 and 02.01.2019.

This is refuted on the specific plea that they had affixed their signatures prior to their going abroad. It is also pertinent that Vaikundarajan's assertion is of a conciliation by Ganesan at the instance of Jegatheesan, the latter disputes it. There is neither any such communication exchanged placed on record nor a substantiation of the procedure under Part III of the Act of 1996 resorted to. The contention is attempted to be raised on the basis of the veiled reference to Ganesan and his intervention in the matter by Vaikundarajan, which is not specifically disputed by Jegatheesan, persuading us to draw inferences. The document dated 02.01.2019 from the recitals therein leave a lot to be desired, especially with respect to the statement of all the executants having signed the KBPP in the presence of the Conciliator.

14. On 14.01.2019, Jegatheesan emailed his brother Vaikundarajan accusing him to have occasioned financial crisis in the businesses. Jegatheesan hence suggested parting of ways by an equitable division of the assets. Vaikundarajan did not reply to the same and Jegatheesan followed it up with a communication on 23.01.2019 where he specifically raised the issue of the KBPP dated 31.12.2018, admittedly signed by himself and his family members. He claimed that such execution was only at the instance of Vaikundarajan. It was also alleged that the division was not at all fair and equitable which they have realized after deliberating on the division effected. The partition deed dated 31.12.2018 was expressly revoked by the said letter.

This was responded to by Vaikundarajan by a communication dated 24.01.2019 wherein he spoke of a request having been made through the elder half-brother Ganesan and also pointing out certain disputes with respect to the operation of accounts of the running concerns. It was stated in unequivocal terms that the partition has already been carried out by the deed of 31.12.2018, which however was not referred to in the first communication of Jegatheesan dated 14.01.2019. The said communication ended with a request that if Jegatheesan decided to have the partition as per the KBPP, before the end of

the year, Vaikundarajan was willing. Jegatheesan replied through Annexure P-6 dated 05.02.2019 refuting the statements made by Vaikundarajan and seeking an arbitration by a retired Judge of this Court who had earlier acted as an Arbitrator in settling the disputes in the family.

This was replied to by Annexure P-7 dated 18.02.2019 wherein the mediation through Ganesan and the partition having been completed by execution of the deed, was reaffirmed. The request for an arbitration by a named retired Judge of the Supreme Court was specifically declined asserting that there is nothing more to be done since the partition stood concluded as on 31.12.2018. This was contested by Jegatheesan in his reply dated 09.03.2019. Again, a request was made to share the complete details of the assets so as to effectuate an equitable partition which was replied to by Annexure P-9 dated 17.03.2019.

15. It has to be observed with emphasis that the Conciliation Award of 02.01.2019 was not referred to by Vaikundarajan in any of these communications despite the emphatic references to intervention of Ganesan and the KBPP. Having reached a stalemate Jegatheesan group issued a notice through an Advocate, Annexure P-10 dated 28.03.2019, requesting arbitration through a named retired Judge of this Court. The request was declined by Annexure P-11 dated 12.04.2019, by the Advocate of the Vaikundarajan group wherein for the first time the proceeding dated 02.01.2019 was referred to and contended that it has the status and effect of an Arbitral Award under the Act of 1996.

16. Jegatheesan group hence approached the High Court under Section 11 of the Act of 1996 for appointing an Arbitrator which petitions were heard alongwith O.A. No. 543 of 2019 which sought an injunction restraining the Vaikundarajan group from giving effect to the KBPP; all rejected by Annexure P-16. After noticing the facts as also the KBPP and the Conciliation Award, reference was made to the admitted execution of the KBPP and it was observed that if there is a challenge to the same on the ground of coercion then the remedy would be to seek a declaration that the KBPP cannot be effectuated.

The plea of fraud was found to be general and vague since admittedly KBPP was signed by the appellants. It was categorically held in paragraph 19 that if the partition deed is not a result of conciliation proceeding then the document is in settlement of the disputes in the family, as per the customs and practice prevailing in the community. The learned Judge found that the absence of stamping or registration of KBPP was not very significant, since then, it has the trappings of a family arrangement.

The conclusion was that if the execution of the deed was on account of undue influence, coercion and misrepresentation, the document is only voidable

which has to be set aside in the manner known to law, 'by the Civil Court after trial'(sic). On the other hand, if it was the result of conciliation proceedings, it was held that the same could be assailed under Section 34 of the Act of 1996, wherein the question of insufficient stamp duty and registration could also be agitated.

17. We cannot but find that the remedy of the appellants to challenge the KBPP or the Award was not foreclosed by the judgment of the High Court. What stood foreclosed is the initiation of arbitration, that too on the assumption that the documents of 31.12.2018 & 02.01.2019 together constitute a Conciliation Award. An SLP was filed, the order in which is produced as Annexure P-18, wherein despite refusing interference under Article 136 of the Constitution of India, the appellant was left with 'liberty to work out the remedy in accordance with law'(sic).

18. The appellants then approached the Madras High Court with three revisions to strike out the proceedings in EP No. 61, 62 and 63 of 2019 filed before the Principal District Judge, Tirunelveli, seeking execution of the conciliation award. The said revisions were heard together and dismissed by Annexure P-20 Order, which essentially followed the earlier decision in Annexure P-16. The learned Single Judge expressed hope that the dispute having arisen between close family members, there could be mediation, to facilitate which a Mediator was appointed on the request of Vaikundarajan group.

It was also observed that if the mediation fails, Jegatheesan group would be entitled to raise all issues before the Executing Court. An SLP filed against the said order also stood rejected by Annexure P-21 which again made a caveat that 'none of the observations made in the impugned judgment shall hamper the Executing Court in deciding the matter on its own merits'(sic). Hence, based on the contentions left open to be decided by the High Court and the liberty reserved to avail remedies in accordance with law, at the earlier point, we are of the opinion that the challenge against the KBPP and the Award is still at large.

19. It cannot be assumed for a moment that what was intended by Annexure P-21, the rejection of the SLP against the judgment rejecting the prayer to strike off execution proceedings as such, would confine the agitation of such claims before the Executing Court alone. If the Executing Court finds that the KBPP is not a result of conciliation and does not constitute an Award under the Act of 1996 then necessarily, it would be open for the Vaikundarajan group who stands by the KBPP to take remedies for enforcement of the same, even as a family arrangement; in which event it cannot be said that the rights of the Jegatheesan group would stand fully precluded. The remedy against the KBPP

cannot be left unresolved, especially when liberty was left to challenge it in a Civil Court.

20. The essential question the High Court considered at the first instance, rejecting the plea for arbitration, was as to whether the KBPP and the document of 02.01.2019, together make out an award; an executable decree under Section 36 of the Act of 1996 or whether it is a partition deed or a family arrangement, the last in view of absence of stamping & registration. It is hence, the High Court held that the challenge against the KBPP could be made before a Civil Court or application filed under Section 34 of the Act of 1996, depending on the nature of challenge. The remedies were thus left open by the High Court itself in Annexure P- 16, which reservation was affirmed by this Court while rejecting the SLP.

21. We cannot but notice that on two aspects the High Court fell into a serious error, which assumes relevance, considering the liberty left to the appellants. The first error was in finding the allegation of fraud to be without basis for reason of the admitted execution of the KBPP. Though it was argued vigorously that both the KBPP and the Award are to be read together, it can be so done only if it is found that the conciliation had proceeded under Part III of the Act of 1996 and culminated in an Award as contemplated under Section 73 of the Act, giving it the status and effect of a Settlement Agreement under Section 74.

22. We cannot but notice that the contention taken by the Jegatheesan group from the inception and in the present suit, against the KBPP and the Award are distinct and different. While the execution of KBPP is admitted, the agreement was revoked by the Jegatheesan group after a few days. The contention against KBPP is that the appellants did not get enough time to go through the same and they were made to execute on undue influence, coercion and misrepresentation.

Only after a studied deliberation on the division of assets, it was found that the partition was tilted substantially in favour of the Vaikundarajan group. It is not uncommon that in family arrangements, the younger members succumb to the dictate of the eldest, and on further deliberation and introspection, especially in partitions, raise disputes on the inequitable division. Here, we have to reiterate pertinently that the remedy to file a civil suit against the KBPP was reserved to the appellants even at the first instance.

23. Insofar as the award dated 02.01.2019, we cannot but notice that the earlier communications between the brothers did not at any point refer to a conciliation having been initiated and concluded under Part III of the Act of 1996, though reference was made to an intervention by the elder half-brother, Ganesan. We are also not able to find any documentary substantiation of the

conciliation having been initiated and carried out under Part III of the Act of 1996. Even if we accept the contention of the Vaikundarajan group that a settlement arrived at between the family members could also be an Award under the Act, as per sub-section (2) of Section 73; the Settlement Agreement, which is essentially the KBPP has not been authenticated by the Conciliator as is mandated under sub-section (4) of Section 73.

The document dated 01.02.2019 produced as Annexure P-2 is later to the KBPP and is not signed by any of the parties to the settlement. In this context we also observe that in Annexure P-2, the so-called Conciliator alone has put his signature to the document, categorically stating that the KBPP was signed in his presence by all the members. This has to be considered in juxtaposition with the admitted position that all the members did not sign it on 31.12.2018 and some of them were abroad till 02.01.2019, that is a plea specifically taken in the present plaint.

24. We may not be mistaken as finding the Award to be not one issued under the Act of 1996, but it raises serious questions regarding the Award, which grounds are pleaded in the suit. The specific contention taken against the Award is that the same is vitiated by fraud, being a fabricated document; created only to give the KBPP the sheen of an Award under the Act of 1996, created behind the back of the Jegatheesan group and to their detriment.

25. The other error in Annexure P-16 is that referring to the custom, it was held that the implied consent by reason of execution of the KBPP results in a finding of waiver of the provisions of Part III specifically, Section 61-74 of the Act of 1996. We are unable to accept the said finding especially since there is no partial waiver, of the provisions, contemplated. Yet again we also notice the contention raised by the appellants that if custom is resorted to there can be no application of Part III of the Act of 1996, which too we cannot subscribe to.

On a reading of Section 61, any conciliation between two parties brought about by following the procedure in Part III of the Act of 1996 would definitely get the status and effect of an Award under the Act of 1996 unless the parties have agreed otherwise; which agreement should be expressly for the exclusion of Part III of the Act of 1996, despite a conciliation having been proceeded with and concluded. Here, the custom asserted is also claimed to have been on the intervention of Ganesan, as a Conciliator. Hence, if it is found to be an award of conciliation then there is no exclusion of Part III pleaded and if it does not have that status, then there is no application of Part III.

26. The remedy of an arbitration has been foreclosed but only subject to a challenge to the KBPP which the plaintiffs in the present suit assailed on the grounds of undue influence, coercion and misrepresentation. The challenge to

the Award under Section 34 would be available if it can be termed 'an Award' under the Act. The specific contention of the plaintiff/appellants is that though execution of the KBPP is admitted, which agreement has been resiled from later, the Award is a fabricated document, clearly the fraud employed to undermine and frustrate the rights of the plaintiffs/appellants.

27. The Trial Court considering the application under Order VII, Rule 11 of the CPC and the High Court considering the challenge against the rejection of the plaint fell into an error in reading the KBPP together with the Conciliation Award, as contended by the respondents, deeming it to be a Conciliation Award; against which is the challenge raised by the appellants in the suit. Both the Courts categorically found that the KBPP cannot be resiled from, the plaintiffs having affixed their signatures to it and there is no sustainable allegation of fraud, except the appointment of the Conciliator having been projected as a cooked up, fraudulent theory.

The Trial Court went to the extent of finding in Annexure P-31 that the allegation of coercion to sign the KBPP cannot be accepted since there was no threat at knifepoint or a fear of death, alleged in the plaint and hence, there is no fraud perpetrated on the plaintiffs, appreciated as valid by the High Court too. It was also found that in the earlier rounds, the High Court had clearly found that a plea of fraud and misrepresentation cannot be entertained.

A reading of the plaint, according to the impugned orders, would indicate that having lost in the earlier round of litigation upto the Hon'ble Supreme Court, an illusory cause of action is attempted to be raised on the allegation of fraud and misrepresentation without any specifics on that count. The Trial Court also found fault with the simultaneous filing of a suit, when on the very same averments and grounds an objection was filed under Section 47 of the CPC in the execution petitions.

28. The High Court upheld the findings of the Trial Court holding that the Conciliation Award though challenged as fraudulent and fabricated, there could be no such contention since admittedly the execution of the KBPP was not denied or disputed. The earlier finding regarding the KBPP possible of being construed as a family arrangement settling the disputes and differences within the family in accordance with the customs and practices prevailing in the community was emphasized. Finding the provisions of Part III of the Act of 1996, specifically Section 61-74 having been waived, the High Court also extracted from the decisions of this Court to find the plaint liable to be rejected on five grounds.

The five grounds were:- (i) the admission of execution of KBPP, justifying the ground taken of abuse of process of law, (ii) the dismissal of the application

under Section 11 of the Act of 1996 and the revision under Section 115 of CPC, validating the contention of constructive res judicata, (iii) the simultaneous proceedings in the suit and objection under Section 47 of the CPC being an abuse of process of law, (iv) the suppression of the proceedings under Section 47 and (v) the refusal to set up a claim for cancellation of the KBPP and the under valuation of the suit; the contention of suppression and under valuation, having not been argued before us by the respondents at all.

29. A reading of the plaint would clearly indicate that the grounds taken against the KBPP and the Conciliation Award are distinct and different. The plaint averments categorically challenge the contention of the defendants that the KBPP and the document of 02.01.2019 are to be read together and construed as a Conciliation Award. No doubt, if read together, the two documents constitute a Conciliation Award. But the averments in the plaint resist such construction especially since the document dated 02.01.2019 is challenged on the ground of it having been drawn up behind the back of the defendants and the conciliation said to have been carried out by Ganesan having not actually taken place.

The reliance on the custom alleged; of one of the parties carrying out the division of the assets, permitting the first election to the other and then to take up the remaining partible assets, is vehemently denied by the plaintiffs. The KBPP is challenged as one drawn up unilaterally by the elder brother. The plea is also that the members of the younger brother's family executed the same under coercion, undue influence and misrepresentation, which is a matter of evidence. We are unable to agree with the impugned orders of the Trial Court and the High Court that a ground of coercion could be urged only if the younger brother's family was faced with a life threat.

As we found, especially within the family, the coercion would not be very explicit and it could even arise from an apparent feeling of subservience or a manifest obedience to the elder's opinion, which are all matters to be substantiated in evidence and it cannot be merely brushed aside or rubbished only on the ground that there is no case set up of a physical threat. The grounds of coercion, undue influence and more importantly misrepresentation, resulting in an inequitable partition, cannot be peremptorily rejected while considering an application under Order VII, Rule 11 of the CPC.

30. We reiterate that the KBPP and the document of 02.01.2019 are challenged on two distinct grounds. The KBPP on the allegation of coercion, undue influence and misrepresentation, resulting in inequities, while the document of 02.01.2019 is challenged as a fabricated document created as an afterthought to give the KBPP the status and effect of an Award. We also cannot accept the grounds of simultaneous proceedings in the suit and the objection under Section 47, to be an abuse of process of law, for more than one reason.

The execution has been filed on the specific ground that the KBPP and the document dated 02.01.2019 read together is a Conciliation Award having the status and the effect of an Arbitral Award under Section 74 which also is possible of execution as a decree under Section 36 of the Act of 1996. If the objection raised by the judgment-debtors in the Execution Petition under Section 47 is accepted by the Executing Court, that the document dated 02.01.2019 is not brought about after a proper conciliation proceeding, then the execution cannot proceed.

That would not, however, enable the Executing Court to look into the challenge raised against the KBPP on the specific grounds hereinabove detailed. Whether the KBPP is a valid document, sustainable as a partition deed or a family arrangement, cannot be examined by the execution Court and for that, the only possible mode is a suit properly instituted.

31. We hence find the order of the Trial Court as confirmed by the High Court, resulting in the rejection of the plaint to be egregiously erroneous in law. We are of the opinion that there is a prima facie cause of action disclosed in the suit and it cannot be termed vexatious or an abuse of the process of law. The cause of action as seen from the above discussion is a real one and not illusory or fictional.

The factual averments, the legal grounds and the relief sought are not meaningless nor can it be said at this stage that the suit is bound to fail. The decisions relied on by the respondents have no application. We also do not look at the decisions placed on record by the appellants regarding fraud, the validity of a Conciliation Award or the construction of a Partition Deed or of a family arrangement, lest we unwittingly make any observation regarding the facts of the case.

We make it clear that whatever observations we have made here, are only prima facie in nature and would not govern the final adjudication in the suit, except insofar as our finding that the remedy of the appellants to challenge the KBPP and the so-called Conciliation Award are not foreclosed, which is unexceptionable. Based on the decisions in the earlier rounds of litigation, there can be no plea taken of a constructive res judicata insofar as the independent challenge now raised against the KBPP and the document dated 02.01.2019 is permitted by the High Court in the earlier rounds and liberty left by this Court too in both the proceedings.

32. We also find no reason to look into the plea of multiple proceedings and conflicting orders being passed especially noticing Annexure P-27 wherein the suit and the objection under Section 47 of the CPC were clubbed together to be tried by the Principal District Judge, Tirunelveli before whom the execution

petitions were pending. We set aside the impugned orders of the High Court and the Trial Court, allowing the application under Order VII Rule 11 and restore the plaint to the files of the Principal District Court, Tirunelveli, which rejected the plaint after the transfer by Annexure P-31. The suit shall be tried alongwith the objection raised under Section 47 of the CPC.

33. Before we part with the case, we have to observe that after arguments were concluded and the judgment reserved, on the next day, Sh. Niranjan Reddy, learned Senior Counsel appearing for the respondents herein, made a submission before us that there could be a mediation. We directed the learned Counsel representing the appellants also to be present in the afternoon, when the suggestion of a further mediation was fiercely opposed by Sh. Gopal Sankaranarayanan and Sh. V. Prakash, learned Senior Counsel appearing for the appellants, that having been already attempted and failed.

In unequivocal terms, we informed Mr. Reddy that if the respondents withdrew all the contentions regarding the KBPP and the document dated 02.01.2019, still, there could be an arbitration which would relieve the parties of further litigation delaying the process of partition especially since the businesses are remaining with the Administrator, as directed in the revision against the execution proceedings.

34. We make it clear that it would be open for the parties to make the plea of relegating them to an Arbitration when they appear before the Principal District Court, Tirunelveli before whom the suit and the execution proceedings are pending. We make it clear that the plea could only be of an arbitration and not a mediation, in which event, the respondents/judgment-debtors/defendants will, on affidavit, agree and undertake to withdraw all the contentions regarding the KBPP and the document dated 02.01.2019, so as to initiate an arbitration afresh dehors the two contentious documents, which shall be facilitated through any suitable Arbitrator, mutually agreed upon by the parties.

35. The appeals are allowed with the above reservation of an arbitration made possible and that of the findings herein not governing the final adjudication of the suit and the objections under Section 47; except the rejection of the plea of constructive res judicata which plea cannot be now raised by the respondents/defendants.

36. Pending applications, if any, shall stand disposed of.

.....J. (Sanjay Kumar)

.....J. (K. Vinod Chandran)

New Delhi;

1 For brevity, 'The CPC'

2 For brevity, 'the KBPP'

3 For brevity 'the Act of 1966'

4 (2024) 15 SCC 675

5 (2020) 7 SCC 366

6 (2022) 12 SCC 641

7 (2025) 7 SCC 773

8 2025 SCC OnLine SC 2328

IN THE SUPREME COURT OF INDIA

Dr. Anand Rai
Vs.
State of Madhya Pradesh & Anr.

[Criminal Appeal No._____ of 2026
arising out of SLP (Crl.) No. 10711of 2025]

Head Note – The High Court does not function as a revisional or supervisory Court while exercising jurisdiction under Section 14-A of the SC/ST but assumes the role of a first appellate court. A mechanical affirmation of the order of the Special Court, without independent scrutiny, would therefore be inconsistent with settled appellate jurisprudence and would amount to a failure to exercise jurisdiction. Even where the appellate Court ultimately agrees with the reasoning of the Courts below, the judgment must disclose that the material was independently examined.

The appellate power under Section 14-A of the SC/ST Act must be exercised in harmony with the broader framework of criminal procedure. While the High Court is duty- bound, as a first appellate Court, to independently apply its mind and correct errors committed by the Special Court, it must remain conscious of the stage of the proceedings and the corresponding limits of judicial scrutiny. This calibrated approach ensures that the protective object of the SC/ST Act is preserved, while simultaneously safeguarding against mechanical application of its provisions in cases where the statutory ingredients are not even prima facie disclosed.

When an statutory appeal is filed against the framing of charges under the SC/ST Act, it is not incumbent upon the High Court to do a roving enquiry into the allegations, rather their role is limited to ascertaining whether the allegations disclose the basic statutory ingredients of the offence under the Act, i.e., whether the alleged act was committed on account of the victim's caste and whether other foundational requirements are satisfied.

To allow a matter to proceed despite the absence of a prima facie case is to expose a person to the strain, stigma, and uncertainty of criminal proceedings without legal necessity. Fidelity to the rule of law requires the Court to remember that the process itself can become the punishment if this responsibility is not exercised with care…For a litigant or an accused, the Trial Court is not just one level in a hierarchy. It represents the face of the judiciary itself. The sensitivity, fairness, and legal discipline shown at this stage shape how ordinary citizens understand justice. The impression a Trial Court creates, through its approach to facts and law, often becomes the impression people

carry of the entire judicial system. That is why, at every stage and especially at the threshold, Trial Courts must remain alive to the human consequences of their decisions and to the trust that society places in them.

At the stage of discharge, the Court is required to consider whether there is any sufficient ground for proceeding against the accused in sessions cases, or whether the charge is groundless in Magistrate warrant cases.

At the subsequent stage, charges are to be framed only if the Court forms an opinion that there is a ground for presuming that the accused has committed an offence. These formulations, which have long anchored the exercise of judicial discretion under the Cr.P.C., are carried forward in substance in the corresponding provisions of the BNSS, without any textual indication that the level of scrutiny is intended to be either heightened or diluted.

The established jurisprudence developed under the Cr.P.C. on the scope and limits of consideration at the stages of discharge and framing of charge continues to hold the field under the BNSS. The statutory language supports the conclusion that the Legislature has retained the same substantive balance between the rights of the accused and the interest of prosecution, while seeking to impose greater procedural discipline and expedition. In substance, the power remains the same; only the manner of its exercise has been more tightly structured.

JUDGMENT

Sanjay Karol, J.

1. Leave Granted.

2. This appeal at the instance of the accused calls into question the correctness of the final judgment and order in Criminal Appeal No. 3945 of 2025, dated 3rd July 2025 by the High Court of Madhya Pradesh at Indore. In terms of the impugned judgment, the High Court dismissed the accused's appeal arising out of the proceedings before the learned Special Judge[1], Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989[2] whereby his prayer for discharge under Section 227[3] of the Code of Criminal Procedure, 1973[4], was allowed only in part.

The chargesheet that was filed upon completion of the investigation in FIR No. 0653 of 2022 dated 15th November 2022 registered at PS Bilpank, District Ratlam. The said chargesheet, being Chargesheet No.1 of 2023 dated 16th February 2023, sent the matter up for trial against the accused on charges under Sections 294, 341, 383, 332, 146, 147, 336, 506, 333, 188, 326 of the Indian

Penal Code, 18605 and Sections 3(1)(r), 3(2)(va) of the SCST Act as amended in 2015 and 2018, whereas charges were framed against him under the following Sections 147, 341, 427, 353, 332, 333, 326, 323, 352 read with 149 IPC and 3(2)(v), 3(2)(va) of the SCST Act.

3. The facts that culminated in the position as above were that on 15th November 2022 while a large congregation of persons had gathered at Bachhadapara, to witness the unveiling and installation of a statue of Bhagwan Birsa Munda - the complainant, namely, Vikas, had witnessed members of JAYS organisation intercept the vehicles of the members of Parliament and Legislative Assembly, as also other district officials, who were arriving at the event, and when they were attempted to be removed by the security, the said persons initiated an altercation and scuffle with them along with pelting stones at the vehicles. One security personnel namely Sandeep Chandel suffered injuries as a result. In the FIR, the persons involved were described as follows:-

"due to snatching and pelting of stone by these persons Gunman of Collector sir has suffered injuries near his nose and due to that injury blood oozed out. These persons were not ready to understand anybody's advice and these were misbehaving with police personnel and were causing hurdle in government work and they were speaking irrelevant things and extending threats of life. Then me and other police personnel present there have made a video of all these persons.

Out of these persons I know and identify D. Abhay Ohari Resident of Ratlam, D. Anand Rai Resident of Ratlam, Kamal Bhuriya Resident of Dharad, Manoj Parmar Resident of Dharad, Kishan Sighad Resident of Amleti, Dilip Bhuria Resident of Dharad, Anil Ninama, Resident of Satrunda, Sanjay Girwal Resident of Bhati Badodiya, Ajay Son of Kailash Bheel Resident of Dharad, Vijay Son of Shambhu Lal Bhuria Resident of Nalkui, Chhagan Lal Son of Choga Lal Meena Resident of Patrakar Colony Jawra, Mohan Singh Son of Mann Singh Dewda Resident of Lambi Sadadi Rani Singh Vilesh Kharadi Resident of Lambi Sadadi Baazna, Gopal Waghel Resident of Nagra, Gopal Ninama, Resident of Kundal, Deepak Ninama Resident of Vinobha Nagar, Ratlam, Chhotu Bhabhar Resident of Jamthun, Jitendra Katariya Resident of Surajpur and Kalu Baarot Resident of Shubham Shri Colony Ratlam, 40-50 more persons were also accompanying them. These persons have jammed the road for about 01 hours."

It is also important to note the role of these persons as described in the chargesheet, which, obviously, is a document that signals the completion of the investigation. It essentially is a recapitulation of the statement of the complainant, and it records that during the investigation statement of the complainant and witnesses was recorded and after which the accused persons

were separately interrogated and taken into custody upon confession to the crime. It is important to note that the present accused's vehicle, a Scorpio that was allegedly used in the incident, was also seized. Another essential aspect is that the complainant had allegedly video-graphed the incident and such video was submitted to the police.

4. The accused sought bail which was rejected by the Trial Court. Such conclusion was affirmed by the High Court, but then he was granted bail by this Court on 13th January 2023. Disciplinary proceedings were also initiated against him, and he received notice thereof from the Regional Manager, Health Services, Indore Division. These facts have only been mentioned for completing the factual arc and are not in issue before us.

5. The Trial Court, as we have already observed, partly allowed the application. The High Court dismissed the appeal thereagainst. The findings of the High Court are summarised as below along with the relevant case laws cited by the Court below:

- First addressed was the appellant's objection regarding the legality of the investigation, which was alleged to be vitiated on the ground that it was conducted by an Inspector instead of a Deputy Superintendent of Police6. Upon examining Section 9 of SCST Act along with the State Government Notification dated 13th October 2017 and the consequential circular issued by the Director General of Police, the Court held that the State Government is expressly empowered to confer powers of investigation on officers below the rank of DSP for specified categories of offences. Since the offences registered against the appellant fell within the ambit of those notified, the investigation conducted by an Inspector was held to be legally authorised and not in violation of Rule 7 of the SC/ST Rules, 1995. The challenge to the investigation was, therefore, found to be without merit. (State of Bihar v. Anil Kumar7)
- Thereafter, the Court reiterated the settled legal position governing the scope of judicial scrutiny at the stage of framing of charges. It held that, at this preliminary stage, the Court is not required to conduct a detailed appreciation of evidence or adjudicate upon the probable defence of the accused. The exercise is limited to examining whether the material placed by the prosecution, if taken at face value, discloses sufficient ground to presume that the accused has committed the alleged offences. The degree of satisfaction required is only that of a strong suspicion and not proof

beyond reasonable doubt. A meticulous analysis of contradictions, credibility of witnesses, or likelihood of conviction would amount to a mini trial, which is impermissible at this stage. (Vinay Tyagi v. Irshad Ali,; Ram Prakash Chadha v. State of U.P.8.)

- While dealing with the applicability of Section 149 of the IPC, the Court observed that the appellant has been implicated as a member of an unlawful assembly, and the offences alleged are stated to have been committed in prosecution of the common object of such assembly. The Court clarified that, at the stage of framing of charges, it is not necessary that a specific overt act be attributed to each individual accused. What is required is prima facie material indicating membership of the unlawful assembly and the likelihood that the accused shared the common object or had knowledge that such offences were likely to be committed. The Court noted that multiple witnesses, including injured police personnel, have categorically stated that the appellant was a participant in the JAYS rally and was present at the place of occurrence when public officials were restrained and assaulted. Whether the appellant merely happened to be present, or whether he shared the common object of the assembly, are matters that can only be conclusively determined after evidence is led during trial. At this stage, the prosecution material was held sufficient to attract Section 149 IPC. (State of Maharashtra v. Kashirao9.)
- The Court further held that challenges raised by the appellant concerning his exact presence at the spot, the credibility of the medical evidence, the qualifications of the doctor who conducted the radiological examination, and the precise role attributed to him, all involve disputed questions of fact. Such issues necessarily require appreciation of evidence and cannot be conclusively adjudicated either at the stage of framing of charges or while exercising appellate jurisdiction against an order framing charge. These matters were held to fall squarely within the domain of trial.
- Upon an overall consideration of the impugned order, the High Court found that the Special Judge had applied the correct legal principles, considered the material available on record, and assigned cogent reasons while framing charges against the appellant. The order was found to be free from perversity, procedural impropriety, or patent illegality.

Consequently, the High Court held that no case was made out for interference in exercise of appellate jurisdiction under Section 14(A)(1) of the SCST Act, and affirmed the order framing charges. (Amit Kapoor (supra); Vinay Tyagi, (supra)

6. We have heard Mr. Kapil Sibal, learned Senior Counsel for the accused and Mr. Pashupati Nath Razdan, learned Advocateon- Record for the State. The sole point of challenge raised before this Court is the subsistence of charges under the SCST Act against the accused.

7. As such, let us look at the relevant provisions thereof-

"3. Punishments for offences atrocities.-

3 [(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

xxx----------xxx----------xxx

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

xxx----------xxx----------xxx

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property 1 [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;

(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such Crl.Appeal@SLP(Crl)No.10711 of 2025 Page 10 of 29 punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;."

8. At this stage, it is important to take note of the objects and reasons for the enactment of the SCST Act. Sujata Manohar J, in State of M.P. v. Ram Kishna Balothia10, while dealing with the constitutionality of Section 18 thereof which takes the applicability of the provisions of anticipatory bail housed in the provisions of the Cr.P.C. for offences under this Act, as follows:

"6. In this connection we may refer to the Statement of Objects and Reasons accompanying the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Bill, 1989, when it was introduced in Parliament. It sets out the circumstances surrounding the enactment of the said Act and points to the evil which the statute sought to remedy. In the Statement of Objects and Reasons it is stated:

"Despite various measures to improve the socioeconomic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons

2. When they assert their rights and resist practices of untouch-ability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests.

Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. A special legislation to check and deter crimes against them committed by non- Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary."

The above statement graphically describes the social conditions which motivated the said legislation. It is pointed out in the above Statement of Objects and Reasons that when members of the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, vested interests try to cow them down and terrorise them."

9. While the Constitution guarantees equality, freedom from discrimination, and the right to live with dignity, these ideals often remained abstract for SC and ST communities because of centuries of social exclusion, oppression, and violence. Recognizing this gap, the Act provides targeted legal protection, ensuring that the constitutional promises of equality and justice are realized in practice. At its core, the Act embodies the principle of equality before the law, as enshrined in Article 14 of the Constitution. It goes beyond formal equality, acknowledging that SC/ST communities face unique social vulnerabilities.

By defining specific offences such as physical assault, sexual abuse, humiliation, and social ostracism, and prescribing stricter punishments, the law ensures substantive equality, allowing these individuals to live with safety, respect, and dignity in a society that has historically denied them these rights. The Act also reinforces the constitutional mandate under Article 17, which prescribed the abolishment of untouchability. Modern forms of caste-based indignity, like forcing individuals into menial or degrading labour, denying them access to public spaces, or socially boycotting them, are specifically criminalized.

These provisions help translate the ideals of the Constitution, of freedom from untouchability into actionable legal protection, restoring both social and personal dignity to victims. Furthermore, the Act embodies Article 15's prohibition against discrimination, ensuring that SCST persons can access education, employment, and civic life without fear of prejudice. By shielding these communities from targeted harassment and violence, the law turns the promise of non-discrimination into a lived reality. At the same time, it safeguards the right to life and dignity under Article 21, recognizing that life is not merely about survival, but about living with respect, security, and freedom from humiliation.

Relief, rehabilitation, and special protective measures under the Act directly uphold this principle. Finally, the SCST Act advances the broader goals of social justice and positive discrimination, reflected in Articles 38 and 46. By creating a safe and supportive environment, the Act enables SCST communities to participate fully in social, educational, and economic opportunities, helping to break cycles of historical oppression. In this sense, the Act is a transformative instrument, bridging the gap between constitutional ideals and everyday realities, ensuring that SC/ST citizens can live as equal, dignified, and empowered members of society.

10. We must turn back to the application for discharge and examine the averment regarding changes under the SCST Act. The relevant portion of the application is extracted as under:-

"h) Charges levied under SC/ST Act - Applicant was charged under Section 3(1)(r) 3(1)(s) and 3(2)(va) of the SC/ST Act. The essential ingredient to constitute this offence are- There must be victim of Scheduled Caste or Scheduled Tribe.

iii Use of casteist or derogatory word in Public place against the victim

iii. Knowledge of accused regarding the caste of the victim.

iv. Physical Presence of accused at the time of Incident. That, it is essential to mention here that the FIR and Final Report both are silent pertaining to use of derogatory word or casteist term. Further, there is no specific averment pertaining to use of casteist word against the original complainant. None of the above mentioned ingredient is available in the present matter, hence the applicant may kindly be discharged from this charge."

In its judgment on the application, the learned Trial Court dealt with the proposed charge under the SCST Act alongside a number of provisions of IPC. For a charge under the above quoted provisions of the SCST Act to be established, several elements must be present. The accused must first commit an offence under the IPC, such as assault, robbery, or any other crime punishable with ten or more years of imprisonment. The act must be directed against a member of a Scheduled Caste or Scheduled Tribe, or against property that belongs to them, reflecting the special protection the law affords to historically marginalized communities. In addition, the accused must have knowledge that the victim belongs to a Scheduled Caste or Scheduled Tribe or that the property belongs to such a person.

This requirement of awareness is essential to the application of the law. Finally, the punishment prescribed under this sub-section is life imprisonment along with a fine, underscoring the gravity of offences committed against vulnerable communities. Section 3(va) deals with specific atrocities listed in the Schedule of the Act, including forced labour, harassment, social exclusion, or damage to property that target SC or ST persons. To attract liability under this provision, the accused must commit one of the scheduled offences against a member of a Scheduled Caste or Scheduled Tribe or their property.

The offender must know the caste identity of the victim or that the property belongs to them, ensuring that the law applies to deliberate acts of caste-based harm. The punishment for these offences is as specified under the Indian Penal Code along with an additional fine, providing flexibility to address a range of atrocities that may not carry ten years or more of imprisonment but still require special protection for the victim. The question that then arises, is - who were present before the learned Trial Court that, in its appreciation of the material on record, met the standard required for framing of charge?

11. Section 227 and 228 of the CrPC are as below:

"227. Discharge.-If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of charge.-

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) ...

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried."

Even though the instant case is governed by the prior regime of substantive and procedural criminal laws, we may observe that in the new legislation, now occupying the field, the position remains the same. On a close reading of the statutory text of the Cr.P.C. and the Bharatiya Nagarik Suraksha Sanhita, 2023, the position is one of continuity rather than change in relation to the Court's power at the stages of discharge and framing of charge. In both enactments, the governing standards are framed in materially the same language. At the stage of discharge, the Court is required to consider whether there is any sufficient ground for proceeding against the accused in sessions cases, or whether the charge is groundless in Magistrate warrant cases.

At the subsequent stage, charges are to be framed only if the Court forms an opinion that there is a ground for presuming that the accused has committed an offence. These formulations, which have long anchored the exercise of judicial discretion under the Cr.P.C., are carried forward in substance in the corresponding provisions of the BNSS, without any textual indication that the level of scrutiny is intended to be either heightened or diluted. What the BNSS does is to change the procedural setting within which this discretion is exercised.

The new statute introduces express timelines for the filing of discharge applications and for the framing of charges, and it expressly recognises the possibility of the accused being heard or examined through electronic means. These changes are regulatory in nature. They are aimed at structuring the process and reducing delay, not at transforming the judicial task itself. The Court's obligation to apply its mind to the record, to hear both sides, and to record reasons where discharge is ordered remains exactly as before, as does the caution against weighing evidence or conducting a mini trial at these preliminary stages.

Accordingly, the established jurisprudence developed under the Cr.P.C. on the scope and limits of consideration at the stages of discharge and framing of charge continues to hold the field under the BNSS. The statutory language supports the conclusion that the Legislature has retained the same substantive balance between the rights of the accused and the interest of prosecution, while seeking to impose greater procedural discipline and expedition. In substance, the power remains the same; only the manner of its exercise has been more tightly structured.

12. Sajjan Kumar v. CBI11, which has been relied upon a bench of three judges in Ghulam Hassan Beigh v. Mohd. Maqbool Magrey12, formulated the following principles regarding the scope of the above quoted sections:

21. ...

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients

constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.

13. Having discussed the sections proposed to be charged against the appellant, let us now examine the discussion of the Trial Court. In part D of its order, the learned Trial Court deals with the charges under Sections 341, 146, 147, 353, 333, 326, 332, 336, IPC and charges under the SCST Act. Having considered the above said sections from Paras 26 to 37, para 38 records thus:

"38.Consequently, on the basis of the above discussion, in the light of the evidence collected by the investigation officer on record and the documents presented by the prosecution, the accused were charged under Section 147, 341, 427, 353, 332, 333, 326, 352, 323 of IPC read with Section 149 and Section 3(2)(v) and Section 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, there being sufficient grounds for framing charges under these Sections charges were framed separately against the accused under the said Sections. It is noteworthy that apart from accused Dr Anand Rai, other accused have produced their caste certificate declaring themselves to be members of Scheduled Caste or Scheduled Tribes. In such a situation, provisions of the Act, 1989 are attracted only in respect of Dr Anand Rai."

Here itself it be noted that in Part C of the judgment, the learned Trial Court recorded as follows in respect of Section 3(1)(r) of the SCST Act:-

"23. It is a well settled principle that Section 149 of IPC is not applicable in respect of Section 294 of IPC and 506 of IPC invoked in relation to the Act of giving threat to kill. Sections 294 and 506 of IPC (Part 2) read with Section 3(1) (F) and 3(1)(s) of the Act, 1989 are applicable in respect of the person who has used abusive language or who has threatened to kill or who has used abusive caste-specific words with the intent of insult.

24. In the evidence collected by the Investigation Officer and in the statement recorded under Section 161 of Cr.P.C., none of the witnesses have specifically stated as to which of the accused persons used casteist slurs to insult, abuse and threaten to kill.

25. Consequently, on the basis of the above discussion, sections 294 and 506 (part-2) of IPC read with sections 3(1) (r) and 3(1) (s) of the Prevention of Corruption Act, 1989 are not attracted against the accused and hence, all the accused are acquitted under the said sections."

14. In view of the requirements of the sections proposed to be charged, as discussed in para 9 of this Judgment, we are at a loss to understand that when the Trial Court itself acknowledges that none of the statements under Section 161 CrPC, state the specific slurs uttered by the accused with the intent to insult threaten or kill, then how is it found, on the same bundle of evidence, and with the same level of scrutiny thereof, that the alleged acts of the accused were informed by caste awareness. There does not appear to be any other material on record either, to establish knowledge on part of the accused. Once the knowledge on part of the alleged offender is in question, it is but certain that the charge cannot stand.

15. Curiously, the impugned judgment/order of the High Court, although running into eighteen pages, does not deal at all with the charge under SCST Act. All that is said, is that the Trial Court has 'assigned elaborate reasons'. As demonstrated above, those reasons are lacking and insufficient. Only for the reason that on a facial analysis of the evidence placed on record, some of the charges of the IPC, appear to be met, the SCST Sections have also been charged against the accused.

However, we are of the considered view that the apparent evidence on record is in no way sufficient for a facial analysis of the case at hand, or for a 'prima facie' view to be taken, or enough to distinguish suspicion from grave suspicion, in so far as the knowledge is concerned that would inform the accused's alleged misdeeds. That apart, it may also be observed that there is no averment whatsoever that the complainant was a member of the SCST Community. Still further, when the complaint, and the subsequent statements under Section 161 CrPC, both, appear to be lacking in averments for caste motivated acts allegations, one where intent is absent, and the other where knowledge is apparently present, seems difficult to accept.

16. Further, it may be observed that the High Court in deciding the appeal against the partial order of discharge, has not carried out its duty as the first court of appeal. The Section of the Act pertaining to appeals is:

"[14-A. Appeals.-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not

being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in subsection (3) of Section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.]

(emphasis supplied)

17. Even though Sanjay Kumar Rai v. State of U.P.13, holds that orders framing charge or refusing discharge are neither interlocutory nor final, an appeal thereagainst would fall under Section 14-A above, since the words used are "any judgment, sentence or order, not being an interlocutory order". An appeal under Section 14-A of the SCST Act is a statutory first appeal. It is well settled that a first appellate Court in criminal matters is a Court of both fact and law and is obliged to independently evaluate the material on record before either affirming or reversing the findings of the Courts below.

This Court has consistently emphasised that such an appeal is a valuable right and that its disposal must reflect due application of mind. In Bani Singh v. State of Uttar Pradesh14, the Court held that the appellate Court cannot dispose of a criminal appeal in a cursory manner and must itself examine the evidence and the reasoning of the Trial Court. Similarly, in Chandrappa v. State of Karnataka15, this Court reiterated that the appellate Court has full power to reappreciate, reconsider, and review the evidence upon which the order of the lower court is founded and to arrive at its own conclusions.

18. This principle applies with equal force to appeals under Section 14-A of the SC/ST Act. The provision does not curtail or dilute the ordinary appellate

powers of the High Court. Consequently, the High Court does not function as a revisional or supervisory Court while exercising jurisdiction under Section 14-A but assumes the role of a first appellate court. A mechanical affirmation of the order of the Special Court, without independent scrutiny, would therefore be inconsistent with settled appellate jurisprudence and would amount to a failure to exercise jurisdiction.

Even where the appellate Court ultimately agrees with the reasoning of the Courts below, the judgment must disclose that the material was independently examined. However, the width of the appellate power under Section 14-A must be understood in the context of the nature of the order under challenge. The Supreme Court has repeatedly drawn a distinction between appellate scrutiny of final judgments and judicial intervention at threshold stages of criminal proceedings. Where an appeal arises from a conviction or acquittal, the appellate Court is entitled to undertake a comprehensive reappreciation of evidence and to reassess witness credibility. This flows from the settled principle that the first appellate Court is the final Court of fact, subject of course to self-imposed restraint in appeals against acquittal.

19. A different discipline governs cases arising at the stage of discharge, framing of charge, or prima facie satisfaction. The Court has consistently held that at this stage the Court is not concerned with proof of guilt or the sufficiency of evidence for conviction. In State of Bihar v. Ramesh Singh16 and later in Union of India v. Prafulla Kumar Samal17, the Court clarified that the test is whether the material on record, taken at face value, discloses the essential ingredients of the alleged offence and gives rise to a strong or grave suspicion against the accused. The Court is expressly cautioned against conducting a roving inquiry or weighing the evidence as if at trial.

When these generally applicable principles are applied to an appeal under Section 14-A of the SC/ST Act arising from a threshold order, the High Court's role, though appellate in nature, stands circumscribed by the limits governing discharge. The High Court may examine whether the allegations disclose the basic statutory ingredients of the offence under the Act, including whether the alleged act was committed on account of the victim's caste and whether other foundational requirements are satisfied. Where these ingredients are conspicuously absent, interference is justified, as continuation of proceedings would amount to an abuse of the process of law.

This form of scrutiny does not amount to appreciation of the material but is an exercise in legal evaluation of the allegations as they stand. At the same time, even while exercising first appellate jurisdiction, the High Court cannot, at the discharge or prima facie stage, adjudicate upon disputed questions of fact, assess the reliability of witnesses, or compare the prosecution case with the

defence version. To do so would collapse the distinction between trial and threshold scrutiny and would result in a premature determination of guilt or innocence. The Supreme Court has repeatedly cautioned that defences available to the accused are matters for trial and cannot ordinarily form the basis for discharge unless the material relied upon is of sterling and unimpeachable character.

Thus, the appellate power under Section 14-A of the SC/ST Act must be exercised in harmony with the broader framework of criminal procedure. While the High Court is dutybound, as a first appellate Court, to independently apply its mind and correct errors committed by the Special Court, it must remain conscious of the stage of the proceedings and the corresponding limits of judicial scrutiny. This calibrated approach ensures that the protective object of the SC/ST Act is preserved, while simultaneously safeguarding against mechanical application of its provisions in cases where the statutory ingredients are not even prima facie disclosed.

20. In that view of the matter, the charges upon the accused in so far as the SCST Act stand quashed. The matter is remitted back to the Trial Court to proceed in accordance with law regarding the other changes framed against the accused. It stands clarified that no part of the consideration made herein shall be construed as a comment on any of the charges other than the provisions of the SCST Act. The Criminal appeal is allowed to the above extent.

21. Before parting with the matter, it is observed that at the stage of framing of charge or considering discharge, the Court is not dealing with an abstract legal exercise. It is dealing with real people, real anxieties, and the real weight of criminal prosecution. Judicial responsibility at this stage calls for care, balance, and an honest engagement with the facts on record. The power to frame a charge is not meant to be exercised by default or out of caution alone. When the material placed before the Court, taken at face value, does not disclose the ingredients of an offence, the law expects the Court to have the clarity and courage to say so and to keep such a case aside. Discharge, in that sense, is not a technical indulgence but an essential safeguard.

The Court must consciously distinguish between a genuine case that warrants a trial and one that rests only on suspicion or assumption or for that matter without any basis. To allow a matter to proceed despite the absence of a prima facie case is to expose a person to the strain, stigma, and uncertainty of criminal proceedings without legal necessity. Fidelity to the rule of law requires the Court to remember that the process itself can become the punishment if this responsibility is not exercised with care.

This responsibility weighs heaviest on Trial Courts, which are the first courts most people ever step into. For a litigant or an accused, the Trial Court is not just one level in a hierarchy. It represents the face of the judiciary itself. The sensitivity, fairness, and legal discipline shown at this stage shape how ordinary citizens understand justice. The impression a Trial Court creates, through its approach to facts and law, often becomes the impression people carry of the entire judicial system.

That is why, at every stage and especially at the threshold, Trial Courts must remain alive to the human consequences of their decisions and to the trust that society places in them. Pending applications, if any, shall stand closed.

.....J. (Sanjay Karol)

.....J. (Nongmeikapam Kotiswar Singh)

New Delhi;

February 10th, 2026

1 Hereinafter referred to as 'Trial Court'

2 Hereinafter referred to as 'SCST Act'

3 SC ATR No. 28/2023

4 Hereinafter referred to as 'CrPC'

5 Hereinafter referred to as 'IPC'

6 Hereinafter referred to as 'DSP'

7 (2017) 14 SCC 304

8 (2024) 10 SCC 651

9 (2003) 10 SCC 434

10 (1995) 3 SCC 221

11 (2010) 9 SCC 368

12 (2022) 12 SCC 657

13 (2022) 15 SCC 720

14 (1996) 4 SCC 720)

15 (2007) 4 SCC 415)

16 (1977) 4 SCC 39

17 (1979) 3 SCC 4

IN THE SUPREME COURT OF INDIA

In Re: Order dated 17.03.2025 Passed by the High Court of Judicature at Allahabad in Criminal Revision No. 1449/2024 and Ancillary Issues

[Suo Moto Writ Petition (Criminal) No. 1 / 2025]

[Criminal Appeal No._____ of 2026
arising out of SLP (Criminal) No._____ of 2026
Diary No. 15692/2025]

[Criminal Appeal No._____ of 2026
arising out of SLP (Criminal) No._____ of 2026
Diary No. 21813/2025]

Head Note – Set aside the controversial judgment of the Allahabad High Court which had held that allegations of grabbing a minor girl's breast and loosening the string of her pyjama did not amount to an attempt to commit rape, but only to “preparation”. Hon’ble Supreme Court held that the acts were not mere 'preparation' but 'attempt'.

'Preparation' Vs 'Attempt'

Referring to **State of Madhya Pradesh Vs. Mahendra alias Golu (2022),** authored by CJI Kant (J Kant then), the bench explained the difference between preparation and attempt. It said that an attempt is an execution of mens rea after preparation.

JUDGMENT

Surya Kant, J.

1. Permission to file Special Leave Petitions in Diary No. 15692/2025 and Diary No. 21813/2025 is granted.

2. Application for intervention is allowed.

3. Leave granted.

4. The instant suo motu writ petition was registered in accordance with the directions of Hon'ble the Chief Justice of India, prompted by a letter dated 20.03.2025 received from an organisation named 'We the Women of India', through its Founder President, Ms. Shobha Gupta, Senior Advocate.

5. Vide the said letter, she brought our attention to a judgment dated 17.03.2025 passed by a Single Judge of the High Court of Judicature at Allahabad ("High Court") in Criminal Revision No. 1449/2024, whereby the learned Single Judge has modified the order of summons dated 26.03.2023 issued by the Special Judge (POCSO), Kasganj to two accused persons in Complaint Case No. 23/2022.

While the Trial Court had originally issued summons under Section 376 of the Indian Penal Code, 1860 ("IPC") read with Section 18 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act"), the High Court has revised the same to be under a lesser charge under Section 354B of the IPC read with Sections 9 and 10 of the POCSO Act. As per the High Court, this action was necessitated owing to its finding that a prima facie view of the alleged facts did not make out a case for attempt to commit rape.

6. Ms. Gupta, through the letter, urged that the observations made and reasoning adopted by the High Court to reach the said conclusion are erroneous in law, insensitive, irresponsible, and likely to demoralise all efforts towards protecting women and other vulnerable persons from sexual offences.

7. Similar concerns have also been highlighted by the appellants in Diary Nos. 15692 and 21813/2025, which assail the same judgment dated 17.03.2025 of the High Court. While Diary No. 21813/2025 has been filed by an NGO registered in Kolkata, the petitioners in Diary No. 15692/2025 include an NGO registered in Delhi as well as the complainant in Complaint Case No. 23/2022, who is the mother of the minor victim.

8. Notice was issued to the Union of India, the State of Uttar Pradesh, and the parties to the Criminal Revision before the High Court vide order dated 26.03.2025. Simultaneously, the observations of the High Court in paragraphs 21, 24, and 26 of the impugned order were stayed. Subsequently, on 08.12.2025, this Court stayed the operation of the entire judgment dated 17.03.2025, clarifying that the trial in Complaint Case No.23/2022 shall proceed as if the summons had been issued under Section 376 read with Section 511 of the IPC and Section 18 of the POCSO Act.

9. We have heard Ms. Shobha Gupta, learned Senior Counsel, Mr. H.S. Phoolka, learned Senior Counsel, representing the Delhi-based NGO and the complainant-mother, and Mr. Sharan Dev Singh Thakur, learned Senior Additional Advocate General for the State of Uttar Pradesh. We have already recorded in our previous order dated 08.12.2025 that the accused persons are fully aware of these proceedings, and despite the service of notice, no one has entered appearance on their behalf. Besides this, we have perused the various

documents placed on record by the parties, including the intervention-applicant.

A. RE: IMPUGNED JUDGMENT DATED 17.03.2025

10. The High Court's decision in the impugned judgment hinges on whether the accused persons have only 'prepared' to commit the offence of rape or have moved beyond that to have 'attempted' to commit the said crime. Notably, the High Court has concluded that the actions of the accused persons were limited only to the former, thereby warranting a modification in the charge on which the accused were summoned.

11. The meaning, scope, and comparative understanding of the concepts of 'preparation' and 'attempt' in criminal jurisprudence has been cogently explained by a 2-judge bench of this Court, in a judgment authored by one of us (Surya Kant, J., as he then was) in State of Madhya Pradesh v. Mahendra alias Golu, reported in (2022) 12 SCC 442. It may be pertinent, at this stage, to reproduce paragraph 13 thereof:

"13. There is a visible distinction between "preparation" and "attempt" to commit an offence and it all depends on the statutory edict coupled with the nature of evidence produced in a case. The stage of "preparation" consists of deliberation, devising or arranging the means or measures, which would be necessary for the commission of the offence. Whereas, an "attempt" to commit the offence, starts immediately after the completion of preparation. "Attempt" is the execution of mens rea after preparation. "Attempt" starts where "preparation" comes to an end, though it falls short of actual commission of the crime."

[Emphasis supplied]

12. In the instant case, the High Court recorded the factual allegations made against the accused persons in paragraphs 21 and 22 of its judgment. It is stated that the accused persons took the minor victim with them as a pillion rider on their motorcycle, after assuring her mother (the complainant) that they would drop the victim at her residence. The accused persons, instead, stopped the motorcycle near a culvert, dragged her towards it, and committed sexually offensive acts, which have been recorded in the said paragraphs of the impugned judgment. However, due to the shrieks of the minor victim, two witnesses reached the spot, causing the accused persons to flee from the site.

13. A bare perusal of these allegations leaves no modicum of doubt that the case sought to be made out is that the accused persons proceeded with a pre-determined intent to commit an offence under Section 376 of the IPC on her. In light of the overt averments recorded in the Criminal Application filed by the

complainant-mother under Section 156(3) of the Code of Criminal Procedure, 1973, it becomes readily apparent that, from the story of the complainant, the mens rea involved had begun to be executed. This understanding is bolstered by the High Court's own recording that the only reason why the crime was not furthered was the above-mentioned intervention by third-party witnesses.

14. The facts alleged being so, we cannot agree with the finding of the High Court that the allegations only amount to preparation, but not an attempt, towards the commission of the offence of rape. The attempt made by the accused persons appears clearly and inevitably leads us to conclude that, prima facie, a case for invoking the provisions of attempt to commit rape has been made out by the complainant and the prosecution. The impugned judgment, thus, is liable to be set aside on account of the patently erroneous application of the settled principles of criminal jurisprudence.

15. Hence, the instant Criminal Appeals, arising out of Diary Nos. 15692 and 21813/2025, are allowed. The impugned judgment dated 17.03.2025 is set aside, and the original summons order dated 23.06.2023 passed by the Special Judge (POCSO), Kasganj is restored. As a necessary consequence, the clarification provided in paragraph 5 of our interim order dated 08.12.2025 stands confirmed. Ordered accordingly.

16. It goes without saying that the observations made by this Court through this judgment are only from a prima facie perspective on the case made by the complainant, and they shall not be taken to be any opinion on the guilt of the accused persons, which is the subject matter of the ongoing trial.

B. RE: BROADER ISSUE OF GUIDELINES FOR INCULCATING SENSITIVITY AND COMPASSION INTO JUDICIAL APPROACH

17. Ms. Gupta and Mr. Phoolka, learned Senior Counsel, have, apart from pointing out the legal flaws in the impugned judgment, also urged this Court to take cognisance of the insensitivity reflected in the impugned judgment towards the plight of the minor girl, who is alleged to have been the victim of sexual offences. They submit that there have been various instances of impassive judicial decisions, across different levels of the judiciary, where judges and judicial officers have failed to imbibe compassion and empathy in the manner of handling matters involving sexual offences, especially when it comes to vulnerable and/or minor victims and witnesses. In this vein, the learned Senior Counsel/counsel for the parties have pleaded that certain guidelines may be laid down by this Court to prevent such issues from arising in the future.

18. We find some strength in the issues raised before us. The judicial system, as a cohesive framework, is designed to deliver justice and satisfaction to citizens who seek redressal of their grievances before it. To meet such an objective, our efforts must not only be grounded in the sound application of constitutional and legal principles but also foster an environment of compassion and empathy. The absence of either of these cornerstones would prevent judicial institutions from properly performing their critical duties.

19. No judge or judgment of any court can be expected to do complete justice when it is inconsiderate towards the factual realities of a litigant and the vulnerabilities which they may be facing in approaching a court of law. Our decisions as participants in the legal process, from laying down the procedure that shall have to be faced by common citizens to the final judgment passed in any given case, must reflect the ethos of compassion, humanity, and understanding, which are essential for creating a fair and effective justice system.

20. There is no doubt that some action is required to be taken to inculcate and nurture an inherent sensitivity and discernment into the approach of members of the judiciary, as well as into the accompanying court procedures. Various steps, in this direction, have also been taken by the Constitutional Courts of this country, from time to time, on the judicial as well as administrative side. It seems, however, that the efforts thus far have not borne the fruit that was expected.

21. That being so, we are hesitant to undertake, at this stage, a fresh and unguided attempt to lay down any guidelines, without the benefit of a comprehensive understanding of the past endeavours of such nature undertaken by the different Constitutional and statutory bodies, the on-ground results of such efforts, and the varying scope of problems faced by victims and complainants in similarly sensitive cases. An attempt of this kind also should not be undertaken without the valuable opinions and suggestions of different domain experts, which, in our judicial experience, does not intuitively emerge out of litigative proceedings.

22. For this purpose, we request the National Judicial Academy, Bhopal, through its Director, Justice Aniruddha Bose, former Judge of this Court, to constitute a Committee of Experts. The Committee of Experts shall be presided over by Justice Bose as Chairperson and shall comprise four other domain experts as Members, which may include practitioners, academicians, and social workers.

23. We request the Committee of Experts to prepare a comprehensive report on the matter of 'Developing Guidelines to Inculcate Sensitivity and Compassion

into Judges and Judicial Processes in the Context of Sexual Offences and other Vulnerable Cases'. The Committee shall consider the previous measures undertaken, whether on the judicial side or the administrative side, to achieve such goals, as well as the varying results seen on the ground through the implementation of such measures.

Further, after taking into account such previous endeavours and the variety of on-ground experiences faced by different stakeholders across the judicial system, prepare comprehensive recommendations. These recommendations shall be in the form of 'Draft Guidelines for the Approach of Judges and the Judicial System When Dealing with Cases of Sexual Offences and other Similarly Sensitive Occurrences Involving Vulnerable Victims, Complainants, and/or Witnesses'.

24. The Committee shall, while preparing the report, bear in mind the linguistic diversity of our nation. There are various examples of offensive words and expressions, the use of which would ordinarily constitute an offence under our penal laws, but they are openly spoken by members of our society in local dialects, ostensibly because of the absence of a clear understanding of the offensive nature of such saying. It shall be highly appreciated if the Committee, as a part of its report, is able to identify and compile such words/expressions, from different languages, so that they do not go unnoticed, and the complainants/victims are empowered to give a better and fuller narrative of the trauma undergone by them.

25. While doing so, the Committee of Experts must remind itself that the primary beneficiaries of these Guidelines are the victims/complainants, majority of whom are children, women of tender age, and members of vulnerable sections of society. As such, the Committee shall ensure that the Draft Guidelines are devised in a manner so that they may be understood and utilized easily by such persons, irrespective of their background and means.

26. To this end, we recommend that the Committee of Experts prepare, preferably the entire report, and in any case at least the draft guidelines, in simple language comprehensible to laypersons, whose interests the guidelines seek to protect. The guidelines, we expect, will not be loaded with heavy, complicated expressions borne from foreign languages and jurisdictions. They must be contextualised in the real and lived experience of the stakeholders in Indian judicial process, with direct reference to the ethos, values, and social fabric of our country.

27. The Committee may even consider preparing translated versions of certain public-facing sections of the guidelines. The objective is to fully explain the various concepts to all readers, irrespective of linguistic and legal proficiency.

28. We may also clarify that we, in no way, seek to restrict the Committee of Experts on the aspect of the volume of the draft guidelines. When an attempt is being made to explain and clarify the different concepts, rights, procedures, and best practices to be followed, the Committee must ensure that the report is comprehensive and exhaustive, including appropriate and adequate explanations and illustrations wherever necessary.

29. The Committee of Experts shall be at liberty to seek the assistance of other experts on this matter, such as linguistics academicians, prosecutors, litigators, social scientists, and counsellors, as it deems necessary.

30. The Registry of this Court is directed to forward a copy of this order to Justice Bose, and we request him to constitute the Committee of Experts, preferably within a period of two weeks. Counsel for the parties are permitted to file written submissions, charts, lists, and other documents, which may be of relevance to the Committee, with the Registry of this Court within two weeks. These documents, along with a complete set of the paperbooks of all these matters, shall be forwarded to the Committee, thereafter, for its consideration.

31. The Chairperson and the Members of the Committee of Experts shall, for their valuable time and efforts, be paid such honorarium as may be determined by Justice Bose, for which necessary funds shall be provided by the Supreme Court of India.

32. We request the Committee of Experts to complete its deliberations and submit a report to this Court, preferably within three months.

33. Having passed these directions, we are of the considered opinion that the suo motu writ petition regarding the order dated 17.03.2025, which we have already set aside, need not be kept open. As and when the Committee of Experts is able to furnish its report to this Court, the same would be taken up in a holistic manner, not specifically in the context of a single case. To that effect, the Registry is directed, upon receipt of the report from the Committee of Experts, to place the same before Hon'ble the Chief Justice of India on the administrative side for appropriate instructions.

34. Hence, in terms of the directions issued hereinabove, the instant suo motu case stands disposed of. Pending interlocutory applications, if any, also stand disposed of.

.....CJI. (Surya Kant)

.....J. (Joymalya Bagchi)

.....J. (N. V. Anjaria)

New Delhi;

February 10, 2026

IN THE SUPREME COURT OF INDIA

Mahendra Prasad Agarwal
Vs.
Arvind Kumar Singh & Ors.

[Civil Appeal No(s)._____ of 2026
@ SLP (C) No. 17141 of 2025]

Head Note – When a claim of a right is legal and justified, relief must follow. Where a case merits relief, it must be granted immediately, rather than being left to languish amid procedural formalities. Moreover, when the Courts wish to remand the matter to the authorities to consider the litigant's case, there should be "a clear and categorical direction about existence of a right, its violation and what exactly the government authority is to comply."

The Court urged the High Courts to issue appropriate administrative directions or incorporate suitable provisions in their respective Rules consistent with their rule-making powers for the display of details in bail orders. The Court directed that its judgment be forwarded to the Registrar Generals of all High Courts. The copy of the judgment was directed to circulated to district judiciary for guidance.

JUDGMENT

1. Leave granted.

2. This appeal by the alleged contemnor is against an interim order passed by the High Court directing listing of the contempt petition for framing of charges. The short facts leading to filing of the contempt petition, followed by the direction as indicated hereinabove are as follows.

3. The respondents were appointed as lecturers in a private college sometime in the year 1993. We are informed that the college was receiving certain financial assistance from the State and this ended with the advent of the Government policy dated 21.08.2000 not to grant and financial assistance to non-aided Government colleges. Challenging this policy by invoking the jurisdiction of the High Court under Article 226 of the Constitution, respondents sought directions for sanction of the posts and also for payment of salaries from out of Government exchequer. By it order dated 07.10.2010, the High Court disposed of the writ petition and directing the Director of Education, "to look into the matter and pass a speaking and reasoned order in accordance with law". In compliance, the Director of Education passed the following order on 25.03.2011;

"In the light of the above policy decision taken by the government, it is clear that the government has completely banned the creation of posts of teachers/ non-teaching staff in non-government aided colleges. It is not possible to create lecturer posts in B.SC. Physics, Chemistry and Mathematics subjects in Ranveer Rananjay Postgraduate College, Amethi, Sultanpur as desired by the petitioners. Therefore, the representation of the petitioners is hereby dismissed and disposed of.

This order of disposal of the representation is being issued in compliance with the final order dated 7.10.2010 passed in the case number 1523 (S/B)/2010 of Dr. Arvind Kumar Singh and others against the State of U.P. and others, filed in the Hon'ble High Court.

Dr. (Ramanand Prasad)
Director of Education
(Higher Education)
U.P., Allahabad."

4. The above referred order was again challenged in the second writ petition and it came to be disposed of on 06.03.2013 with the following direction to reconsider;

"Accordingly, the writ petition is allowed. A writ in the nature of certiorari is issued quashing the impugned order dated 25.03.2011 passed by the Director of Higher Education, opposite party no. 2 with consequential benefits. A writ in the nature of mandamus is issued commanding the respondents to reconsider petitioners' claim with regard to payment of the regular salary in the light of observations made hereinbaove and pass a speaking and reasoned order expeditiously say, within a period of three months from the date of production of certified copy of this order and communicate decision. With the aforesaid direction, the writ petition allowed."

5. Following the above referred direction to reconsider the respondents claim, the authorities again passed an order on 01.07.2013, yet again reiterating their position as under;

"It is clear from the above that the petitioners have been teaching in the college in question only after the implementation of the Government Order dated 21.08.2000/30.08.2000 regarding the ban on creation of posts and payment from the salary payment account, after the approval of the University, and their salaries are being paid by the management from its own sources as per the rules since the year 2003, 2004 and 2007 under the self-financed scheme.

It is also clear from the above that the petitioners/management were aware that since the year 2000, there is a policy ban on the State Government giving any

financial assistance in any form for the salaries of teachers/non-teaching staff and now new courses are being in new colleges/old aided colleges under the selffinanced scheme and their salaries etc. are to be paid by the management from its own sources and not by the State Government. Therefore, now there is no justification for the petitioners or the management to demand creation of posts and payment of salary from the salary payment account.

(6). Therefore, in compliance with the Order dated 06.03.2023 passed by the Hon'ble High Court in Writ Petition No. 1035(S/B)/2011, Dr. Arvind Kumar Singh and three others versus State of Uttar Pradesh and others the joint Representations dated 25.03.2013 and 26.04.2013 of the Petitioners Dr. Arvind Kumar Singh and three others are hereby disposed of."

6. This order was again challenged in the third writ petition and yet again the High Court by its order dated 14.07.2023 passed the following order;

Keeping in view the aforesaid discussion, the writ petition deserves to be allowed and is allowed. A writ of certiorari is issued quashing the order dated 01.07.2013, a copy of which is annexure 1 to the writ petition. The matter is remitted to the respondent no. 1 i.e. Principal Secretary, Higher Education, U.P, Lucknow for passing a fresh order keeping in view the judgment and order dated 06.03.2013 passed by this Court in Writ Petition No. 1035 (SB) of 2011 as well as the discussions made above. Let such an order be passed within a period of two months from the date of receipt of a certified copy of this order."

7. In the meanwhile, respondents filed a contempt petition alleging non-compliance of the order dated 14.07.2023. While the contempt petition was pending, the department yet again rejected the claim by way of a fresh order on 13.12.2023 and filed an affidavit of compliance.

8. Further narration of facts would sadly indicate that, as the "First Season" with multiple episodes of rejection orders followed by successive 'consider' and 'reconsider' directions of the High Court reached nowhere, commencement of contempt proceedings seem to have only opened up the "Second Season" of inconclusive directions for filing affidavits after affidavits.

9. Returning to the facts, the Director filed an affidavit and the Court by its order dated 18.07.2024 rejected the affidavit and directed filing of fresh affidavit of compliance.

10. In compliance, the authorities filed a supplementary affidavit on 06.08.2024. The court was not satisfied. However, instead of passing the consequential order, the Court again directed the authorities to file a fresh affidavit of compliance. They did. Court again rejected the affidavit on

20.08.2024. This episodic consideration of affidavit after affidavit continued for some more time when the court issued a similar direction on 24.09.2024 and on 01.05.2025 as well.

11. We are informed that last of the Governmental decision was on 09.05.2025 and in the following terms;

"7. The Faculty of Science was run by the college management under the non-financed scheme since 1993, thereafter this faculty is being run under self-financed scheme. The college management decides under which scheme the various functions of the college will be operated under various schemes run by the Uttar Pradesh government.

8. The new appointments of the petitioners Dr. Arvind Kumar Singh, Dr. Aditya Bahadur Singh, Dr. Manvendra Pratap Singh and Dr. Ajay Kumar Singh have been made in the college by the management after getting approval from the university. For these new appointments, the approval of the university is given only after the petitioners apply for the posts advertised by the college and are successful in the interview organized by the college/university. At present, all these teachers are receiving salary from management sources by accepting the selffinancing scheme.

9. The petitioners have demanded by attaching a supplementary affidavit in the contempt case number-4006/2023 Arvind Kumar Singh and others vs Shri Mahendra Prasad Agarwal (IAS), Principal Secretary Higher Education, for payment of salary on the same basis as the lecturers working in Acharya Narendradev Kisan Postgraduate College, Babhanan, Gonda. In this regard, it is noteworthy that after Acharya Narendradev Kisan Postgraduate College, Babhanan, Gonda was taken on the grant list on 13.07.1976, posts have been created in various courses on 19.05.1998 and the candidates selected by the Commission have been placed on the respective created posts. Therefore, the cases of Ranveer Rananjay PG College, Amethi and Narendradev Kisan Postgraduate College, Babhanan, Gonda are not of the same nature.

10. Therefore, after due consideration, the demand for creation of posts of lecturers in Physics, Chemistry and Mathematics at the graduate level in the concerned college and providing regular salary to the petitioners is dismissed as baseless, without facts and not in accordance with the Government order and is hereby disposed of.

11. This disposal order is being issued in compliance with the order dated 14.07.2023 passed in Writ Petition No.2001132/2013, Dr. Arvind Kumar Singh and 03 others vs. State of Uttar Pradesh and others."

12. It is in the above referred context that the High Court passed the order impugned before us directing listing of the contempt case for framing of charges.

13. Facts that we have recounted till now reveal a sad reflection, not our laws, but the way we practice our laws and work our judicial remedies. We are not be mistaken as sermonising, for such episodic disposal could feature even in the practice of Supreme Court. Our endeavour is to ensure that we take notice of it and adopt course correction.

14. There is no doubt about the fact that the "consider jurisprudence", so routinely adopted these days and if we may use the expression - to throw the ball out of the Court, is counterproductive and harms the system.

15. When a claim of a right is legal and justified, relief must follow. The Constitutional or statutory remedies are not intended for academic discourse. If a case deserves relief, it must be granted then and there, unflinchingly if need be. Balancing of equities is not to be confused with avoiding or postponing the relief. These are not matters of law, but of its working and practice.

Unlike law and its procedures, good practices that evolve over a period of time are far more precious than written laws, as it is in this practice that we see acceptance and internalization of the spirit of law. It is necessary to recognize, nurture and develop good practices which become habits. These habits come from the shared belief, values and attitudes that breathe vitality into rule of law. Legal culture integrates collective beliefs, fostering habits. It is necessary and in fact compelling to keep our remedies simple, effective and efficient.

16. Returning to the facts of our case, having examined the orders passed by the High Court, we are of the opinion that there has not been a clear and categorical direction about existence of a right, its violation and what exactly the government is to comply. Had there been such clarity, the government would not have choice. In fact, it should have no choice. It should either comply, appeal or face contempt. It is necessary for the courts to articulate its direction in clear terms and also specify the method and manner of compliance if necessary.

17. We have also noticed the recent tendency, a bad practice so to say, to invoke contempt jurisdiction for quick relief, even when appealable orders have already been passed. In this very case, there is a detailed order of the government dated 09.05.2025, and this has remained unchallenged. Though the High Court passed the order impugned before us on 28.05.2025, there is no reference to the decision of the government dated 09.05.2025. It is necessary for the respondents to challenge the said order.

18. The present litigation has spanned for over 16 years. It is therefore necessary to pass the following order;

a) We permit the respondents to file a writ petition against the order dated 09.05.2025. The said writ petition will be taken up along with the contempt proceedings pending before the High Court.

b) The High Court will first take up the writ petition and pass final orders taking into account its earlier orders passed on 7.10.2010, 06.03.2013 and 14.07.2013.

c) The High Court shall not remand the matter back to the authorities for reconsideration as the perspective of the government is clearly evident.

d) If it is satisfied with the merits of the matter, it shall issue clear and categorical directions for compliance. If not, it may dismiss the Writ Petition with clear and simple reasons.

e) High Court will hear the learned counsels for the State as well as the writ petitioners before passing reasoned order.

19. In view of the long delay, we request the Hon'ble Chief Justice to assign these matters to the appropriate bench for final order by 30th April, 2026.

20. In view of the above directions, the Civil Appeal stands disposed of.

.....J. [Pamidighantam Sri Narasimha]

.....J. [Alok Aradhe]

New Delhi;

February 10, 2026

IN THE SUPREME COURT OF INDIA

Zeba Khan
Vs.
State of Uttar Pradesh and Ors.

[Criminal Appeal No. 825 of 2026
arising out of SLP (Crl.) No. 12669 of 2025]

Head Note – Directions to High Courts to ensure disclosure of necessary information in bail applications

The applications should ordinarily reflect the following particulars:

(A) CASE DETAILS

- FIR Number and Date
- Police Station, District and State
- Sections invoked
- Maximum punishment prescribed

(B) CUSTODY AND PROCEDURAL COMPLIANCE

- Date of Arrest
- Total period of custody undergone

(C) STATUS OF TRIAL

- Stage of proceedings (Investigation / Chargesheet / Cognizance / Framing of charges / Trial)
- Total number of witnesses cited in the chargesheet
- Number of prosecution witnesses examined

(D) CRIMINAL ANTECEDENTS

- FIR No. and Police Station
- Sections
- Status (Pending / Acquitted/ Convicted)

(E) PREVIOUS BAIL APPLICATIONS

- Court
- Case No.
- Outcome of case

(F) COERCIVE PROCESSES

- Whether any Non-Bailable Warrant was issued
- Whether declared a proclaimed offender

The Court urged the High Courts to issue appropriate administrative directions or incorporate suitable provisions in their respective Rules consistent with their rule-making powers for the display of details in bail orders. The Court directed that its judgment be forwarded to the Registrar Generals of all High Courts. The copy of the judgment was directed to circulated to district judiciary for guidance.

JUDGMENT

R. Mahadevan, J.

1. Leave granted.

2. The present Criminal Appeal is directed against the Judgment and Order dated 30.07.2025 passed by the High Court of Judicature at Allahabad 1 in Criminal Miscellaneous Bail Application No. 22824 of 2025, whereby the High Court granted bail to Respondent No. 2, Mazahar Khan, in connection with FIR No. 314 of 2024 registered at Police Station Saray Khwaja, District Jaunpur, Uttar Pradesh, for offences punishable under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code, 18602.

FACTUAL BACKGROUND

3. The prosecution case, as borne out from the record, is that FIR No. 314 of 2024 dated 23.08.2024 was lodged by the complainant alleging the existence of a large-scale organised scam and racket involving fabrication and circulation of forged legal qualifications and academic certificates, particularly within the State of Uttar Pradesh. It is alleged that under the said racket, individuals were falsely projecting themselves as advocates and were appearing before this Court as well as various High Courts.

4. The specific allegations against Respondent No. 2 are that he had been continuously residing in the State of Maharashtra for substantial periods, including between the years 2016 and 2019. During the said period, Respondent No. 2 neither took admission in any recognised law college in Uttar Pradesh nor appeared in any law examination. Despite this, he allegedly fabricated and procured a forged Bachelor of Laws (LL.B.) degree and corresponding marksheets bearing Enrolment / Roll No. PU-16/6710273, purportedly issued by Sarvodaya Group of Institutions, claimed to be affiliated with Veer Bahadur Singh Purvanchal University, Jaunpur, Uttar Pradesh. It is further alleged that the said forged decree and marksheets were subsequently used by Respondent No. 2 to falsely project himself as a duly qualified advocate.

5. The complainant further alleged that upon verification, Veer Bahadur Singh Purvanchal University, Jaunpur, by letter dated 10.08.2024, categorically informed that Sarvodaya Group of Institutions was not affiliated with the University and that the marksheet relied upon by Respondent No. 2 was never issued by the University. It was also stated that Respondent No. 2 had been preparing, using and circulating such forged degrees and certificates not only for himself but also for others, thereby operating a systematic racket for supplying fake academic qualifications.

In furtherance thereof, Respondent No. 2 allegedly printed and circulated visiting cards bearing the national emblem "Satyameva Jayate" falsely displaying multiple academic qualifications such as LL.B., LL.M. and Ph.D., all purportedly obtained through fraudulent means. These acts were intended to lend legitimacy to Respondent No. 2, attract unsuspecting persons, and induce them into procuring forged degrees through him. The FIR records that these activities were not isolated but formed part of a larger criminal conspiracy involving several fake degree holders linked with Respondent No. 2.

6. Pursuant to the aforesaid FIR, Respondent No. 2 was arrested on 28.04.2025. His bail application was rejected by the learned Sessions Judge, Jaunpur, vide order dated 12.05.2025. Thereafter, Respondent No. 2 approached the High Court by filing Criminal Misc. Bail Application No. 22824 of 2025, which came to be allowed by the impugned order dated 30.07.2025. Aggrieved thereby, the complainant / appellant has preferred the present Criminal Appeal.

CONTENTIONS OF THE PARTIES

7. The learned counsel for the appellant submitted that the High Court while granting bail to Respondent No. 2, completely ignored material evidence available on record and proceeded on false, misleading and suppressed facts presented on behalf of the said respondent. It was contended that Respondent No. 2 deliberately concealed the existence of as many as nine FIRs registered against him in order to secure a favourable bail order. The allegations in these FIRs relate to serious offences including forgery, cheating, sexual harassment, criminal intimidation, theft, trespass and rioting.

7.1. It was further submitted that the High Court committed a manifest error in placing reliance on a copy of the result with marks downloaded from an online verification portal, which was produced by Respondent No. 2 to substantiate his claim of possessing a valid LL. B degree. Respondent No. 2 is, in fact, accused of having forged the marksheets and degree pertaining to the very same result. Even otherwise, the downloaded marksheet itself contains a categorical disclaimer that it cannot be treated as an original marksheet. This

vital and material aspect was completely overlooked by the High Court while exercising its jurisdiction.

7.2. The learned counsel submitted that the High Court failed to take into consideration the letter issued by Veer Bahadur Singh Purvanchal University, which categorically states that the University has never issued any LL. B degree or marksheet to Respondent No. 2. Equally ignored was the communication issued by Sarvodaya Vidyapeeth Mahavidyalaya, which unequivocally records that the said institution does not offer any law course whatsoever.

7.3. It was further submitted that Respondent No. 2 falsely projected himself as an innocent victim by asserting that he was unaware of the forged nature of the LL. B. degree. This claim, it was contended, is demonstrably false. Even after registration of the present FIR, and despite the degree being prima facie found to be forged, Respondent No. 2 clandestinely appeared before this Court and managed to secure membership of the Supreme Court Bar Association, thereby continuing his misrepresentation.

7.4. The learned counsel submitted that subsequent to the registration of the present FIR in the year 2024, four additional FIRs have been lodged against Respondent No. 2. Out of these, three FIRs were registered by different Universities across two States, namely Maharashtra & Karnataka, and pertain to offences relating to forgery and facilitation of forged academic degrees in diverse disciplines including law and M. Phil (Health Sciences).

7.5. It was further submitted that Respondent No. 2 is the President of a Public Education Trust which runs Kohinoor Arts, Commerce and Science College. An FIR registered by Yashwantrao Chavan Maharashtra Open University reveals a gross abuse of position by Respondent No. 2. The said college was an examination centre for the University, where Respondent No. 2 himself was appearing for the M.A. (Hindi) examination. A fact-finding committee constituted by the University recorded that Respondent No. 2 coerced teachers of the college to write the examination on his behalf by exploiting his position as President of the institution.

7.6. It was submitted that after issuance of notice by this Court vide order dated 18.08.2025, Respondent No. 2 grossly abused the liberty granted to him by stalking and intimidating the appellant with the intent of forcing her to withdraw the proceedings. It was further alleged that Respondent No.2 clandestinely took photographs of the appellant and circulated them on social media platforms in order to malign and defame her. Additionally, Respondent No. 2 secured admission into an LL. M. programme at Sandip University,

Nashik, by once again relying upon the very same forged and fabricated LL. B. degree.

7.7. The learned counsel pointed out that despite a specific direction issued by this Court vide order dated 22.09.2025, Respondent No. 2 disclosed only four out of the nine FIRs in his counter affidavit. Further, in the petition filed before the High Court seeking quashing of the present FIR, Respondent No. 2 falsely asserted that he had no criminal antecedents. In the said petition, he portrayed himself as a practising advocate of this Court in order to trivialise the allegations and claim reputational injury. Contradictorily, in the bail application filed before the High Court, Respondent No. 2 stated that he does not practise as an advocate in any court of law, thereby clearly approbating and reprobating to suit his convenience.

7.8. It was further submitted that the State Bar Council of Maharashtra and Goa, after issuance of notice by this Court in the present proceedings, removed the enrolment of Respondent No. 2 and debarred him from practice as an advocate.

7.9. The learned counsel submitted that the Bombay High Court, Aurangabad Bench, vide order dated 23.09.2025 made scathing observations against Respondent No. 2, noting his deliberate and repeated non-compliance with judicial orders, including orders passed by this Court. The High Court observed that Respondent No. 2 is a person of criminal turpitude with no respect for the rule of law, and that it was a travesty that such a person was heading an academic institution.

7.10. It was submitted that a holistic appraisal of the material on record clearly establishes that Respondent No. 2 not only forged his LL. B. degree to falsely project himself as an advocate, but has consistently approached courts with unclean hands. Even assuming arguendo that Respondent No. 2 did not himself forge the documents, the undisputed fact remains that he has repeatedly procured, relied upon and benefited from forged and fabricated degrees. As on date, it has come to light that Respondent No. 2 holds a forged LL. B. degree and a forged M. Phil. degree, on the basis of which he also obtained a doctorate. There are further allegations of his active involvement in facilitating forged degrees for others.

7.11. The learned counsel submitted that Respondent No. 2 appears to be integrally connected with a larger, organised racket engaged in the manufacture, circulation and monetisation of forged academic degrees of reputed institutions. Being the head of an academic institution, Respondent No. 2 was uniquely positioned to operate such activities under a veneer of

legitimacy, thereby posing a serious threat to public confidence in the education system and the administration of justice.

7.12. In view of the foregoing submissions, it was contended that the impugned order granting bail to Respondent No. 2 is wholly unsustainable both in law and on facts, and deserves to be set aside. Having regard to the nature, gravity and magnitude of the allegations, and in order to safeguard the integrity of the investigation as well as public confidence in the justice delivery system, the learned counsel also prayed for transfer of the investigation to a specialised agency.

8. The learned counsel appearing for Respondent No. 1 - State of Uttar Pradesh supported the submissions advanced on behalf of the appellant and prayed for setting aside the order granting bail to Respondent No. 2.

8.1. It was submitted that FIR No. 314 of 2024 came to be registered on the basis of a complaint lodged by the appellant against Respondent No. 2 and two others, alleging the existence of an organised racket involving forged LL. B. degrees and fabricated marksheets.

8.2. The learned counsel submitted that Respondent No. 2 is a history sheeter, with as many as nine criminal cases pending against him.

8.3. It was further submitted that the investigation has unearthed grave and serious allegations against Respondent No. 2, which are substantiated by official communications issued by statutory and academic authorities. Veer Bahadur Singh Purvanchal University, Jaunpur, Uttar Pradesh, vide its letter dated 10.08.2024 addressed to the appellant, categorically informed that Sarvodaya Group of Institutions was not affiliated with the said University and that the marksheet relied upon by Respondent No. 2 was never issued by the University. Further, Sarvodaya Vidyapeeth Mahavidyalaya, Mirganj, Jaunpur, vide its letter dated 09.05.2025 addressed to the Investigating Officer, stated that the college was granted recognition only for certain Bachelor of Arts courses by Veer Bahadur Singh Purvanchal University, and that it does not offer any LL.B. (law) course.

8.4. It was also submitted that as per the Bar Council of India, there are 23 colleges affiliated with Veer Bahadur Singh Purvanchal University, Jaunpur, which are recognised to offer either the three-year or five-year LL. B. courses. Significantly, Sarvodaya Group of Institutions does not find mention in the said list of recognised law colleges, despite Respondent No. 2 claiming to have completed his three-year LL. B. course from the said institution.

8.5. The learned counsel further submitted that the enrolment details of Respondent No. 2 were forwarded to the Sub-Inspector by the District Bar

Association, Chhatrapati Sambhajinagar, Maharashtra, vide letter dated 05.09.2024. Respondent No. 2 was enrolled as an advocate with the Bar Council of Maharashtra and Goa on 26.06.2023 bearing Roll No. MAH/ 2493/2023. It was also submitted that Respondent No. 2 secured membership of the Supreme Court Bar Association bearing Membership No. K-00408/OS, and that a temporary membership card valid for two years was issued to him on 04.12.2024.

8.6. It was urged that the nature of the allegations against Respondent No. 2 is extremely serious. His conduct, which includes falsely projecting himself as an advocate before courts and public authorities, reflects a deliberate and sustained abuse of the judicial process and constitutes a continuing offence, directly undermining public faith in the legal system.

8.7. In view of the aforesaid facts and circumstances of the case, the learned counsel submitted that the High Court erred in granting bail granted to Respondent No. 2 by the impugned order, which warrants interference by this Court.

9. Per contra, the learned counsel appearing for Respondent No. 2 - accused submitted that Respondent No. 2 was arrested on 28.04.2025 and was granted bail by the High Court vide order dated 30.07.2025 after completion of investigation and filing of the chargesheet. It was contended that the present appeal is an abuse of the process of law and is motivated by long-standing family and property disputes.

9.1. It was further submitted that it is a well settled principle of criminal jurisprudence that bail is the rule and jail the exception, and that cancellation of bail is not to be ordered mechanically but only upon the existence of supervening circumstances such as misuse of liberty, tampering with evidence, intimidation or influence of witnesses, likelihood of absconding, or violation of bail conditions. According to the learned counsel, none of these circumstances arise in the present case.

9.2. It was contended that the record does not disclose any material suggesting a likelihood of tampering with evidence, nor has any perversity or patent illegality in the impugned order been demonstrated so as to justify interference by this Court under Article 136 of the Constitution. The bail granted by the High Court is neither arbitrary nor perverse and has been passed after due consideration of relevant factors, including the absence of any custodial necessity.

9.3. The learned counsel further submitted that Respondent No. 2 has not misused the liberty granted to him, has scrupulously complied with the bail

conditions, and has neither intimidated witnesses nor obstructed the administration of justice. It was urged that Respondent No. 2 has cooperated throughout the investigation, poses no flight risk, and has not committed any offence while on bail. It was submitted that mere reiteration of allegations contained in the FIR cannot constitute a valid ground for cancellation of bail.

9.4. It was also submitted that the FIR emanates from deep-rooted family and property disputes, particularly relating to the management and control of Kohinoor Education Society, Aurangabad, and other pending civil litigations between family members, including a Special Leave Petition stated to be pending before this Court. According to the learned counsel, the appellant has initiated multiple proceedings against Respondent No. 2 and his family members across different States and that the present criminal proceedings are intended as a pressure tactic in the backdrop of ongoing civil disputes.

9.5. It was further urged that Respondent No. 2 is not the main accused in most of the cases relied upon by the appellant and has been implicated primarily with the aid of Section 34 IPC. It was also pointed out that proceedings in Criminal Case No. 42 of 2025 arising out of FIR No. 314 of 2024 have already been stayed by the High Court in quash proceedings, and therefore, cancellation of bail at this stage would be wholly unwarranted and oppressive.

9.6. Accordingly, it was submitted that the present appeal is actuated by personal animosity and that no legally sustainable ground for cancellation of bail has been made out.

9.7. On these grounds, it was prayed that the appeal be dismissed as being devoid of merit.

10. The learned counsel appearing for Respondent No. 3 - Bar Council of India submitted that vide order dated 17.11.2025, the name of Respondent No. 2 along with his enrolment number has been removed from the rolls of the Bar Council and he has consequently been debarred from appearing before any court of law. It was further submitted that any order that may be passed by this Court shall be duly complied with by the Bar Council of India.

DISCUSSION AND FINDINGS

11. We have considered the submissions advanced by the learned counsel appearing for the parties and carefully perused the materials placed before us.

12. In the present appeal, the appellant seeks annulment of the bail granted by the High Court on the ground that the impugned order is manifestly perverse, legally untenable, and vitiated by non-application of mind. The High Court proceeded to grant bail by placing reliance on documents whose genuineness

constitutes the very subject matter of the criminal prosecution, compounded by the suppression of material facts and serious criminal antecedents on the part of Respondent No. 2. Such an approach strikes at the very foundation of settled bail jurisprudence.

LEGAL PRINCIPLES GOVERNING ANNULMENT / CANCELLATION OF BAIL

13. It is trite that while personal liberty occupies a position of high constitutional value, an order granting bail does not enjoy immunity from appellate scrutiny where it is shown to be arbitrary, perverse, or passed in disregard of material considerations. The discretion to grant bail, though wide, is structured by well-settled legal principles and is neither uncanalised nor unfettered.

14. In State of Karnataka v. Sri Darshan Etc.3, and Yogendra Pal Singh v. Raghvendra Singh @ Prince and another4, this Court authoritatively clarified that cancellation of bail on account of post-bail misconduct stands on a fundamentally different footing from annulment of a bail order which is itself unjustified or legally unsustainable at its inception. An order granting bail is liable to be interfered with where it reveals reliance on irrelevant considerations, ignores relevant material, or suffers from perversity without the necessity of waiting for supervening circumstances.

15. In Manik Madhukar Sarve and others v. Vitthal Damuji Meher and others5, in which, one of us (Ahsanuddin Amanullah, J.) was a member of the Bench, this Court set aside the grant of bail in appeal, holding that the discretion exercised by the High Court was vitiated. The Court comprehensively restated the parameters governing the exercise of jurisdiction to grant bail, including the nature and gravity of the accusation, the role attributed to the accused, criminal antecedents, the likelihood of tampering with evidence or witnesses, the risk of abscondence, and the overall impact on society. The following paragraphs are pertinent:

"18. Courts while granting bail are required to consider relevant factors such as nature of the accusation, role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk et al. Speaking through Hima Kohli, J., the present coram in Ajwar v. Waseem [(2024) 10 SCC 768], apropos relevant parameters for granting bail, observed: (SCC paras 26-27)

"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in

which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : Chaman Lal v. State of U.P. [2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; Kalyan Chandra Sarkar v. Rajesh Ranjan [(2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; Masroor v. State of U.P. [(2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [(2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P. [(2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [(2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [(2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail.

Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P. [(2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words: (SCC p. 224, para 24)

'24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.'

(emphasis supplied)

19. In State of Haryana v. Dharamraj [(2023) 17 SCC 510 : 2023 SCC OnLine SC 1085], speaking through one of us (Ahsanuddin Amanullah, J.), the Court, while setting aside an order [Dharamraj v. State of Haryana, 2021 SCC OnLine P&H 4632] of the Punjab and Haryana High Court granting (anticipatory) bail, discussed and reasoned: (SCC paras 6-11)

"6. A foray, albeit brief, into relevant precedents is warranted. This Court considered the factors to guide grant of bail in Ram Govind Upadhyay v. Sudarshan Singh [(2002) 3 SCC 598 : 2002 SCC (Cri) 688] and Kalyan Chandra Sarkar v. Rajesh Ranjan [(2004) 7 SCC 528 : 2004 SCC (Cri) 1977]. In Prasanta Kumar Sarkar v. Ashis Chatterjee [(2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765], the relevant principles were restated thus: (SCC p. 499, para 9)

'9. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.'

7. In Mahipal v. Rajesh Kumar [(2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558], this Court opined as under: (SCC p. 125, para 16)

'16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or

arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted.'

8. In Bhagwan Singh v. Dilip Kumar [(2023) 13 SCC 549 : 2023 INSC 761], this Court, in view of Dolat Ram v. State of Haryana [(1995) 1 SCC 349 : 1995 SCC (Cri) 237] ; Kashmira Singh v. Duman Singh [(1996) 4 SCC 693 : 1996 SCC (Cri) 844] and X v. State of Telangana [(2018) 16 SCC 511 : (2020) 1 SCC (Cri) 902], held as follows : (Bhagwan Singh case, SCC p. 557, para 13)

'13. It is also required to be borne in mind that when a prayer is made for the cancellation of grant of bail, cogent and overwhelming circumstances must be present and bail once granted cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it in conducing to allow fair trial. This proposition draws support from the judgment of this Court in Dolat Ram v. State of Haryana [(1995) 1 SCC 349 : 1995 SCC (Cri) 237], Kashmira Singh v. Duman Singh [(1996) 4 SCC 693: 1996 SCC (Cri) 844] and X v. State of Telangana [(2018) 16 SCC 511 : (2020) 1 SCC (Cri) 902] .'

9. In X3 v. State (UT of Andaman) [(2023) 14 SCC 280 : 2023 INSC 767], this Court noted that the principles in Prasanta Kumar Sarkar v. Ashis Chatterjee, [(2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] stood reiterated in Jagjeet Singh v. Ashish Mishra [(2022) 9 SCC 321 : (2022) 3 SCC (Cri) 560].

10. The contours of anticipatory bail have been elaborately dealt with by five-Judge Benches in Gurbaksh Singh Sibbia v. State of Punjab [(1980) 2 SCC 565 : 1980 SCC (Cri) 465] and Sushila Aggarwal v. State (NCT of Delhi) [(2020) 5 SCC 1 : (2020) 2 SCC (Cri) 721]. Siddharam Satlingappa Mhetre v. State of Maharashtra [(2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514] is worthy of mention in this context, despite its partial overruling in Sushila Aggarwal. We are cognizant that liberty is not to be interfered with easily. More so, when an order of pre-arrest bail already stands granted by the High Court.

11. Yet, much like bail, the grant of anticipatory bail is to be exercised with judicial discretion. The factors illustrated by this Court through its pronouncements are illustrative, and not exhaustive. Undoubtedly, the fate of each case turns on its own facts and merits."

(emphasis supplied)

20. In Ajwar v. Waseem, [(2024) 10 SCC 768], this Court also examined the considerations for setting aside bail orders in terms below: (SCC paras 28-29)

"28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner.

We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In Jagjeet Singh v. Ashish Mishra, [(2022) 9 SCC 321 : (2022) 3 SCC (Cri) 560], a three-Judge Bench of this Court, has observed that the power to grant bail under Section 439 CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well-established principles of law.

In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer: Puran v. Rambilas [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] ; Narendra K. Amin v. State of Gujarat [(2008) 13 SCC 584 : (2009) 3 SCC (Cri) 813])"

(Emphasis Supplied)

16. Recently, in Salil Mahajan v. Avinash Kumar and another6, this Court once again crystallised the distinction between an appeal against grant of bail and an application seeking cancellation of bail. It was reiterated that in an appeal against grant of bail, the superior court is concerned with examining the legality, propriety, and correctness of the bail order itself, and not the subsequent conduct of the accused. Where the bail order suffers from perversity, illegality, non-consideration of relevant factors such as the gravity of the offence, impact on society, or criminal antecedents, interference is fully justified. The following observations are pertinent:

"7. At the outset, it is well settled by this Court that an appeal against the grant of bail and an application seeking cancellation of bail are on different footing.

The grounds for testing the legality of an order granting bail are well settled. Recently, in Ashok Dhankad v. State (NCT of Delhi) [2025 SCC OnLine SC 1690], this Court had summarized the position of law as follows:

"19. The principles which emerge as a result of the above discussion are as follows:

(i) An appeal against grant of bail cannot be considered to be on the same footing as an application for cancellation of bail;

(ii) The Court concerned must not venture into a threadbare analysis of the evidence adduced by prosecution. The merits of such evidence must not be adjudicated at the stage of bail;

(iii) An order granting bail must reflect application of mind and assessment of the relevant factors for grant of bail that have been elucidated by this Court. [See: Y v. State of Rajasthan (Supra); Jaibunisha v. Meherban and Bhagwan Singh v. Dilip Kumar @ Deepu]

(iv) An appeal against grant of bail may be entertained by a superior Court on grounds such as perversity; illegality; inconsistency with law; relevant factors not been taken into consideration including gravity of the offence and impact of the crime;

(v) However, the Court may not take the conduct of an accused subsequent to the grant bail into consideration while considering an appeal against the grant of such bail. Such grounds must be taken in an application for cancellation of bail; and

(vi) An appeal against grant of bail must not be allowed to be used as a retaliatory measure. Such an appeal must be confined only to the grounds discussed above."

(emphasis supplied)

8. We deem it appropriate to advert to the exposition of law, in Vipan Kumar Dhir v. State of Punjab [(2021) 15 SCC 518], where while setting aside the grant of anticipatory bail this Court observed:

"11. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can

interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked."

(emphasis supplied)

17. Thus, a consistent and well settled doctrinal thread emerges from the aforesaid decisions: the power to grant bail, though discretionary, is subject to judicial discipline and appellate oversight. While personal liberty remains a cherished constitutional value, a bail order is liable to be interfered with where the exercise of discretion is perverse, illegal, or manifestly unjustified; where it is founded on irrelevant or extraneous considerations; or where material and relevant factors bearing on the grant of bail have been ignored.

18. Equally well-settled is the distinction between an appeal against an order granting bail and an application seeking cancellation of bail founded on postbail conduct or supervening circumstances. In an appeal against the grant of bail, the focus of judicial scrutiny is the legality, propriety, and sustainability of the bail order as it stood at the time of its grant. Where such an order is shown to suffer from non-application of mind, reliance on disputed or prima facie suspect material forming the subject-matter of trial, suppression or non-consideration of material facts, or disregard of binding legal principles, annulment of the bail order is not only permissible but warranted in order to avert a miscarriage of justice.

19. Accordingly, where a bail order is demonstrated to be legally untenable or fundamentally perverse, interference by the appellate court is not an exception, but a judicial imperative. Such interference does not trench upon the sanctity of personal liberty; rather, it subserves the rule of law by ensuring that discretionary relief is granted in conformity with settled legal standards and that the administration of criminal justice is not undermined by arbitrary or capricious orders.

APPLICATION TO THE PRESENT CASE

20. The criminal proceedings arise out of FIR No. 314 of 2024 dated 23.08.2024 lodged by the complainant, who is related to Respondent No. 2 and is stated to be his sister-in-law. It is not in dispute that there are existing disputes between the parties relating to ancestral and family property, and that civil proceedings in that regard are pending.

21. It is alleged in the FIR that Respondent No. 2 had been projecting himself as possessing a Bachelor of Laws (LL.B.) degree purportedly issued by Sarvodaya Group of Institutions, which was claimed to be affiliated with Veer Bahadur Singh Purvanchal University, Jaunpur, Uttar Pradesh.

22. According to the prosecution, the law degree and marksheet are forged and fabricated, and Respondent No. 2 deliberately relied upon such documents to falsely project himself as a law graduate. It is further alleged that on the strength of these forged credentials, he appeared before this Court and other Courts. The accusations extend beyond personal use and include allegations that Respondent No. 2 was actively involved in preparing, using and circulating forged degrees and certificates for others as well, thereby operating an organised racket facilitating fake educational qualifications. Thus, serious allegations have been made against Respondent No. 2.

23. The High Court granted bail to Respondent No. 2 based on the submissions advanced on behalf of Respondent No. 2 that the LL.B. degree was genuine and issued by Sarvodaya Group of Institutions and that the informant being his sister-in-law, had falsely implicated him due to an ongoing property dispute.

24. However, the material placed on record prima facie contradicts these assertions. A communication dated 05.09.2024 issued by Veer Bahadur Singh Purvanchal University to the District Magistrate, Jaunpur, categorically states that Sarvodaya Group of Institutions was not affiliated with the University. Further, during investigation, the Investigating Officer received a communication dated 09.05.2025 from Sarvodaya Vidyapeeth Mahavidyalaya, Mirganj, Jaunpur, clarifying that the institution had recognition only for seven Bachelor of Arts courses and did not conduct LL.B. classes.

25. At this stage, the prosecution case stands fortified by the aforesaid categorical communications that the marksheet relied upon by Respondent No. 2 was never issued by Veer Bahadur Singh Purvanchal University and that the institution in question had no affiliation for imparting legal education. These materials go to the very root of the prosecution case and cannot be brushed aside as peripheral.

Even otherwise, the disclaimer appearing on the marksheet downloaded by Respondent No. 2 clearly states that it cannot be treated as an original marksheet and ought to have alerted the High Court to exercise circumspection. There are further allegations that the website or portal reflecting the marksheet itself is forged, that the email ID appearing therein is common to websites of other institutions, that the mobile number provided is defunct, and that the website appears to be a mirror website of another University.

26. The allegations against Respondent No. 2 are thus not confined to an isolated instance of forgery but prima facie disclose systematic and organised course of conduct involving the fabrication, procurement and use of forged educational qualifications, particularly law degrees, which has a direct bearing on the integrity of the legal profession and the administration of justice. The details of the criminal cases registered against Respondent No. 2 are as follows:

S.NO	FIR	DETAILS STATUS
1.	**FIR No. 8/2025** dated 14.01.2025 registered u/s 34, 419, 420, 465 IPC at Thilaknagar Police Station, Bengaluru City	Bail Granted (Pending)
2.	**FIR No. 62/2025** dated 26.03.2025 registered u/s 318(4), 318(2), 336(3), 340(2) and 3(5) BNS at Begampura Police Station, Chhatrapati Sambhaji Nagar	Bail Granted (Pending)
3.	**FIR NO. 232/2025** dated 06.06.2025 registered u/s 318, 319(2), 3(5) BNS and s. 3 and 5 of the Maharashtra University, Board and other specified examinations (Prevention of Malpractices) Act, 1982 at Khultabad Police Station, Aurangabad Rural	Bail Granted (Pending)
4.	**FIR No. 314/2024** dated 23.08.2024 registered u/s 419, 420, 467, 468, 471 IPC at Sarai Khwaja Police Station, Jaunpur, UP	Bail Granted (Pending)
5.	**FIR No. 136/2023** dated 04.07.2023 registered u/s 452, 379, 143, 147, 504, 506 IPC at Harsul Police Station, Aurangabad Rural	Bail Granted (Pending)
6.	**FIR No. 124/2025** dated 23.03.2025 registered u/s 115(2), 3(5), 333, 351(3), 352 BNS at City Chowk Police Station, Chhatrapati Sambhaji Nagar	Bail Granted (Pending)
7.	**FIR No. 338/2016** dated 12.10.2016 registered u/s 354A, 504, 34 IPC at Khultabad Police Station	Bail Granted (Pending)
8.	**FIR NO. 331/2011** dated 13.09.2011 registered u/s 420, 406, 465, 468, 471, 472, 34 IPC at Kranti Chowk Police Station, Chhatrapati Sambhaji Nagar	Bail Granted (Pending)
9.	**FIR NO. 48/2011** dated 08.04.2011 registered u/s 419, 420, 465, 468, 471, 474, 34 IPC at Khultabad Police Station.	(Acquitted) Appeal Pending

27. The above tabulation demonstrates that multiple FIRs have been registered against Respondent No. 2 across different States alleging similar offences relating to educational fraud and forgery.

28. In Ash Mohammad v. Shiv Raj Singh @ Lalla Babu and another7, this Court underscored that criminal antecedents cannot be ignored, particularly where the nature of allegations and their societal impact are grave. The Court clarified that while a history-sheeter is not disentitled to bail as a rule, antecedents constitute a significant factor in the exercise of judicial discretion. The relevant passage reads as under:

"28. Coming to the nature of crime it is perceivable that two persons came on a motorcycle and kidnapped Bihari Lal and kept him in confinement for eight days. The role of the accused is clearly stated. It is apt to note that a historysheeter has a recorded past. The High Court, in toto, has ignored the criminal antecedents of the accused. What has weighed with the High Court is that the accused had spent seven months in custody. That may be one of the factors but that cannot be the whole and the sole factor in every case. It depends upon the nature of the offence, the manner in which it is committed and its impact on the society.

We may hasten to add that when we state that the accused is a history-sheeter we may not be understood to have said that a history-sheeter is never entitled to bail. But, it is a significant factor to be taken note of regard being had to the nature of crime in respect of which he has been booked. In the case at hand, as the prosecution case unfolds, the accused did not want anyone to speak against his activities. He had sent two persons to kidnap Bihari Lal, who remained in confinement for eight days. The victim was tortured. Kidnapping, as an offence, is on the increase throughout the country.

Sometimes it is dealt with formidable skill and sometimes with terror and sometimes with threat or brute force. The crime relating to kidnapping has taken many a contour. True it is, sometimes allegations are made that a guardian has kidnapped a child or a boy in love has kidnapped a girl. They do stand on a different footing. But kidnapping for ransom or for revenge or to spread terror or to establish authority are in a different realm altogether. In the present case the victim had been kidnapped under threat, confined and abused.

The sole reason for kidnapping is because the victim had shown some courage to speak against the accused. This may be the purpose for sustaining of authority in the area by the accused and his criminal antecedents, speak eloquently in that regard. In his plea for bail the accused had stated that such offences had been registered because of political motivations but the range of offence and their alleged years of occurrence do not lend prima facie acceptance to the same. Thus, in the present case his criminal antecedents could not have been totally ignored."

(Emphasis Supplied)

29. Similarly, in Neeru Yadav v. State of Uttar Pradesh and another8, this Court set aside a bail order on the ground that relevant factors, including criminal antecedents, had been completely ignored, holding that such a grant of bail amounted to a deviant exercise of discretion warranting appellate interference. The relevant paragraphs are extracted below:

"15. This being the position of law, it is clear as cloudless sky that the High Court has totally ignored the criminal antecedents of the accused. What has weighed with the High Court is the doctrine of parity. A history-sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.

18. Before parting with the case, we may repeat with profit that it is not an appeal for cancellation of bail as the cancellation is not sought because of supervening circumstances. The annulment of the order passed by the High Court is sought as many relevant factors have not been taken into consideration which includes the criminal antecedents of the accused and that makes the order a deviant one. Therefore, the inevitable result is the lancination of the impugned order [Budhpal v. State of U.P., 2014 SCC OnLine All 14815]"

(Emphasis Supplied)

30. The principles reiterated by a three-Judge Bench in Brijmani Devi v. Pappu Kumar and another9 further emphasise that while personal liberty under Article 21 of the Constitution is invaluable, courts must balance such liberty against the nature of the accusations, supporting material, criminal antecedents, and the broader societal impact. Bail discretion must be exercised judiciously and supported by reasons grounded in the material on record. The following observations are apposite:

"21. In Gudikanti Narasimhulu v. Public Prosecutor, A.P. High Court, [(1978) 1 SCC 240 : 1978 SCC (Cri) 115], Krishna Iyer, J., while elaborating on the content and meaning of Article 21 of the Constitution of India, has also elaborated the factors that have to be considered while granting bail which are extracted as under: (SCC p. 244, paras 7-9)

"7. It is thus obvious that the nature of the charge is the vital factor and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.

8. Another relevant factor is as to whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being. [Patrick Devlin: The Criminal Prosecution in England, (London) 1960, p. 75 - Mod. Law Rev. ibid., p. 54]

9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record - particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance."

35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion.

While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused."

(Emphasis Supplied)

31. Of particular concern in the present case is the prima facie material indicating that Respondent No. 2 suppressed his criminal antecedents before the High Court by stating that he had no criminal history except the present FIR. Such incorrect and incomplete disclosure appears to have materially influenced the exercise of discretion in his favour, thereby vitiating the bail order.

32. The submission that Respondent No. 2 has not misused liberty granted to him cannot be considered in isolation. There are prima facie allegations of stalking and intimidation of the appellant after the grant of bail. This Court vide order dated 22.09.2025, expressly cautioned Respondent No. 2 that any attempt to intimidate or coerce the appellant into withdrawing the proceedings would invite strict action. The existence of a family or property dispute does not dilute the gravity of allegations involving impersonation as a legal professional and the use of forged credentials before courts, which have serious public and institutional ramifications extending far beyond a private dispute.

33. For the foregoing reasons, we are of the considered view that the impugned order dated 09.04.2025 granting bail to Respondent No. 2 is legally unsustainable and is liable to be set aside.

INVESTIGATION BY A SPECIAL AGENCY - WHETHER WARRANTED

34. The appellant has further sought a direction for transfer of the investigation in the present case to a special agency, alleging the existence of a larger racket involving forged degrees and invoking considerations of public interest.

35. At the outset, it is pertinent to note that the investigation has already culminated in the filing of a chargesheet on 14.05.2025, and cognizance has been taken by the learned Magistrate vide order dated 26.05.2025.

36. In Disha v. State of Gujarat and others10, this Court was concerned with allegations relating to a large-scale financial scam involving collection of approximately Rs. 60 crores on the pretext of assuring high returns. Despite the filing of the chargesheet, a prayer was made for transfer of investigation to an impartial agency such as the CBI. Rejecting the said prayer, this Court held that once investigation is complete and the chargesheet is filed, transfer of investigation can be directed only in exceptional circumstances demonstrating a real likelihood of bias, mala fides, or abuse of power. The following paragraphs are apposite:

"14. In Gudalure M.J. Cherian v. Union of India [(1992) 1 SCC 397] this Court however, held that the power of directing investigation by CBI after chargesheet was filed, should not ordinarily be used, but only when necessary. The investigation having been completed by the police and charge-sheet submitted to the court, it is not for this Court, ordinarily, to reopen the investigation specially by entrusting the same to a 31ummarized31 agency like CBI. The same view has been reiterated by this Court in Punjab & Haryana High Court Bar Assn. v. State of Punjab [(1994) 1 SCC 616 : 1994 SCC (Cri) 455 : AIR 1994 SC 1023].

15. In R.S. Sodhi v. State of U.P. [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248: AIR 1994 SC 38] this Court examined the case where the accusations were directed against the local police personnel. The Court held that it would be desirable to entrust the investigation to an independent agency like CBI so that all concerned including the relatives of the deceased may feel assured that an independent agency was looking into the matter and that would lend the final outcome of the investigation credibility. However faithfully the local police may carry out the investigation, the same would lack credibility since the allegations were against them.

16. This Court refused to direct the investigation by CBI, after the charge-sheet was filed in Vineet Narain v. Union of India [(1996) 2 SCC 199 : 1996 SCC (Cri) 264 : AIR 1996 SC 3386].

17. In case of persons against whom a prima facie case is made out and a charge-sheet is filed in the competent court, it is that court which will then deal with that case on merits in accordance with law. (See Union of India v. Sushil Kumar Modi [(1998) 8 SCC 661 : 1999 SCC (Cri) 84].)

21. Thus, it is evident that this Court has transferred the matter to CBI or any other special agency only when the Court was satisfied that the accused had been a very powerful and influential person or State authorities like high police officials were involved and the investigation had not been proceeded with in a proper direction or it had been biased. In such a case, in order to do complete justice and having belief that it would lend the final outcome of the investigation credibility, such directions have been issued."

(Emphasis Supplied)

37. Similarly, a three-Judge Bench of this Court in K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai and others11, declined to transfer investigation to the CBI despite allegations of delay and improper investigation. This Court held that mere dissatisfaction with the manner of investigation or bald allegations unsupported by cogent material cannot justify invocation of extraordinary jurisdiction for transfer of investigation to a central or special agency. The following observations are relevant:

"13. This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having

"a fair, honest and complete investigation", and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. Where the investigation has already been completed and charge-sheet has been filed, ordinarily superior courts should not reopen the investigation and it should be left open to the court, where the charge-sheet has been filed, to proceed with the matter in accordance with law.

Under no circumstances, should the court make any expression of its opinion on merit relating to any accusation against any individual. (Vide Gudalure M.J. Cherian v. Union of India [(1992) 1 SCC 397], R.S. Sodhi v. State of U.P. [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248 : AIR 1994 SC 38], Punjab and Haryana High Court Bar Assn. v. State of Punjab [(1994) 1 SCC 616 : 1994 SCC (Cri) 455 : AIR 1994 SC 1023] , Vineet Narain v. Union of India [(1996) 2 SCC 199 : 1996 SCC (Cri) 264] , Union of India v. Sushil Kumar Modi [(1996) 6 SCC 500 : AIR 1997 SC 314] , Disha v. State of Gujarat [(2011) 13 SCC 337 : (2012) 2 SCC (Cri) 628 : AIR 2011 SC 3168] , Rajender Singh Pathania v. State (NCT of Delhi) [(2011) 13 SCC 329 : (2012) 1 SCC (Cri) 873] and State of Punjab v. Davinder Pal Singh Bhullar [(2011) 14 SCC 770 : (2012) 4 SCC (Civ) 1034 : AIR 2012 SC 364].)

15. In State of W.B. v. Committee for Protection of Democratic Rights [(2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] a Constitution Bench of this Court has clarified that extraordinary power to transfer the investigation from State investigating agency to any other investigating agency must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. (See also Ashok Kumar Todi v. Kishwar Jahan [(2011) 3 SCC 758 : (2011) 2 SCC (Cri) 75 : AIR 2011 SC 1254].)

16. This Court in Sakiri Vasu v. State of U.P. [(2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440] held : (SCC p. 416, para 31)

"31. this Court or the High Court has power under Article 136 or Article 226 to order investigation by CBI. That, however, should be done only in some rare and exceptional case, otherwise, CBI would be flooded with a large number of cases and would find it impossible to properly investigate all of them."

17. In view of the above, the law can be 33ummarized to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the

top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased."

(Emphasis Supplied)

38. Applying the aforesaid principles to the present case, no specific or substantiated material has been placed on record to demonstrate that the investigation conducted by the State Police was vitiated by mala fides, bias, or extraneous influence attributable to Respondent No. 2. There is also no allegation of involvement of any high-ranking police officials so as to cast doubt on the credibility of the investigation.

39. In the absence of such exceptional circumstances, and particularly when the investigation stands completed and cognizance has already been taken by the competent court, this Court finds no justification to invoke its extraordinary jurisdiction to direct transfer of the investigation to a special agency.

40. It is also apposite to note that issues pertaining to the verification of law degrees and enrolment of advocates are already the subject matter of comprehensive directions issued by this Court in Ajay Shankar Srivastava v. Bar Council of India and another 12 as supplemented by order dated 18.11.2025 in M. Varadhan v. Union of India and another13. Pursuant thereto, a High-Level Committee has been constituted and is functioning under the continuous monitoring of this Court. At the instance of the Bar Council of India, a nationwide verification process is presently underway with the active involvement of Universities and State Bar Councils. The regulatory framework and supervisory mechanism put in place by this Court, therefore, adequately address the concerns pertaining to forged degrees and fraudulent enrolments.

41. In view of the above, the prayer for transfer of investigation to a special agency is declined. It is, however, clarified that the Bar Council of India and the State Bar Councils shall continue to implement, in letter and spirit, the directions already issued by this Court and shall submit such progress reports as may be called for by this Court or by the High-Level Committee.

DISCLOSURE OF MATERIAL FACTS IN BAIL APPLICATIONS - GUIDING PRINCIPLES AND SUGGESTIONS

42. It has been consistently emphasised by this Court that an accused or applicant seeking bail is under a solemn obligation to make a fair, complete and candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. Any suppression, concealment or selective

disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice.

43. In the present case, Respondent No. 2 deliberately concealed his criminal antecedents before the High Court, both in the petition for quashing FIR as well as in successive bail applications. Even before this Court, only partial disclosure was made in the counter-affidavit, despite the existence of multiple criminal cases on record. This conduct cannot be viewed as an isolated lapse but reflects a growing and disturbing trend of accused persons securing discretionary relief by suppressing material facts.

44. This Court has, on numerous occasions, strongly deprecated such conduct. In Kusha Duruka v. State of Odisha14, this Court disapproved the act of an accused who had concealed the dismissal of earlier bail applications as well as the pendency of proceedings before this Court, and issued specific directions mandating disclosure of all previous and pending bail applications. The Court reiterated that suppression of material facts constitutes fraud on the court, attracting the maxim suppressio veri, expressio falsi. The relevant paragraphs read as under:

"2. About three decades ago, this Court in Chandra Shashi v. Anil Kumar Verma [(1995) 1 SCC 421 : 1995 SCC (Cri) 239] was faced with a situation where an attempt was made to deceive the Court and interfere with the administration of justice. The litigant was held to be guilty of contempt of court. It was a case in which the husband had filed fabricated document to oppose the prayer of his wife seeking transfer of matrimonial proceedings. Finding him guilty of contempt of court, he was sentenced to two weeks' imprisonment by this Court. This Court observed as under : (SCC pp. 423-24 & 427, paras 1-2 & 14)

"1. The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned.

2. Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

14. The legal position thus is that if the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would, in any case, tend to interfere with the same. This would definitely be so if a fabricated document is filed with the aforesaid mens rea. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large. Anil Kumar is, therefore, guilty of contempt."

3. In K.D. Sharma v. SAIL [(2008) 12 SCC 481] it was observed by this Court : (SCC p. 493, para 39)

"39. If the primary object as highlighted in Kensington Income Tax Commrs. [R. v. General Commissioners for the Purposes of the Income Tax Acts for the District of Kensington, ex p Princess Edmond De Polignac, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (KB & CA)] is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction.

If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court."

(emphasis supplied)

4. In Dalip Singh v. State of U.P. [(2010) 2 SCC 114 : (2010) 1 SCC (Civ) 324], this Court noticed the progressive decline in the values of life and the conduct of the new creed of litigants, who are far away from truth. It was observed as under: (SCC pp. 116-17, paras 1-2)

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justicedelivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take

shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."

(emphasis supplied)

5. In Moti Lal Songara v. Prem Prakash [(2013) 9 SCC 199 : (2013) 3 SCC (Cri) 872], this Court, considering the issue regarding concealment of facts before the Court, observed that "court is not a laboratory where children come to play", and opined as under : (SCC p. 208, paras 19-20)

"19. The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the respondent-accused is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the Revisional Court hearing the revision against the order taking cognizance. It is a clear case of suppression.

It was within the special knowledge of the accused. Anyone who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud upon the court, and the maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the Revisional Court. It can be stated with certitude that the respondent-accused tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

20. The High Court, as we have seen, applied the principle "when infrastructure collapses, the superstructure is bound to collapse". However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand."

(emphasis supplied)

6. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is "satya" (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre- Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

In the last 40 years, the values have gone down and now litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. It is nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that:

"Lies are very sweet, while truth is bitter, that's why most people prefer telling lies."

7. In a recent matter, this Court again came across a litigant who had tried to overreach the Court by concealing material facts in Saumya Chaurasia v. Enforcement Directorate [(2024) 6 SCC 401 : 2023 SCC OnLine SC 1674 : 2023 INSC 1073]. It was a case where the appellant before this Court had challenged the order [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] passed by the High Court [High Court of Chhattisgarh at Bilaspur in Miscellaneous Crl. Case No. 1258 of 2023] rejecting his bail application. He was accused of committing various crimes under the Penal Code, 1860 and the Prevention of Money-Laundering Act, 2002. His bail application was rejected by the High Court on 23-6-2023 [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907].

In the pleadings before this Court, it was mentioned that the High Court had committed gross error in not considering the charge-sheet dated 8-6-2023 and the cognizance order dated 16-6-2023, which clearly suggested that there was an error apparent on the fact of it. The fact which was available on record was

that an order in the bail application was reserved by the High Court on 17-4-2023 [Saumya Chaurasia v. Enforcement Directorate, 2023 SCC OnLine Chh 5838] and pronounced on 23-6-2023 [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907]. Having some suspicion, this Court directed the appellant to file an affidavit to clarify the aforesaid position.

There was no specific reply given to the aforesaid query to the Court. Rather vague statements were made. Considering the facts available, this Court observed that there was a bold attempt by and on behalf of the appellant therein to misrepresent the facts for challenging the order [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] impugned therein, regarding the conduct of the parties and the counsel, this Court made the following observations : (Saumya Chaurasia v. Enforcement Directorate, (2024) 6 SCC 401 : 2023 SCC OnLine SC 1674 : 2023 INSC 1073] , SCC para 13)

"13. It cannot be gainsaid that every party approaching the court seeking justice is expected to make full and correct disclosure of material facts and that every advocate being an officer of the court, though appearing for a particular party, is expected to assist the court fairly in carrying out its function to administer the justice. It hardly needs to be emphasised that a very high standard of professionalism and legal acumen is expected from the advocates particularly designated senior advocates appearing in the highest court of the country so that their professionalism may be followed and emulated by the advocates practising in the High Courts and the District Courts. Though it is true that the advocates would settle the pleadings and argue in the courts on instructions given by their clients, however their duty to diligently verify the facts from the record of the case, using their legal acumen for which they are engaged, cannot be obliviated."

(emphasis supplied)

Finally, this Court dismissed the appeal with costs of Rs 1,00,000.

8. In Pradip Sahu v. State of Assam [(2024) 4 SCC 448] the accused who was found to be guilty of concealing material facts from the court and against him the High Court [Gauhati High Court] had directed [Pradip Sahu v. State of Assam, 2021 SCC OnLine Gau 2835] for taking appropriate legal action, had challenged the order passed by the High Court before this Court. In the aforesaid case, first bail application filed by the appellant there was dismissed [Pradip Sahu v. State of Assam, 2021 SCC OnLine Gau 2832] by the High Court [On 11-11-2021], thereafter he moved a second bail application before the High Court in which notice was issued on 30-11-2021 [Pradip Sahu v. State of Assam, 2021 SCC OnLine Gau 2833].

During the pendency of the aforesaid application before the High Court, the appellant therein moved a fresh bail application before the trial court on 1-12-2021, which was granted on the same day. The aforesaid facts came to the notice of the High Court on 8-12-2021 [Pradip Sahu v. State of Assam, 2021 SCC OnLine Gau 2834] when a report of the Registrar (Judicial) was received, who was directed to conduct the enquiry in the matter.

However, on an apology tendered by the appellant therein and also considering the facts as stated that he belonged to Tea Tribe community and his brother, a cycle mechanic, who was also pursuing the case, did not appreciate the intricacy of the law. As a result of which, the mistake occurred. This Court, having regard to the unqualified apology tendered by the appellant therein, had set aside the order passed by the High Court to file FIR/complaint against the appellant therein.

9. May be in the facts of Pradip Sahu case [2021 SCC OnLine Gau 2834], this Court had accepted unconditional apology tendered by the appellant therein and in the given fact situation accepted his apology but it is established that there is a consistent effort by the litigants to misrepresent the Court wherever they can.

22. In our opinion, to avoid any confusion in future it would be appropriate to mandatorily mention in the application(s) filed for grant of bail:

22.1. Details and copies of order(s) passed in the earlier bail application(s) filed by the petitioner which have been already decided.

22.2. Details of any bail application(s) filed by the petitioner, which is pending either in any court, below the court in question or the higher court, and if none is pending, a clear statement to that effect has to be made.

22.2.1. This Court has already directed vide order passed in Pradhani Jani case [(2024) 4 SCC 451] that all bail applications filed by the different accused in the same FIR should be listed before the same Judge except in cases where the Judge has superannuated or has been transferred or otherwise incapacitated to hear the matter. The system needs to be followed meticulously to avoid any discrepancies in the orders.

22.2.2. In case it is mentioned on the top of the bail application or any other place which is clearly visible, that the application for bail is either first, second or third and so on, so that it is convenient for the court to appreciate the arguments in that light. If this fact is mentioned in the order, it will enable the next higher court to appreciate the arguments in that light.

22.3. The Registry of the court should also annex a report generated from the system about decided or pending bail application(s) in the crime case in question. The same system needs to be followed even in the case of private complaints as all cases filed in the trial courts are assigned specific numbers (CNR No.), even if no FIR number is there.

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

23. Our suggestions are with a view to streamline the proceedings and avoid anomalies with reference to the bail applications being filed in the cases pending trial and even for suspension of sentence."

(Emphasis Supplied)

45. In Munnesh v. State of Uttar Pradesh15, this Court noticed the absence of even basic factual particulars in bail pleadings resulting in avoidable adjournments and unnecessary wastage of judicial time.

46. Further, a three-Judge Bench of this Court in Kaushal Singh v. State of Rajashtan16, recommended that all High Courts consider incorporating specific rules mandating disclosure of criminal antecedents and involvement in other criminal cases at the bail stage. The Court observed that such disclosure requirements would ensure informed adjudication and prevent abuse of judicial process, and accordingly directed circulation of the judgment to the Registrars General of all High Courts for appropriate consideration. The relevant paragraphs read thus:

"22. Before parting, we would like to state that, accounting for the criminal antecedents of the accused while considering the bail applications has been the subject matter of concern for Courts across the country. The rules and orders of the Punjab and Haryana High Court, to be specific, Rule 5 of Chapter 1-A(b) Volume-V specifically provide as below:

"5. Bail applications. - In every application for bail presented to the High Court the petitioner shall state whether similar application has or has not been made to the Supreme Court, and if made shall state the result thereof. The petitioner/applicant shall also mention whether he/she is/was involved in any other criminal case or not. If yes, particulars and decisions thereof. An application which does not contain this information shall be placed before the bench with the necessary information."

23. We feel that every High Court in the country should consider incorporating a similar provision in the respective High Court Rules and/or Criminal Side Rules as it would impose an obligation on the accused to make disclosures regarding his/her involvement in any other criminal case(s) previously registered.

24. It is, therefore, provided that a copy of this order shall be communicated to the Registrar Generals of all the High Courts so that incorporation of a similar Rule in the respective Rules can be considered, if such provision does not exist from earlier."

(Emphasis Supplied)

47. As repeatedly observed by this Court, bail applications are examined at multiple stages - from the trial Court to the High Court and ultimately this Court - where courts are often constrained to take a prima facie view on incomplete or selectively presented records. Non-disclosure of material aspects such as criminal antecedents, prior bail rejections, duration of custody, compliance with constitutional and statutory safeguards, and the progress of trial may result in the unwarranted grant of bail, or conversely, the prolonged incarceration of accused persons despite substantial custody having already been undergone.

48. Thus, this Court is of the view that every petitioner or applicant seeking bail, at any stage of proceedings, is under an obligation to disclose all material particulars, including criminal antecedents and the existence of any coercive processes such as issuance of non-bailable warrants, declaration as a proclaimed offender, or similar proceedings, duly supported by an affidavit, so as to promote uniformity, transparency and integrity in bail adjudication.

49. Additionally, in the interest of justice, the following illustrative disclosure framework is provided, which is purely recommendatory in nature, evolved in continuation of, and consonance with the principles laid down by this Court concerning full and candid disclosure in bail proceedings. The framework is intended to act as a facilitative guide, leaving it open to the concerned courts to adopt, adapt, or refine the same in accordance with their procedural framework and the exigencies of individual cases.

(A) CASE DETAILS

- FIR Number & Date
- Police Station, District and State
- Sections invoked
- Maximum punishment prescribed

(B) CUSTODY & PROCEDURAL COMPLIANCE

- Date of Arrest
- Total period of custody undergone

(C) STATUS OF TRIAL

- Stage of proceedings (Investigation / Chargesheet / Cognizance / Framing of charges / Trial)
- Total number of witnesses cited in the chargesheet
- Number of prosecution witnesses examined

(D) CRIMINAL ANTECEDENTS

- FIR No. & Police Station
- Sections
- Status (Pending / Acquitted/ Convicted)

(E) PREVIOUS BAIL APPLICATIONS

- Court
- Case No.
- Outcome of case

(F) COERCIVE PROCESSES

- Whether any Non-Bailable Warrant was issued
- Whether declared a proclaimed offender

50. The Registrar (Judicial) of this Court is directed to circulate a copy of this judgment to the Registrar Generals of all the High Courts. The High Courts may examine the feasibility of issuing appropriate administrative directions or incorporating suitable provisions in their respective Rules, consistent with their rule-making powers. A copy of this judgment shall also be circulated to the District Judiciary for guidance.

CONCLUSION

51. Accordingly, the impugned judgment dated 09.04.2025 passed by the High Court is set aside. The bail granted to Respondent No. 2 is cancelled. Respondent No. 2 is directed to surrender before the jurisdictional Court within a period of two weeks from today. In the event of failure to do so, the trial Court shall take appropriate steps in accordance with law to secure his custody. It is clarified that the trial Court shall proceed with the trial independently and conclude the proceedings expeditiously in accordance with law.

52. With the aforesaid observations, suggestions and directions, this criminal appeal is allowed.

53. Pending application(s), if any, shall stand disposed of.

.....J. [Ahsanuddin Amanullah]

.....J. [R. Mahadevan]

New Delhi;

February 11, 2026.

1 Hereinafter referred to as "the High Court"

2 For short, "IPC"

3 2025 SCC OnLine SC 1702

4 2025 SCC OnLine SC 2580

5 (2024) 10 SCC 753

6 2025 SCC OnLine SC 2732

7 (2012) 9 SCC 446

8 (2016) 15 SCC 422

9 (2022) 4 SCC 497

10 (2011) 13 SCC 337

11 (2013) 12 SCC 480

12 (2023) 6 SCC 144

13 WP(C) No. 1319 of 2023

14 (2024) 4 SCC 432

15 2025 SCC OnLine SC 1319

16 2025 SCC OnLine SC 1473

IN THE SUPREME COURT OF INDIA

Balmukund Singh Gautam
Vs.
State of Madhya Pradesh and Anr.

[Criminal Appeal No._____ of 2026
arising out of SLP (Criminal) No. 15349 of 2024]

Head Note – The ground raised by the absconder/ accused that other co-accused in the FIR have been acquitted by the trial Court does not ipso facto entitle him to the relief of anticipatory bail on the ground of parity, particularly when the accused himself failed to cooperate with the Court and delayed the trial of the other co-accused by absconding.

Absconder is entitled to anticipatory bail in exceptional cases where prima facie no case is made out

Though an absconder is not entitled to the relief of anticipatory bail as a general rule, however, in certain exceptional cases, where on a perusal of the FIR, case diary and other relevant materials on record, the Court is of the prima facie opinion that no case is made out against the absconding accused, then the power of granting anticipatory bail may be exercised in favour of the absconding accused.

JUDGMENT

Vijay Bishnoi, J.

1. Leave granted.

2. Since the issues involved in both the captioned appeals are the same, those were taken up for hearing analogously and are being disposed of by this common order.

3. So far as the Appeal arising out of S.L.P. (Crl) No. 12110/2025 is concerned, the same has been filed by one MD Imran @ D.C. Guddu.

4. The appeal filed by Imran @ D.C. Guddu arises from the order passed by the High Court of Jharkhand at Ranchi dated 08.04.2025 in BA No.2758/2025 by which the bail application filed by the appellant in connection with Daily Market Police Station Case No. 46 of 2018, arising out of S.T. No. 100239 of 2019 registered for the offence punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code (for short "IPC") respectively and Sections 25(1-B)A/26/27/35 of the Arms Act respectively came to be rejected.

5. It appears from the materials on record that the appellant herein viz. MD Imran @ D.C. Guddu was one of the accused persons named in the FIR lodged by the father of the deceased.

6. The FIR was registered against in all nine accused persons. At the end of the investigation chargesheet came to be filed only against three accused persons, whereas the closure report was filed so far as the other six co-accused are concerned. In the course of the trial, the eye-witnesses to the incident who are all family members of the deceased deposed as regards the involvement of all the nine accused persons originally named in the FIR.

7. The depositions of the eyewitnesses were recorded sometime in 2020 and 2021 respectively. In the year 2022 the first informant preferred an application under Section 319 of the Cr.P.C., before the trial court with a prayer that the other six co-accused who came to be dropped by the police should be added and summoned as accused to face the trial. Such application was filed on the strength of the oral evidence of the eye-witnesses which came on record.

8. The application filed by the first informant was looked into by the trial court and ultimately the same came to be partly allowed. Out of the six accused who were dropped, the trial court thought fit to summon three accused persons. So far as the other three are concerned, the trial court did not deem fit to add them in exercise of its powers under Section 319 of the Cr.P.C.

9. It is not in dispute that the original order passed by the trial court under Section 319 of the Cr.P.C. never came to be challenged. It attained finality. The appellant herein MD Imran @ D.C. Guddu came to be arrested pursuant to a nonbailable warrant issued against him. In so far as the respondents in the connected matters are concerned, before they could be arrested, they went before the High Court and prayed for anticipatory bail. The High Court granted them anticipatory bail.

10. In such circumstances referred to above, we have two appeals before us one filed by the accused MD Imran @ D.C. Guddu who came to be arrested and is in judicial custody and the connected appeal has been filed by the State of Jharkhand being aggrieved by the order passed by the High Court releasing the other two co-accused on anticipatory bail.

11. Since the three accused have now been summoned, the trial against them will have to proceed afresh. We are informed that charges have been framed.

12. We heard Mr. Samant Singh, Mr. Rakesh Kumar Singh & Mr. Ganesh Khanna, the learned counsel appearing for the respective accused persons and Ms. Pragya Baghel, the learned counsel appearing for the State of Jharkhand.

13. We looked into the matter threadbare. We also looked into the oral evidence of the eyewitnesses on the strength of which the three accused have now been summoned to face the trial for the offence of murder.

14. When a person is added as an accused under Section 319 Cr.P.C. and that person is ultimately arrested and prays for bail, the relevant consideration at the end of the court while considering his plea for bail should be the strong and cogent evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted would lead to conviction.

The Court should weigh factors like the nature of the offence, the quality of the evidence against the new accused and the likelihood of the person absconding or tampering with evidence. In other words, the court must be satisfied that there is strong and cogent evidence of the person's complicity at the threshold i.e. much higher than that required for framing charges against the original accused.

15. The other two co-accused namely MD Samsher and MD Arshad respectively are already on anticipatory bail since 02.07.2025. We are informed that they have been appearing before the trial court on all dates.

16. Since the matter is at large before the trial court, we need not observe anything further.

17. It is ordered that MD Imran @ D.C. Guddu shall be released on bail subject to terms and conditions that the trial court may deem fit to impose.

18. So far as the other two accused are concerned, they are already on anticipatory bail. No case is made out by the State for cancellation of anticipatory bail.

19. In the result, the appeal filed by MD Imran @ D.C Guddu stands allowed and the appeal filed by the State of Jharkhand stands dismissed.

20. We make it clear that all the three accused shall regularly appear before the trial court and cooperate in expeditious disposal of the trial.

21. We further make it clear that the observations in this order are only for the purpose of deciding the bail application of MD Imran @ D.C. Guddu as well as for consideration of the State appeal against the order granting anticipatory bail to Md. Shamsher Alam and Md. Arshad. The trial court will proceed in accordance with law and the trial court will not be influenced by the observations in this order.

22. Pending Application(s) if any shall stand disposed of.

.....J. [J B Pardiwala]

.....J. [K.V. Viswanathan]

New Delhi;

January 07, 2026.

IN THE SUPREME COURT OF INDIA

Rohit Jangde
Vs.
State of Chhattisgarh

[Criminal Appeal No. 689 of 2026
@ SLP (Crl.) No. 5624 of 2024]

Head Note - Section 27 Evidence Act clearly speaks of information received from a person accused of any offence while in the custody of the police leading to a discovery of a fact being enabled of proof in the trial. Court ruled that "custody" need not mean formal arrest and could include surveillance or restraint.

JUDGMENT

K. Vinod Chandran, J.

1. Leave granted.

2. A botched investigation leaves many questions unanswered and in the present case, the murder of a sixyear- old girl went unpunished and her stepfather was incarcerated on mere conjectures. The impugned judgment of the High Court affirmed the conviction and sentence of the accused, the stepfather, on three circumstances. One, the last seen together theory propounded through a neighbour. Then, the ashes and the bony remnants from the charred remains of the child, having been recovered on the information supplied by the accused.

And last, the skull and teeth recovered from a canal having tallied with the sample DNA profile of the biological parents of the girl child, establishing death unequivocally. The High Court also emphasized the aspect of no explanation having been offered by the accused regarding his knowledge of the location from which the bony remnants of the deceased were recovered; an incriminating circumstance under Section 106 of the Indian Evidence Act, 1872. Whether these factors would form a complete chain of circumstances leading only to the hypothesis of the guilt of the accused without leaving room for any other hypothesis, is the question arising herein.

3. We have heard Dr. Rajesh Pandey, learned Senior Counsel appearing for the accused and Ms. Ankita Sharma, Advocate-on-Record, appearing for the State. We cannot but appreciate the Government Advocate for undertaking the

exercise of preparing, for our perusal, a paper-book containing the entire records, both the vernacular and the translation.

The hearing on the earlier occasion also raised serious questions as to the custody of the accused, prior to the arrest in the present crime, which persuaded us to pass an order on 14.11.2025, directing the State to produce proof, if any, of the accused having been taken into custody and imprisoned between 05.10.2025 to 10.10.2025. An additional affidavit dated 08.12.2025, filed by the State in compliance of our order, producing an arrest/Court surrender memo adds to the confusion, making the truth regarding the crime, further elusive.

4. On facts suffice it to notice that the accused was living with his two wives and three children. One of the children was born to the accused from his first wife and the two children of his second wife (PW7) were from her previous marriage with PW17. On 05.10.2018, a quarrel broke out between the accused and PW7, in which PW7 was physically assaulted. This prompted her to leave her marital home and proceed to the home of her parents. PW7 was admitted to a hospital and on her request, her mother PW2 went to her daughter's marital home to pick up the grandchildren.

She was, however, informed by the first wife of the accused that the accused had taken the younger child. There was no attempt to find out the missing child and a missing complaint was registered on 11.10.2018 at 13.20 hrs at Sahaspur Lohara Police Station in District Kabirdhan. Later, allegedly on the confession statement of the accused under Section 27 of the Evidence Act, on 13.10.2018, the accused is said to have led the police party to a field from where some burnt bones and ashes were recovered and from a nearby canal a skull and some bones, covered in a green saree were recovered.

5. PW1, the doctor before whom the bone remnants were produced, suggested a chemical examination of the remains, which was carried out under the supervision of PW18, the Senior Scientific Officer. The FSL report marked as Annexure P21A indicated that the DNA profile of the sample taken from PW7 and PW17, the biological parents of the deceased child, matched with the DNA profiles of the vertebrae and teeth recovered from the canal; the skull having not matched, on analysis. PW8, a neighbor of the accused was also examined to show that the accused had taken the child from the house on a motor bike allegedly establishing the last seen together theory. Thus, the circumstances, of the recovery made, the last seen together theory projected and the matching of the DNA profiles, led to the conviction of the accused.

6. Learned Senior Counsel for the accused on the previous hearing date specifically argued that on 05.10.2018, alleging an assault on PW7 an FIR was

registered which led to the arrest of the accused on 05.10.2018 itself, after which he was released from judicial custody only on 08.10.2018. We have looked at the additional affidavit filed, which indicates that the accused was arrested on 06.10.2018 and remanded to judicial custody by the Sub-Divisional Magistrate; the accused having been released from the District Jail, Kabirdham on 08.10.2018 as per the bail order of the Sub-Divisional Magistrate. Having gone through Annexure 2, the Arrest/Court Surrender Memo produced along with the affidavit, we have serious doubts on when the arrest occurred.

There is clear interpolation in the date and though at column No. 8, of the FIR, the arrest is shown to have been carried out on 06.10.2018 at 13.40 hrs, in Column No.2 the date and time have been changed from 05.10.2018 and 12.40 to 06 or 08.10.2018 and 13.40. The interpolation on the date is very clear from the documents produced which raises a reasonable doubt as to the arrest of the accused, which could have been at 12.40 hrs on 05.10.2018, seriously hampering the last seen theory as projected by the prosecution. Be that as it may, we will first examine the evidence led at the trial keeping in mind the principle that every faulty investigation will not inure to the benefit of the accused unless serious prejudice is caused thereby and the evidence led is not sufficient to arrive at a finding of guilt, unequivocally.

7. PW2, mother-in-law of the accused spoke about the quarrel between her daughter and the accused and her daughter's admission to the hospital for treatment. She also deposed that she had gone to the house of the accused along with the police, to fetch the grandchildren, when the first wife of the accused informed her that the accused had taken away the second child. Pertinently we have to observe that in chief-examination there is no date mentioned and the whereabouts of the first child of her daughter, who also was staying along with the accused, has not at all been disclosed. PW10, the husband of PW2, who accompanied her to the house of the accused fully corroborated the version of PW2 but again without any date mentioned and also the whereabouts of the first child.

8. In any event, even going by the version of the State, the accused was arrested on 06.10.2018 and released only on 08.10.2018. This has been fully corroborated by PW15, the I.O who spoke of the arrest of the accused on 06.10.2018, his remand and later release on 08.10.2018. The last seen theory as projected through PW8 indicates that the child was taken away by the accused, in which circumstance, the crime ought to have occurred on 05.10.2018 or before the arrest of the accused on 06.10.2018.

Despite the child having not been found, PW2, PW7 and PW10 did not register any case of missing, and an FIR was first registered on 11.10.2018, when PW7 along with the accused came to the Police Station and registered an FIR

regarding the missing child. This assumes relevance especially since the incident of assault was reported to the police, who accompanied PW2 to the house of the accused on the same day, when they were told that the child went with the accused.

9. The accused having been arrested, even accepting the version of the Police, on 06.10.2018, it is strange that no enquiries were made about the missing child. Further the missing complaint is said to have been registered much later on 11.10.2018. The First Information Statement (FIS) by the Sub-Inspector of Sahaspur Lohara Police Station is on information supplied by PW2 who was accompanied by her husband. The oral report spoken of in the FIS was that the six-year-old child went missing at 09.00 P.M. on 06.10.2018, obviously after the accused was arrested.

These aspects as borne out from the records puts to peril the prosecution story of the last seen together theory as projected through PW8. PW8 a neighbor of the accused also deposed before Court that she volunteered this information to the Police, seven days after 05.10.2018; when already the said aspect was known to the mother and grandparents of the deceased child as also the Police, by virtue of the information supplied by the first wife of the accused on 05.10.2018 itself. The last seen together theory hence fails miserably.

10. Now we come to the recovery allegedly made under Section 27, which is also fraught with inconsistencies as we would presently indicate. The memorandum under Section 27 of the Evidence Act produced as Ex. P4 indicates the same having been drawn up on 13.10.2018 at 10.30 A.M. The only admissible portion in the said memorandum is:

'I will show you the place where her bones and ashes are and the place where her skull and bones were..'(sic). The police were led by the accused first to a field from where bones with ashes were recovered at 10.55 A.M evidenced by Property Seizure Memo Ex.P5. The canal was searched by three fishermen PW 3 to PW 5 who recovered the skull with 8 numbers of tooth of the upper jaw and a piece of bone wrapped in a green color saree, all of which showed evidence of burning as indicated in Ex.P3 Property Seizure Memo at 13.00 on 13.10.2018.

Though the recoveries as per Exts. P3 & P5 Memos were made, in accordance with the confession statement of the accused, Ext. P4 at 10.30 on 13.10.2018, the Arrest/Court Surrender Memo produced at Ex.P27, indicates the arrest of the accused having been made on 13.10.2018 at 22.00 hrs. Section 27 of the Evidence Act clearly speaks of information received from a person accused of any offence while in the custody of the police leading to a discovery of a fact being enabled of proof in the trial. The accused at the time of the statement was

not in the custody of the police and hence it is removed from the ambit of Section 27.

11. Section 27, as has been held in Jaffar Hussain Dastagir v. State of Maharashtra1, is in effect a proviso to Section 26 which makes admissible so much of the statement of the accused deposed to by him, leading to the discovery of the fact deposed and connected with the crime, irrespective of the question whether it is confessional or otherwise. The essential ingredient of the provision is that the information given by the accused must lead to the discovery of a fact which is the direct outcome of such information. Secondly only such portion of the information given as is distinctly connected with the said recovery is admissible against the accused. Thirdly, the discovery of the fact must relate to the commission of the offence alleged.

12. A similar situation, as in this case arose before the Calcutta High Court in Durlav Namasudra v. Emperor2 wherein the information which led to the discovery of the dead body had been given by the accused before they were taken into custody. It was held that Section 27 controls Section 24 to 26 and the first thing that is to be ascertained before its application is whether the information came from a person who was in the custody of the police.

It was held that if information came from a person who was not in the custody of the police, then it cannot be brought under Section 27. The Chief Justice passed a concurring judgment but expressed anguish insofar as Section 27 permitted reliance on a statement made to the police which leads to the discovery of a fact, only when the person who gave the information is in custody, which was also observed to be absurd in terms. However, it was also held that till the legislature takes the matter in hand and redrafts the provision, the paradox expressed would continue to be law.

13. The position is somewhat clarified in Dharam Deo Yadav v. State of Uttar Pradesh3, which dealt with the murder of a foreign national by a tourist guide. The I.O having received information that the guide was arriving by a train rushed to the railway station and intercepted him in the platform. On interrogation it was confessed by the accused that he had murdered the victim and the dead body was buried in his house. The I.O thus was led to the house of the accused from where the accused dug up the skeleton which later was proved to be of the victim. It was held that the expression 'custody' appearing in Section 27 does not mean formal custody and includes any kind of surveillance, restriction or restraint by the police.

It was held, relying on State of A.P. v. Gangula Satya Murthy4 that even if there is no formal arrest made, if a person is within the ken of surveillance of the police, during which his movements are restricted, then it can be regarded

as custodial surveillance. It was also held by this Court that even if the recovery of the skeleton was not in terms of Section 27, on the premise that the accused was not in the custody of the police while the statement was made, it would be admissible as 'conduct under Section 8 of the Act'. In that case there was absolutely no explanation by the accused for the skeleton found buried in his own house.

14. In the present case, the FIR was registered on 11.10.2018 at 13.20 hours and the so-called Section 27 statement was recorded at 10.30 on 13.10.2018, after which the recoveries were made and the arrest carried out later in the night of the 13th. There is nothing indicated to show that the accused, who had accompanied his wife to register the missing complaint was even suspected of being responsible for the missing of the child. In any event, this does not pose any difficulty insofar as the deposition of the I.O, PW 15; that he was led to the field and the canal from where the recovery was made, subsequent to which the person was arrested, though not admissible under Section 27, all the same can be brought under Section 8 of the Evidence Act.

15. Apposite also would be a reference to Ramkishan Mithanlal Sharma v. State of Bombay5. The charge therein was of commission of dacoity using deadly weapons. The I.O deposed before Court that on information supplied by the first accused, he reached the location where he asked one Bali Ram to dig out a tin box from the mud floor of a house pointed out by the first accused leading to recovery of three revolvers and live cartridges. Since the I.O did not depose on the specific information passed on by the first accused, it was held that the operation of Section 27 though not attracted, prima facie there was nothing to prevent that evidence being admitted against the first accused. We extract herewith paragraph 33 of the cited decision:

"33. The evidence of the police officer would no doubt go to show that the accused knew of the existence of the fact discovered in consequence of information given by him. But that would not necessarily show his direct connection with the offence. It would merely be a link in the chain of evidence which taken along with other pieces of evidence might go to establish his connection therewith. This circumstance would therefore be quite innocuous, and evidence could certainly be given of that circumstance without attracting the operation of Section 27."

[underlining by us for emphasis]

Hence, we are persuaded to accept the recovery of the bone remnants having been made at the instance of the accused, though at the time of his statement, he was not in police custody, which could only be a link under Section 8 of the

Evidence Act, in the chain of circumstances; but his connection with the crime still has to be proved otherwise.

16. The next circumstance projected by the prosecution is the matching of the DNA profiles of the bone remnants with the DNA profiles of the biological parents of the deceased child. We have to specifically notice that the DNA profiles matched only with the piece of vertebrae and the teeth recovered from the canal, while the skull and those recovered from the field, where the body is said to have been burnt, did not match with the samples taken from the parents. In this context, we also have to notice that the bones recovered were wrapped in a green saree of PW7, which was not attempted to be identified as belonging to her, by confronting the same to the witness, while she was in the box.

17. The learned Senior Counsel for the accused also argued that the matching of the DNA samples was not put to the accused in the Section 313 questioning. PW18 was the Scientific Officer who spoke of the samples having matched with the DNA profiles of the bone and teeth remnants taken from the canal. Question No. 157 specifically was with respect to the blood samples of the mother and father of the deceased having been marked as C1 and C2. Question No. 158 spoke of Ex.A (specifically A-02) and Ex.B DNA profiles and that the alleles were found matching with the DNA profile of Ex.C. Question No. 159 specifically informed the accused of the vertebrae having been marked as A2 and subjected to DNA testing. We are of the opinion that question numbers 157 to 159 informed the accused about the matching of the DNA profiles which was responded to by a bland denial.

18. As of now, we are faced with only two circumstances, the knowledge of the accused regarding the place from which the bone remnants of the child were recovered and the matching of some of it with the DNA profiles of the biological parents of the child. What has been established beyond doubt is only the death of the child whose vertebrae and teeth, recovered from a canal, matched with the DNA profiles obtained from the sample taken from the biological parents.

The knowledge of the accused, which led to the detection of the bone remnants though not acceptable under Section 27 would all the same be acceptable evidence under Section 8, which by itself is a weak piece of evidence. The evidence under Section 8 can only offer corroboration and cannot by itself result in a conviction. The suspicion regarding the earlier arrest and incarceration of the accused also would pose serious difficulty in finding a hypothesis of guilt beyond all reasonable doubt.

The long gap when there was no complaint made about the missing child and the factum of none having questioned the accused, despite the family and

police having been told that she went with the accused tilts the scales in favour of the accused; especially since he was released on 08.10.2018, two days before the FIR was lodged. Pertinent also is that since the corpus delicti was not recovered, there is no time of death specified. We are hence unable to uphold the conviction of the accused, and he has to be necessarily given the benefit of doubt.

19. The Appeal is allowed. The order of the Trial Court convicting the accused and that of the High Court affirming the same are set aside. The accused shall be released forthwith, if not wanted in any other case.

20. Before we leave the matter, we cannot but record our appreciation for the meticulous preparation of the learned Government Advocate who, with astute vigor addressed arguments despite the major pitfalls in investigation. We cannot but observe that if the investigation had been half as good as the preparation of the State Counsel, the shroud of mystery over the poor child's disappearance and death, could have been unravelled. We also appreciate the efforts put in by the learned Senior Counsel for the appellant, in probing the State to effectively bring forth the inept handling of the investigation.

21. Pending applications, if any, shall stand disposed of.

.....J. (Sanjay Kumar)

.....J. (K. Vinod Chandran)

New Delhi;

February 17, 2026.

1 (1969) 2 SCC 872

2 1931 SCC Online Cal 146

3 (2014) 5 SCC 509

4 (1997) 1 SCC 272

5 (1954) 2 SCC 516

IN THE SUPREME COURT OF INDIA

Gudipalli Siddhartha Reddy
Vs.
State C.B.I.

[Criminal Appeal No. 457 of 2012]
[Criminal Appeal Nos. 894-895/2012]

Head Note – A surviving partner in a suicide pact can be held guilty of abetment of suicide, ruling that mutual commitment to die together provides the psychological impetus necessary to attract liability under Sections 306 and 107 IPC.

Abetment under Section 107 IPC is not confined to physically supplying the means of suicide. Participation in a suicide pact, it said, involves "mutual encouragement and reciprocal commitment to die together," and the survivor's presence acts as a direct catalyst for the deceased's actions.

In a suicide pact, each participant's resolve is reinforced by the other's commitment. Withdrawal by one may deter the other, making the act conditional upon mutual participation

JUDGMENT

Manmohan, J.

1. The present appeals have been filed challenging the common judgment and order dated 28th December 2011 passed by the High Court of Andhra Pradesh in Criminal Appeal No. 405 of 2004 and Criminal Revision Case No. 2055 of 2004, whereby the criminal appeal filed by the Appellant-Accused and the criminal revision filed by the mother of the deceased were dismissed. By way of the Impugned Judgment, the High Court reduced the sentence for offence punishable under Section 306 IPC to two years but increased the fine to ₹ 50,000/.

2. It is pertinent to mention that the Criminal Appeal and Criminal Revision were filed against the judgment dated 23rd February 2004 in Sessions Case No.88 of 2003, whereby the Appellant-Accused was convicted for offences punishable under Sections 306 and 309 of Indian Penal Code, 1860 ("IPC") and sentenced to rigorous imprisonment for five years and fined ₹ 5,000/- under Section 306 IPC and one year simple imprisonment and fined ₹ 1,000/- under Section 309 IPC.

FACTS

3. The deceased Ms. Pratyusha was an actress, who had acted as a heroine in a number of feature films in South India. The Appellant-Accused was an engineering student. They had known each other close to a decade and wanted to marry each other. Smt. Sarojini Devi (PW-1), mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012 was initially opposed to the marriage but had subsequently agreed to it. However, the parents of the Appellant-Accused were opposed to the marriage and the mother of the Appellant-Accused had even threatened to commit suicide in the event the Appellant-Accused married the deceased.

4. In the morning of 23rd February 2002, the Appellant-Accused informed the deceased of the threat of suicide extended by his mother. At around 5:00 PM, the deceased along with her cousin Ms. Prafulla Sri (PW-2) went to a beauty parlour as the deceased had been engaged for a Kannada feature film and had planned to leave for Bangalore on the morning of 24th February 2002.

5. At the parlour, the deceased asked Ms. Prafulla Sri (PW-2) to call the Appellant-Accused to the parlour. Upon his arrival, PW-2 talked to the Appellant- Accused for a while and when the deceased came out of the parlour, the Appellant-Accused and the deceased started crying and left together in the car of the former.

6. Both the deceased and the Appellant-Accused were thereafter seen together at CARE Hospital, Banjara Hills, Hyderabad ('CARE Hospital) at around 7:30 or 8:00 PM. Both of them had consumed poison and were admitted in the said hospital. The deceased could not survive and passed away the next day, i.e., 24th February 2002. The Appellant-Accused, however, survived and was discharged from the hospital on 09th March 2002.

7. Upon a complaint made by Sarojini Devi (PW-1), FIR No. 144 of 2002 dated 24th February 2002 was registered under Section 174 of the Code of Criminal Procedure ("CrPC") at Panjagutta Police Station, Hyderabad.

8. On 25th February 2002 one Dr. B. Muni Swamy conducted the postmortem examination of the deceased. Even though one Dr. Krupal Singh was the doctor on duty at the mortuary, Dr. B. Muni Swamy, Professor, came to the mortuary on his own and conducted postmortem of the deceased. This is surprising as Dr.B.Muni Swamy was neither on duty at the mortuary nor on call duty as Professor. Further, Dr. Rajgopal Reddy, HOD, Department of Forensic Medicine informed the investigative agency subsequently that Dr. B. Muni Swamy did not intimate or seek permission for conducting the postmortem. The postmortem report dated 25th February 2002 is reproduced hereinbelow:-

"CR No. 144/2002

PME No. 435/2002

25.02.2002 at 12:10 pm

25.02.2002 at 12:15 pm

4347 of Punjagutta P.S.

SCHEDULE OF OBSERVATIONS
A-GENERAL

1	Name	Samala Prathuysha
2	Sex	Female
3	Approximate age (Assessed from the appearance of the body)	20 years
4	Height (Measure length of body)	176 cms
5	Weight	-
6	Physique (state in appropriate terms e.g. well built, normal, weak etc.)	Normal
7	Nutrition (state in appropriate terms e.g. .. normal weak etc)	Normal
8	8 Special identifying features (if body is unidentified, describe all identifying laboures eg color of hair & eyes, scars tattoo marks and their patterns, ...condition caste marks etc.	Identified body
9	Extent of ... postmortem ..illegible	Rigor mortis present all over the body Post-mortem staining present over back of trunk
10		Body supine ..Eyes closed Mouth partly open Blood stain discharge from both nostrils. Body dressed in green printed Punjabi shirt and printed white shalwar. Hair tight with hair band Metal eye rings... Black waist thread with white cloth tawiz.

Injection mark over dorsum of right hand, near base of right thumb with surrounding contusion of 20 ms. Old healed scars over front of both knees. Finger tips and nails - cyanosed.

Injection mark over back of left hand, near base of left thumb.

Neck: Congestion present over the front of neck.

INJURIES: The following ante mortem injuries found on the body:

1. Abrasion over tip of nose 1.5 x 0.25 cms

2. Abrasion, 4 cms below right ear lobule, linear, with interruptions over right side of neck, horizontally placed measuring 4 cm x 0.5 cms.

3. Abrasion, over right side of neck, 5 cms from angle of right mandiable and 5 cm below injury No.2, measuring 1 x 0.25 cms.

4. Abrasion, 1 x 0.5 cm, 2 cms outer to injury No. 3.

5. abrasion 2.5 x 0.25 cms over front of neck 2 cm from mid- line and 8 cms below middle of ramus of mandiable on right side.

6. Abrasion, 0.5 x 0.5 cms, out to injury No. 5

7. abrasion, l x 0.5 cms, over front of neck, 3.5 cm above suprasternal notch and inner end of left clavicle.

8. 3 pin head size, puncture wounds over outer part of front of right fore arm, 2cms above right wrist.

9. Multiple pin head size puncture wounds with surrounding contusion of 2cms over outer part of front of left fore arm, 5cm above left wrist over an area of 3 X 2 cms.

10. Abrasion, 8x4cms over inner end of left breast, 3cms from mid-line, vertical, irregular (multidirections).

11. Abrasion, C-Shaped, extending from middle of outer part of left breast downwards, below left nipple, 14cms (Multiple linear).

12. Injection marks, over both groins with blood stains around external genitilia.

13. On reflection of skin flap over neck, there is contusion over interns smace of right side of neck, lower purt, with contusion of plastysma, corresponding to injury No.5 & 6 and contusion of lower end of sterno-mustoid, right side.

B-Head & Neck

Intact	1) Skull
Congested	2) Drain and meaning
Nothing particular	3) Orbita nasal accessory...
Nothing particular	4) Mouth Toungue and Pharyn
Hyold bone, cricolds rings and thyroid intact	5) N....
Neck : Vide injury column	
C-Chest	
Nothing particulars	1) Rise & chestwall
	2) Diaphragm (...)
	3) ...
	4) ...
	5) T...
	6) ...
Nothing particulars congested	7) Lungs
Heart and	
Abdominal Wall	
Stomach contents (Ligate cadiac and pyiorc ends of sicmach and remove enmassu place in clean tray,	Stomach contains 150ml yellowish brown liquid thick consistency Abnormal odour Mucosa-congested
	Nothing particular
	Nothing particular
	Congested
	Congested
	Congested
	(In case of sudden death from ...of the)
	PERLVIC walls
	URINARY BLADDER AND URETHRA
	GEDHAL ORGAS
Intact	

E Specimen Removal or Chemical...

S. No.	Name of the Specimen	Name & Contain
	Small instine and contents	-do-
	...	do-
	...	do-
	Blood	do-

	...	

... concluded at 1-45 pm on 25.02.2002

Opinion as to the cause of death

Approximate time of death: Hospital death

DFSL Hyderabad

PRESSURE OVER THE NECK, ASPHYXIA DUE TO MANUAL STRANGULATION, HOWEVER VISCERA PRESERVED FOR CHEMICAL ANALYSIS TO DETECT POISON IF ANY, SEMEN COLLECTED FROM VAGINA FOR GROUPING AND DNA FINGER PRINTING TEST.

Gandhi Hospital

25.02.2002

Sd/-
Dr. B. Muni Swamy
Dept. of Forensic Medicine
Gadhi Medical College,
Hyderabad"
(emphasis supplied)

9. It is to be noted here that Dr. B. Muni Swamy made his opinion public by giving an interview on Teja TV on 25th February 2002, even before giving the postmortem report to the SHO on 26th February 2002 and before receiving the AP FSL report on 27th February 2002. In the interview Dr. B. Muni Swamy stated that the deceased died of manual strangulation and that she was gang raped.

10. However, the Andhra Pradesh Forensic Science Laboratory ("AP FSL") report dated 27th February 2002 revealed that organophosphate an insecticide poison was found in the internal organs of the deceased and the stomach wash of both the accused and the deceased. The AP FSL report dated 27th February 2002 is reproduced hereinunder:

"DETAILS OF CASE PROPERTY RECEIVED

Received three sealed bottles and two sealed paper parcels, Paper parcel no. l containing two unsealed plastic containers and paper parcel no. 2 containing one unsealed plastic container.

A bottle labelled as "S. Pratyusha" containing,

l. Piece of stomach and intestine in brownish turbid liquid marked as item no. l. A bottle labelled as: "S. Pratyusha" containing,

2. Piece of liver and kidney in brownish turbid liquid marked as item no. 2, A bottle labelled as "S. Pratyusha" containing,

3. Reddish turbid liquid marked as item no. 3 A paper parcel no. l containing, A plastic container labelled as "Pratyusha" containing

4. Brownish turbid liquid marked as item no. 4. A plastic container labelled as "G. Siddarth Reddy" containing,

5. Whitish turbid liquid marked as item no. 5. A paper parcel no. 2 containing,

6. An empty plastic container labelled as "Nuvacron" marked as item no. 6.

Nature of Examination/Tests conducted:

1. Physical Examination

2. Chemical Tests

REPORT

The above items 1 to 6 are analysed and Organophosphate an insecticide poison is found in all of them.

xxxx xxxx xxxx

Examination of case property in Cr No. 144/2022 of Panjagutta PS-Report furnished-Reg.

Your Lr Cr No 144/ACP-PG/2022, Dt-27.02.2022

OF CASE PROPERTY RECEIVED

Received four sealed paper parcels and two sealed bottles.

A bottle labelled as "Kumari S. Prathyusha" marked as Item no.1 contained,

1. Cotton swab. A bottle labelled as "G. Siddarth Reddy" marked as item no.2 contained,

2. Reddish turbid liquid. A paper parcel contained, a card board box contained,

3. A white colour mill made underwear labeled as Jockey marked as item no.3. A paper parcel contained, a card board box contained,

4. A black colour cotton full sleeved shirt without collar and labeled as "Colour Plus two ply fabric" Men's' Wear "S" marked as item no.4

5. A blue jeans pant labelled as "Levi Strauss & Co." marked as item no.5. A paper parcel contained, a card board box contained,

6. A pair of black colour socks marked as item no.6. A paper parcel contained, a card board box contained,

7. A light green, white and grey colour design cotton kurta with dark brown stains marked as item no.7.

8. A white colour cotton pyjama with light green colour dots marked as item no.8.

Nature of examination:

- Biochemical, Immunological tests and
- Microscopic Examination

REPORT

The above items nos. 1, 3 to 8 are examined. Human blood is detected on item no.7. Blood group of blood stains on item nos. 7 is 'B' group. Blood is not detected on item nos. 3, 4, 5, 6 and 8. Semen and spermatozoa are not detected on item nos., 1, 3 to 8."

(emphasis supplied)

11. Even after the receipt of the AP FSL report dated 27th February 2002, Dr. B. Muni Swamy stuck to his opinion that the death was due to manual strangulation and that sexual assault could not be ruled out.

12. In view of the difference of opinion regarding the cause of death and the public outcry caused due to the sensation created by the interview given by Dr. B. Muni Swamy, the Government of Andhra Pradesh vide G.O.Rt. No. 174 dated 05th March 2002, constituted a three-member Expert Committee

comprising Dr. M. Narayana Reddy (PW-31), Dr. P. Vijaya Kumar and Dr. K. Sathyavathi to conduct an enquiry and submit a report.

13. The three-member Expert Committee gave its findings vide report dated 09th March 2002 stating the following:

"EXPERT COMMITTEE REPORT

Sub: Expert Committee Report regarding the cause of death of Late Miss. Prathyusha- Regarding.

Ref: G.O. Rt. No.174, HM & FW (NI) Dept. Dated. 05-03-2002 to conduct enquiry into the cause of death of Late Miss. Prathyusha.

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The members of the' Expert Committee met on 09-03-2002 in the Department of Forensic Medicine, Osmania General Hospital, Hyderabad, and examined in detail the following documents:

1. Copy or the Inquest Report in Cr.No.144/2002, Dated 25-02-2002 of PS. Pujjagutta.

2. Copy of the P.M.E. Report No.435/2002 Dated 25-02-2022 on the body of the deceased Samala Prathyusha, Aged about 20 Years issued by Dr. B Muniswamy, Professor of Forensic Medicine, Gandhi Medical College, Hyderabad.

3. Copies of the Reports of the A.P. Forensic Science Laboratories, bearing File Nos.TOX/929/2002 Dated 27-02-2002 and SER/202/2002, Dated. 27-02-2002.

4. Photos of the deceased taken at the time of: Postmortem Examination. 5.Copy of the in-patient case sheet of Care Hospital, Hyderabad, in relation to Samala Prathyusha. After careful. examination of the documents, cited, the following facts have been obtained:

1. INQUEST REPORT:

The Inquest Report was conducted in the presence of Smt. S. Sarojini Devi, the mother of the deceased, and others. According to the Inquest Report it is a case of death due to consumption of Organophosphorus Poison.

2. POSTMORTEM REPORT, PHOTOS AND CASE SHEET: The 13 injuries mentioned in the P.M.E. Report were analysed in comparison with the Photos and the Case Sheet.

INJURY NO.1; On the left side of the tip of the nose - noted in the P.M.E. Report as abrasion of 1.5 x 0.25 cms. These could be due to the pressure by the Ryles Tube or the pressure caused due to the application of Plaster to keep the tube in position.

INJURY No:2: Over the lower border of the lower jaw on right side - described in the P.M.E. Report as horizontally placed interrupted abrasion of 4 x 0.05 cms. It could be due to the pressure mark by the application of Plaster to fix the Endotracheal tube in position.

INJURY Nos. 3 & 4: On the right side of the neck - described in the P.M.E. Report as abrasions of 1x0.25 cm and 1x 0.5 cm. respectively. These could be the suture marks made to keep the central venous catheter in position.

INJURY NO: 5: On the front of the lower part of right side of the neckmentioned in the P.M.E. report as abrasion of 2.5x0.25 cm. This could be the pressure mark caused either due to the finger pressure while introducing the catheter into the internal jugular vein, to keep the caroted artery away or the pressure mark caused while applying the Plaster to keep the catheter in position.

INJURY NO.6: By the right side of the injury No.5 - described in the P.M.E. Report as abrasion of 0.5 x 0.5 cm. It could be the entry site of central venous catheter.

INJURY NO.7: Over the inner end of left collar bone - described in the P.M.E. Report as abrasion of 1 x 0.5 cm. These could be the pressure mark due to the application of the Plaster to maintained the central venous catheter in position.

INJURY NO.8: On the front of right wrist - mentioned in the P.M.E. Report as three pin head sized puncture wounds. These could be the puncture marks caused to obtain arterial blood for analysis.

INJURY NO:9: On the front of lower part of left forearm - mentioned in the P.M.E. Report as multiple pin head size puncture wounds. These could be the puncture marks caused to obtained arterial blood for analysis.

INJURY NOs.10 & 11: On the front of left side of the chest - mentioned in the P.ME. Report as abrasions. These could be the superficial burns marks caused by the heated edges of the paddles while giving the D.C. Shocks.

INJURY NO:12: Over the groins - Described in the P.M.E. Report as Injection marks. These could be the marks caused due to introduction of catheters into the femoral arteries.

INJURY NO:13: Internal injury - Described as contusion of the lower end of sterno-mastoid muscle, corresponding to injury Nos. 5 & 6 in the P.M.E. Report.

As per the P.M.E. Report the Stomach contained 150 ml of yellowish brown liquid of thick consistency. Mucosa of the Stomach was congested and abnormal odour was present. Brain, Lungs, Liver, Pancreas, Spleen, Kidneys and Addrenals were congested. Hyoid bone, Cricoid cartilage, and thyroid cartilage were intact. Nothing abnormal was noted in the Genital Organs.

3. REPORTS OF THE FORENSIC SCIENCE LABORATORIES: On Chemical Analysis Organophosphate Poison was found in the Internal Organs. Semen and Spermatozoa were not detected from the Cotton Swabs.

OPINION REGARDING THE CAUSE OF DEATH EXPRESSED IN THE P.M.E. REPORT BY THE DOCTOR WHO CONDUCTED THE P.M. EXAMIATION.

1. Pressure over the Neck, Asphyxia due to manual strangulation.

2. Viscera preserved for Chemical Analysis to detect poison, if any.

3. Semen collected from Vagina for grouping and D.N.A. Finger Printing Test.

VIEW OF THE COMMITTEE ON THE ABOVE OPINION

1. No signs of death due to manual strangulation were noted in the Postmortem Report. On the contrary there is evidence that she was under treatment from 8-00 p.m. of 23-02-2002 to 11-45 P.M. of 24-02-2002, for Organophospate Poisoning.

2. The Postmortem signs such as the congestion of the mucus membrane of the Stomach and the presence of abnormal odour in the contents of the Stomach are consistent with that of death due to "POISONING".

3. In the opinion column it has been stated that the Semen was collected from the Vagina. It is not possible to identify from the naked eye examination whether the fluid collected from the Vagina is Semen or Vaginal secretion. It can be known as the Semen only on the Laboratory Examination.

OPINION OF THE EXPERT COMMITTEE:

1. The cause of death is due to Organophospate Poisoning.

2. There is no evidence of death due to manual Strangulation.

3. There is no evidence of sexual assault prior to her death.

NOTE:
It appears that the Doctor, who conducted the P.M. Examination misinterpreted the therapeutic injuries as the injuries caused by violence. The Doctor should have exercised restraint before expressing the opinion, contrary to the Inquest Report. He should have asked the Police to produce the copy of the hospital treatment case sheet and should have perused it before expressing his opinion.

Medical technology is advancing every day. There should be inter-disciplinary interaction programme to update the knowledge to prevent the difficulties caused by the gap in the knowledge.

Sd/-	Sd/-	Sd/-
(Dr. K. SATHYAVATHI)	(DR. P. VIJAYA KUMAR)	(DR. M. NARAYAN REDDY)
MEMBER	MEMBER	MEMBER /CONVENOR

(emphasis supplied)

Sir, Sub: Opinion of the Expert Committee regarding the death of Late Miss. Prathyusha in Cr. No.144/2002 of PS. Punjagutta-Submitted - Regarding.

Ref: G.O. Rt. No.174, Health, Medical and Family Welfare (N1) Department, Dated. 05-03-2002.

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With reference to the subject cited above the Members of the Expert Committee constituted by the Government through the reference cited above met in the Department of Forensic Medicine, Osmania General Hospital, on 09-03-2002 and examined the relevant documents. The report of the Expert Committee, prepared after perusing the documents including the Photographs of the deceased, taken at the time of Postmortem Examination at the Mortuary of Gandhi General Hospital, Secunderabad, is herewith submitted.

In this case the deceased was admitted with the complaint of consumption of Poison and was treated for Organophosphorus Poisoning in the hospital from 8-00 PM on 23-02-2002 to 11-45 a.m. on 24-02-02, i.e. for 15 hours 45 minutes. At the time of admission she was conscious and coherent. This itself

rules out the cause of death as that of "PRESSURE OVER THE NECK, ASPHYXIA DUE TO MANUAL STRANGULATION".

At the time of Postmortem Examination, the Doctor who conduct the P.M. Examination, did not find any bite marks on the lips, cheeks, neck or breast that are expected to be found in case of sexual assault. He also did not find any scratches caused by the finger nails.

He did not notice any injuries on the genital organs around the genital organs, to indicate that it was a cause of Rape.

He did not note any finding in his report proper (except) in the opinion column) that indicates that she had sexual intercourse prior to her death. He also did not note any signs of Asphyxia in the face, to indicate that it was a case of death due to Manual Strangulation.

Either at the time of admission on 23-02-2002 or at the time of declaring the death on 24-02-2002 or at the time of conduction of the Inquest on 25-02-2002, there was no reason to suspect that it was a case of Rape. When she was under treatment in the hospital, her clothes were removed to facilitate the treatment. The clothes are generally removed in the critical care units by cutting them, as the patient cannot be turned around to remove the clothes when the treatment is on. As there was no indication of Rape, the police did not feel it necessary to collect the clothes for any examination that is helpful in the investigation of the case. There is nothing unusual in the disposal of these torn clothes.

As per the Inquest Report at the time of the conduction of inquest the mother of the deceased and four other persons were present as eye witnesses. The inquest conducted in their presence clearly states that it was a case of death due to Organophosphorus Poisoning.

This is for your information.

Yours sincerely,
Sd/- (DR. M.N. NARAYANA REDDY)
Professor & Head
Dept. of Forensic Medicine,
Osmania Medical College."

14. Due to the interview given by Dr. B. Muni Swamy in a matter pending investigation regarding the cause of death of an actress and finding of sexual assault and the controversy arising therefrom, public interest litigations being Writ Petitions Nos. 4054 and 4329 of 2002 were filed before the High Court of Andhra Pradesh seeking an investigation by the Central Bureau of Investigation ("CBI").

15. Pertinently, Dr. B. Muni Swamy in his affidavit dated 20th March 2002 filed before the High Court wrongly represented that there was swelling of the neck of the deceased and that there were injuries on the back of the thighs even though he had not mentioned these injuries in his postmortem report dated 25th February 2002.

16. The investigation was entrusted by the High Court of Andhra Pradesh to the CBI vide order dated 21st March 2002 passed in Writ Petitions Nos. 4054 and 4329 of 2002.

17. Accordingly, CBI registered an FIR dated 28th March 2002 in Crime No.RC-1/S/2002/CBI/SCB/Chennai for offences punishable under Section 302 IPC.

18. On 26th March 2002, the High Court of Andhra Pradesh directed the Director, Centre for DNA Fingerprinting and Diagnostics ("CDFD") to conduct a DNA test on the basis of swabs collected from APFSL and submit a report to the Court.

19. Accordingly, DNA tests were conducted on the basis of cotton swab collected from AP FSL and the samples submitted by the mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012. Pertinently, the report dated 24th April 2002 revealed that cotton swab contained two fractions of DNA i.e. female fraction and male fraction. The female fraction matched with the DNA of the mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012.

However, to ascertain the source of the male fraction, samples were taken from the Appellant-Accused herein and five other individuals known to the Appellant-Accused. Upon examination, none of the samples which were taken from the Appellant-Accused and five other individuals matched with the male fraction of the DNA found on the cotton swab. The relevant portions of the CDFD reports dated 5th April 2002, 24th April 2002 and 13th May 2002 are reproduced hereinbelow:-

A. Report dated 5th April 2002

"The Hon'ble Registrar
(Judicial),
High Court of Judicature of Andhra Pradesh
At Hyderabad

Sub: Submission of DNA typing report in Cr. No.144/2002 of Panjagutta PS-Regarding.

CDFD File No.1119
DNA typing report No.LS/DNA-FP/2002-1079

DESCRIPTION OF SOURCE RECEIVED/COLLECTED

Name of the material object/ Source / sample	Received on	Exhibit	CPFD No.
Part of cotton swab	26.03.2002	A	4613
Part of pieces presumed to be stomach and intestine	26.03.2002	B	4614
Part of pieces of liver and kidney	26.03.2002	C	4615
Part of reddish turbid liquid (blood)	26.03.2002	D	4616
Blood of Mrs. P. Sarojini Devi Identification card No.1 Collected on	27.03.2002	E	4617

xxxx xxxx xxxx xxxx

RESULT OF EXAMINATION & CONCLUSION

On comparison of the DNA fingerprints of the source of exhibit B (part of pieces of presumed stomach and intestine), exhibit C (part of pieces of liver and kidney) and exhibit D {part of reddish turbid liquid (blood)} with the DNA fingerprint of the source of exhibit E (blood sample of Smt P Sarojini Devi), it is concluded beyond any reasonable doubt that:-

1) the source of exhibit B (part of pieces presumed to be stomach and intestine), is that of biological child of the source of exhibit E (Smt P Sarojini Devi);

2) The sources of exhibit C (part of pieces of liver and kidney) is not that of the of the biological child of the source of exhibit E (Smt P Sarojini Devi);

3) The sources of exhibit D (part of reddish turbid liquid (blood)) is not that of the biological child of the source of exhibit E (Smt P Sarojini Devi);

4) The sources of exhibits C and D i.e. parts of liver, kidney and reddish turbid liquid (blood) is that of one single human individual who is not biologically related to the source of exhibit E i.e., Smt P Sarojini Devi;

The photograph of the results will be submitted along with the report of the source of exhibit A i.e., part of the cotton swab on or before 26.04.2002. The absence of the photograph in this report does not affect the conclusions in any manner.

sd/-
Dr. G.V. Rao,
Examining Scientist"

xxxx xxxx xxxx xxxx

B. Report dated 24th April 2002

The Hon'ble Registrar (Judicial),
High Court of Judicature of Andhra Pradesh at Hyderabad
Hyderabad

Sub: Submission of further DNA typing report in Cr. No.144/2002 of Panjagutta PS-Regarding.

CDFD File No.1119
DNA typing report No.LS/DNA-FP/2002-1079/1
DESCRIPTION OF SOURCE

Name of the source/ sample	Received/ collected on	Exhibit	CPFD No.
Part of cotton swab	26.03.2002	A	4613
Blood sample of Mrs. P. Sarojini Devi Identification card No.1	27.03.2002	E	4617

xxxx xxxx xxxx xxxx

RESULT OF EXAMINATION & CONCLUSION

On comparison of the DNA fingerprints of the source of exhibit A (part of cotton swab) which contained two fractions i.e. female fraction and male fraction, with the DNA fingerprint of the source of exhibit E (blood sample of Mrs P Sarojini Devi), it is concluded beyond reasonable doubt that:-

1) the source of exhibit A (part of cotton swab) contains DNA of a female human individual who is the biological child of the source of exhibit E (Mrs P Sarojini Devi);

2) the male fraction of the source of exhibit A (part of cotton swab) contained DNA of a human male individual;

3) the male fraction of the source of exhibit A (part of cotton swab) is not biologically related to the sources of exhibits B, C and D as mentioned in our earlier report bearing No. LS/DNA-FP/2002-1079 dated 05.04.2002.

sd/-
Dr. G.V. Rao,
Examining Scientist

xxxx xxxx xxxx xxxx

C. Report dated 13th May 2002

The Deputy Superintendent of Police,
CBI/SCB/Chennai
Camp: At Hyderabad
Room No.17Police Officers' Mess
Hyderabad

Sub: Submission of 2nd further DNA typing report in Cr. No.144/2002 of Panjagutta PS- Regarding.

CDFD File No.1119
DNA typing report No.LS/DNA-FP/2002-1079/2

Name of the source/ sample	Received/ collected on	Exhibit	CPFD No.
Part of cotton swab	26.03.2002	A	4613
Mr. Gudipally Siddhartha Reddy Identification form No.2	29.04.2002	G	4683
Mr. Mulamalla Suraj Reddy Identification form No.3	29.04.2002	H	4684
Mr. Komirishetty Bhaskar Identifiction form No.4	29.04.2002	I	4685
Mr. Vishwanatham Nishanth Identification form No.5	29.04.2002	J	4686
Mr. Grandhi Raghav Identification form No.6	29.4.2002	K	4687
Mr. Kalakuntla Ranga Rao Identification form No.7	29.4.2002	L	4688

Sources of exhibits G to L were subjected to DNA isolation and DNA profiles have been prepared to compare with the DNA profile of the source of exhibit A which were prepared earlier.

RESULT OF EXAMINATION

On comparison, the DNA fingerprint for the male fraction of the source of exhibit A (part of cotton swab) does not match with the DNA fingerprints of the sources of exhibits G to L (blood samples of the suspects). Therefore, sources of exhibits G to L (suspects) can be excluded from being responsible for the biological fluid, present on the source of exhibit A (part of cotton swab). The photograph of the results will be submitted later. The absence of the photograph does not affect the results in any manner.

CONCLUSION

The above test (STR analysis) is sufficient to conclude that the sources of exhibits G to L (Mr Gudipally Siddhartha Reddy, Mr Mulamalla Suraj Reddy, Mr Komirishetty Bhaskar, Mr Vishwanatham Nishanth, Mr Grandhi Raghav and Mr Kalakuntla Ranga Rao) are not the sources of the biological fluid present on the source of exhibit A (part of cotton swab).

Sd/-
Dr. G.V. Rao
Examining Scientist"

(emphasis supplied)

20. The CBI vide its letter dated 19th April 2002 (Ex. P-55) sought expert opinion from the Department of Forensic Medicine, All India Institute of Medical Sciences ("AIIMS") New Delhi, inter alia, as to the exact cause of death and the finding of manual strangulation in the postmortem report dated 25th February 2002.

21. Accordingly, a Committee of doctors was constituted by AIIMS which gave its report dated 02nd May 2002. The Committee, inter alia, opined that the cause of death of deceased was Organophosphate poisoning and the external injuries were caused due to therapeutic procedures which were misinterpreted as injuries due to manual strangulation in the postmortem report dated 25th February 2002 prepared by Dr. B. Muni Swamy. The AIIMS Committee of doctors further opined that the substance mentioned in the postmortem report as semen could have been a natural secretion. The relevant portion of the report dated 02nd May 2002 is reproduced hereinbelow:-

"Q1. Exact cause of Death

Ans. After perusal of all the documents and photographs forwarded to us, we are of the considered opinion that the cause of death of the deceased Miss S. Pratyusha was Organophosphorus poisoning.

Q2. Whether all the injuries seen in the photographs relate to the treatment and can be explained by the case records. Whether the type and nature of injuries are recorded correctly in the column of injuries in the PM report.

Ans. On examination of all documents numbered Annexure A - K a co-relation between the clinical notes, record of therapeutic procedures carried out, injuries observed on PM Examination and photographs (numbered 1/23 to 23/23) was prepared to clarify the origin of the injuries, which is as under:-

S. No.	INJURIES NOTED ON PM REPORT NO 434/2002	CLARIFICATION BY CARE HOSP (ANNEXURE-B)	CASE SHEET ENTRY	PHOTO NUMBER/S (ANNEXURE-F)
1	Abrasions over tip of nose (1.5 x 0.25 cms)	Pressure effect of Ryles tube	Case sheet entry 8 PM, 23/2/02.	4/23 & 5/23
2	Abrasion below right ear lobule (4 x 0.5 cms)	Due to Dyno Plaster To secure CVP line	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
3	Abrasion over right side of Neck (1 x .25 cm)	Suture Marks to secure CVP line	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
4	Abrasion 2 cms outer to No3	Suture Marks to secure CVP line	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
5	Abrasion 2.5 x 0.25 over the neck	Mark of Dyno Plast	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
6	Abrasion 0.5 x 5 cms outer to injury 5	Entry of CV Catheter	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
7	Abrasion 1 x 5 cms over front of neck	Mark of Dyno plast	Case sheet entry 1 AM, 24/02/02	5/23, 7/23, 8/23, 9/23, 10/23
8	3 Puncture wounds on right	Needle puncture/IV line catheter	Case sheet entry 11	11/23

	forearm		PM, 23/02/02	
9	Multiple puncture wounds left writ	Attempt arterial line placement	Case sheet entry 1.30 AM, 24/02/02	14/23
10	Abrasion 8 x 4 cms over left breast	DC Shock application	Case sheet entry 10.45-11.30 AM, 24/2/02	19/23, 20/23, 21/23, 22/23
11	C Shaped abrasion 14 cms below Lt. nipple	DC Shock application	Case Sheet entry 10.45-11.30 AM, 24/2/02	19/23, 20/23, 21/23, 22/23
12	Injection marks on both groin	Arterial catheter placement	Case sheet entry 2 AM, 24/02/02	15/23, 16/23, 17/23
13	Contusion over internal surface of neck, contusion of sternomastoid	Secondary to either needle puncture or placement of peripheral IV line	Case sheet entry 1 AM, 24/02/02	23/23

It is observed from the above analysis that the external injuries No 1-13 were the result of therapeutic procedures adopted during management of the deceased and these artefacts were misinterpreted on postmortem examination as injuries due to manual strangulation. The substance mentioned in PM Report in the opinion as semen could have been a natural secretion.

Q3. Whether the treatment given by the hospital was proper.

Ans. According to the Case record No 2207 of Care Hospital the deceased Miss S Pratyusha was diagnosed and managed as a case of Organo-phosphorus poisoning. The management of the patient as evident from the Medical Records made available (Annexure B) was appropriate and along conventional lines and hence may be regarded as proper.

Q4. Whether the observations noted in the PME report are indicative of manual strangulation and whether opinion given in the PME report is based on proper analysis.

Ans. Considering all the documents provided the Observations recorded in PM report no 434/2002 dated 25.2.2002 do not appear to be indicative of manual strangulation. The congestion in the Brain and abdominal organs is also observed in cases of Organophosphorus poisoning. The Opinion given in the PME Report appears to be based on a misinterpretation of injuries produced by therapeutic procedures.

Q.5 Whether there was any sexual assault in this case.

Ans. The PM Report no.434/2022 (Annexure E), APFSL report no. SER/202/2002 dated 27.2.20202 (Annexure-I) and photographs (Annexure-F) do not indicate any evidence of sexual assault in this case.

Q6, As the opinions given in this case by the hospital authorities and the expert committee are in contradiction with the opinion of the doctor who conducted the PM, whose opinion is wrong and whether such a wrong opinion was given by the concerned doctor/doctors by deliberately twisting the facts or was it due to professional negligence or was it a genuine bonafide mistake, which can occur m such a case?

Ans. Usually opinion given by the treating physician is based on the clinical examination, observations and diagnostic tests etc. The Expert committee has formulated its opinion based on the medical records, PM Report, photographs, and AFSL report. The above are consistent with the opinion that the cause of death in this case was Organophosphorus poisoning. The Doctor who has conducted the Post Mortem examination seems to have misinterpreted the findings to conclude that the cause of death was Manual Strangulation. It appears to have been an error of judgement on the part of the Autopsy Surgeon.

Q7. The Doctor who conducted the PM has filed an affidavit in the High Court regarding the injuries. In your opinion, whether the observations by the said Doctor about the injuries are correct?

Ans. The Observations made by the Autopsy Surgeon do not appear to be correct.

Q8. What is the minimum quantity of Organo-phosphorus poison that can cause death?

Ans. The minimum fatal dose of Organo-phosphorus compounds varies depending on the chemical nature of the exact compound. It varies from 25 mg

orally for TEPP to :75 mg for Parathion. Refer Modi's Medical Jurisprudence & Toxicology, twenty second edition page 87(copy enclosed). Monocrotophos in listed among the Highly toxic Organophosphorus compounds. Refer Medical Toxicology- Diagnosis & Treatment of Human Poisoning 1988 Edn, page 1072 (copy enclosed). The fatal dose of Monocrotophos is 120 mg. Refer Pesticide News of Pan -UK page 2 (copy enclosed).

Q9. Time required for reaction to occur after consumption Ans. In cases of Organophosphorus poisoning the symptoms begin in half an hour. Refer Modi's Medical Jurisprudence & Toxicology, twenty second edition page 87 (copy enclosed).

Sd/-	Sd/-	Sd/-
Maj. Abhijit Rudra	Lt. Col. Ravi Rautji	Dr. D N Bhardwaj
Junior Resident	Junior Resident	Associate Professor"

(emphasis supplied)

22. Meanwhile, the internal organs of the deceased, the stomach wash of both the deceased and the Appellant-Accused and a bottle labeled 'Nuvacron' were sent for forensic examination to Central Forensic Science Laboratory ("CFSL"), which gave two reports dated 16th May, 2002 and 20th May, 2002.

23. A perusal of the report dated 16th May 2002 reveals that Monocrotophos, an organo-phosphorous insecticide was detected in the internal organs of the deceased and in the bottle labeled as 'Nuvacron'. However, Monocrotophos an organo-phosphorous insecticide was not found in the stomach wash of the Appellant-Accused and the deceased. In another report dated 20th May 2002 submitted by CFSL, it was stated that no semen could be detected on the portion of cotton swab or the cloth belonging to the deceased. The relevant portion of the reports dated 16th May 2002 and 20th May 2002 are reproduced hereinbelow:-

A. Report dated 16th May 2002

Parcel No.	No. of Seals & Impression	Description
1	3, FSL,, HYD WITH EMBLEM GOVT.OF ANDHRA PRADESH	one sealed card board box wrapped with adhesive tape and labelled containing six items.
	1, -do-	Item No.1: One sealed glass bottle marked as Item 1

		containing Exhibit-1a. Exhibit-1a: Greenish brown colour liquid (Approx.8 ml) having sediments and small piece of tissue (Approx. 2 gms) stated to be "piece of stomach & intestine"
	1, -do-	Item No.2: One sealed glass bottle marked as Item 2 containing Exhibit-1b. Exhibit-1b: Reddish brown colour liquid (Approx.15 ml) and small piece of tissue (Approx.3 gms) stated to be piece of liver and kidney.
	1, -do-	Item No.3: One sealed glass bottle marked as item 3 containing Exhibit-le. Exhibit-le: Dark reddish colour liquid (Approx.18 ml) stated to be reddish turbid liquid{blood).
	1, -do-	Item No.4: One sealed small plastic container marked as item 4 containing Exhibit-1d.

9. Condition of seal(s)/Parcel(s): Intact and tallied with the specimen seal impression

10. Purpose of reference: For Chemical Examination & Report

11. Dates of Examination: 29.4.2002 to 16.5.2002

RESULT OF EXAMINATION / REPORT

With reference of sampling procedure etc. Use separate sheets if necessary.

The exhibits were analysed by Physico-chemical and chromatographic techniques. Based on the observation the results thus obtained are given below.

1. Monocrotophos an organo-phosphorous insecticide has been detected in Exhibit-2.

2. Monocotophos an organo-phosphorous insecticide has been detected in Exhibit 1a, 1b, 1c and 1f.

3. Monocrotophos an organo-phosphorous insecticide could not be detected in Exhibit-1d and 1e.

B. Report dated 20th May 2002

DESCRIPTION OF ARTICLES CONTAINED IN PARCEL (S)

Parcel-I: One sealed cloth parcel marked 'Item No. 1: SER/202/2002' containing exhibit l, kept in an injection vial.

Exhibit-I: One pale yellowish cotton wool described as, "A portion of cotton swab". Parcel-2: One sealed paper parcel marked 'Item No.: SER/202/2002 (B)' containing exhibit 2, kept in a cardboard box.

Exhibit-2: One black colour polyester self design cloth piece attached to a white cloth and cotton piece.

RESULTS OF ANALYSIS

On the basis of biological examination carried out in the laboratory, following results have been obtained:

1. Semen could not be detected on exhibits 1 and 2.

Note: Remnants of the exhibits have been sealed with the seals of GDG PSO (Bio) CFSL, CBI, NEW DELHI .

Sd/-
20.5.2022
(DR. G.D. GUPTA)
Principal Scientific Officer (Biology)-cum-
Assistant Chemical Examiner to the Govt. of India
CFSL, CBI, New Delhi."

(emphasis supplied)

24. During the time the High Court was monitoring the investigation, CBI submitted three status reports. The relevant portion of one of the status reports dated 25th July 2002 filed by CBI is reproduced hereinbelow:-

"During her treatment, she passed urine and motion on the bed and various tubes were placed on her body and so the clothes had to be removed by cutting them. The dirty clothes were later put in the dust bin which was in the room next to the ICCU (Next day the dust bin was cleared into the municipal bin). This has been confirmed by nurses Tushara Jose, Sashi Kumari and Anitha, ayah of Care Hospital. The whole body of Prathyusha including private parts was cleaned by the Ayah. The above cited witnesses clearly indicated that there were no injuries on her body. This was also confirmed by Doctors Kalyanasundaram and Sarat Chandra Thalluri.

During the treatment a urinary catheter smeared with jelly "Xylocaine" was inserted into the urinary tract for passing the urine. The said jelly is colourless

and on drying it becomes white in colour and acts as lubricant and anaesthesia During the treatment, attempts were made to place the catheter and I.V. line on both the wrists (radial artery) and on both sides of the groin (femeral artery) for treatment. Documents further revealed that around 1.00 a.m. on 24.02.2002 the Central Venous Catheter was inserted on the right side of Prathyusha's neck to measure her BP since the peripheral veins had collapsed. To secure this catheter, an incision was made to insert the same and two sutures for holding the catheter in place.

This was done by Dr. Sarat Chandra Thalluri and confirmed by doctors Kalyanasundaram and Lakshmi Kanthaiah. In the early morning of 24.02.02 Prathyusha's condition improved, but suddenly deteriorated at around 10.30 a.m. The Cardio Pulmonary Resuscitation was carried out since a cardiac arrest was suspected. Around 10.45 a.m. three cycles of DC shock was given for reviving her for which two electric pads were placed around the left breast of the patient. This was revealed by Dr. Muralidhar, anaesthetist of Care Hospital but all efforts to revive her failed and at 11.45 a.m. Prathyusha was declared dead. The condition of Siddharth Reddy also deteriorated around 11.00 p.m. on 23.02.02 and he was shifted to the ICCU and put on ventilator.

His condition stabilised only on 03.03.02 and only thereafter his statement was recorded by a Magistrate as stated earlier. On 09.03.02 he was discharged from the hospital and arrested by the CID of AP police. He was released from judicial custody on 28.06.02 on the orders of the Hon'ble High Court of Andhra Pradesh. Investigation revealed that Sarojini Devi, mother of Prathyusha filed a complaint in Panjagutta PS at 3.00 p.m. on 24.02.02. In her complaint she stated that Siddartha Reddy and Prathyusha were in love and the parents of the boy were not agreeable for their marriage. Further she stated that her daughter received a phone call on the previous day from Siddartha Reddy and was informed that his mother threatened to kill herself if he married Prathyusha.

In the evening she went to a Beauty Parlour where she might have met Siddartha Reddy. Around 7'0 clock she was informed by Prathyusha that Siddarth was with her and that she was coming back home. Later at 8.30 p.m she received the call from Care Hospital stating that her daughter had consumed poison and she was admitted there. Based on this complaint Cr. No: 144/02 was registered u/s. 174 Cr.PC by the said PS. Even though Dr. Krupal Singh was the duty doctor at the mortuary, Dr. B. Muniswamy, Professor came to the mortuary on his own and conducted postmortem. The duty roster revealed that Dr. Muniswamy was neither on duty at the mortuary nor on call duty as Professor.

This was revealed by Dr. Rajgopal Reddy, HOD, Department of Forensic Medicine, who stated that Dr. Muniswamy did not intimate or sought

permission for conducting the postmortem. SI Chungi, had explained to the two doctors that it was a case of poisoning and suicide. He also summoned a photographer and twenty one photographs were taken as per the directions of Dr. Muniswamy. This is corroborated by Sheikh Aziz Hussain, who further stated that on 26.02.02 he gave one set of photographs to Dr. Muniswamy and another set alongwith negatives to Panjagutta PS. The postmortem report No. 434/2002 dated 26/2/2002 revealed that there were 13 injuries and death, was caused due to pressure over the neck, asphyxia due to manual strangulation.

Viscera was preserved for chemical analysis to detect poison, if any, and 'semen collected from vagina for grouping and DNA finger printing test'. The report was signed by Dr. B. Muniswamy and Dr. Krupal Singh. Dr. Krupal Singh a Post Graduate student during his examination stated that he did not agree with the findings of Dr. Muniswamy even though he signed the postmortem report. The viscera and the vaginal cotton swabs of Prathyusha were sent to Andhra Pradesh Forensic Science Laboratory on 27.02.2002 and their reports revealed that the viscera contained organophosphate, an insecticide poison.

They also stated that the said poison was found in the stomach wash of Prathyusha and Siddharth Reddy and in the empty container recovered from the Pick n Move' lane (these were obtained from Care Hospital). The APFSL also opined that no semen and spermatozoa were detected in the cotton swab, in the clothes of Siddharth Reddy and in the clothes of Prathyusha worn by her at the time of postmortem. On 25.02.02 after the postmortem examination, Dr. Muniswamy gave an interview on Teja T.V. stating that Prathyusha died of manual strangulation and that she was gang raped, even though he gave the PME report to SHO Panjagutta only on 26/02/2002.

This was followed by a press statement issued by the Commissioner of Police, Hyderabad wherein the finding of the PME report was revealed. On 27.02.02 the Director of APFSL Dr. KPC Gandhi told the media that Prathyusha died of poisoning and that it could be a suicide. This was followed by a press statement by the DGP confirming the same. After receipt of the APFSL reports and a copy of the case sheet relating to Prathyusha, Dr. Muniswamy's final opinion dated 13.03.02 revealed 'Pressure over the neck, asphyxia due to manual strangulation.

The chemical analysis report of FSL revealed presence of organo phosphate insecticide poison present. Death uncertain. Presence of semen and photographic evidence (rape) sexual assault cannot be ruled out'. It can be seen that Dr. Muniswamy in his T.V. interview stated that it was a gang rape and in his final opinion stated that rape / sexual assault cannot be ruled out. In view of the contradictory opinions, a committee was formed by the Government of

Andhra Pradesh who opined that Prathyusha died of poisoning and that there was no evidence of manual strangulation or sexual assault.

They also opined that the injuries found on the body of Prathyusha were caused during treatment at the Care Hospital. During CBI investigation, opinion was also sought from a committee of doctors at All India Institute of Medical Sciences, (AIIMS) New Delhi who also confirmed the findings of the earlier committee. The CBI also sent the viscera and the cotton swabs (already used by APFSL) of Prathyusha to Central Forensic Science Laboratories and they confirmed the presence of monochrotophos (one of the substances in the chemical family of organophosphate) in the viscera. The CFSL however, did not detect poison in the stomach wash of the above two persons.

It was ascertained later that only traces were available which were insufficient, for carrying out the tests. The CFSL also opined that no semen was present in the cotton swabs of Prathyusha. In view of some doubts about the genuineness of the vaginal swabs and viscera of the deceased which were reported to be in the custody of APFSL the Hon'ble High Court felt it appropriate to get a DNA test done. The APFSL accordingly sent the samples for the said tests to the Centre for DNA Finger Printing and Diagnostics (CDFD) Hyderabad.

The CDFD opined that the stomach and intestine were that of Prathyusha while the kidney / liver and blood did not belong to her and it was that of a male individual. CBI investigation was then directed, to check the source of the said blood and kidney/liver. Enquiries were conducted at APFSL and Gandhi Medical College mortuary to ascertain the source of mix-up.

However this could not be identified. The viscera of one Devji (male) whose postmortem was conducted just prior to that of Prathyusha was also sent to CDFD to ascertain whether it was biologically related to the viscera of the male identified by CDFD. The report is awaited. The CDFD further opined that the cotton swabs belonged to Prathyusha but detected a male DNA in it which according to them is that of a sperm cell.

It would be pertinent to mention here that five vaginal cotton swabs were received from the mortuary for test by the APFSL. It needs to be emphasised that the APFSL had used all the five swabs for tests and no semen or sperms were detected. It needs to be further emphasised that for microscopic examination the APFSL had extracted the material found in the cotton swabs and it was on this examination that the APFSL had determined it's results. The CDFD did not conduct any microscopic examination to ascertain the presence of sperms.

A part of the swabs were sent by CBI to the CFSL. However, the findings of the CFSL corroborates the findings of the APFSL that no semen or sperms were present in the cotton swabs. Nevertheless, in view of the findings of CDFD that a male DNA was present in the cotton swabs, CBI obtained blood samples of Siddharth Reddy and his five friends and sent them to CDFD for analysis. The result indicated that the male DNA did not match with any of them. Enquiries with expert however revealed that contamination could have caused the presence of male DNA in Prathyusha's cotton swab either through the analyst or the environment.

The CDFD ruled out the contamination on account of the analyst since it was a female who had done the analysis It is therefore possible that contamination from environment could have caused the presence of the male DNA. It has however to be noted that the mix-up of the viscera of Prathyusha and the presence of a male DNA in her vaginal swab does not have a bearing on the case for the following reasons:-

1. During the time Prathyusha was with Siddharth Reddy (i.e. from 6-00 p.m. to 7-30 p.m. on 23.3.2002), she talked three times to her cousin Siri, once to her mother, twice to film co- director Shri Anand and other friends and she did not disclose that she was raped.

2. Prathyusha came to the hospital alive with signs of poisoning and admitted to the doctor that she consumed a pesticide. She further made no mention about any rape/sexual assault to any of hospital staff or her mother who met her there.

3. State and Central FSL Reports have opined that stomach/ intestine of Prathyusha contained the pesticide poison. It was further confirmed by APFSL that the stomach wash of Prathyusha also contained the pesticide poison.

4. The CARE hospital doctors and staff who had examined Prathyusha's body after removing the clothes by cutting the same for the purpose of treatment found no injuries on the body to indicate any physical violence leading to a sexual assault.

The investigation by the CBI has disclosed that Prathyusha and Siddharth Reddy were in love and they decided to commit suicide since there was strong objection to their marriage from the family of Siddharth. No evidence has come on record to suggest that suicide was pre-planned either jointly or by any of them individually. So, in all probability the decision to commit suicide together was an impulsive one and so also the decision to live again thereafter, which brought them to the hospital. The fact that Prathyusha committed suicide by consuming Nuvocron, a pesticide poison is proved by the following facts:-

(1) Prathyusha came to the hospital alive and admitted to the doctor that she consumed a pesticide.

(2) State and Central FSL Reports have opined that the viscera of Prathyusha contained the said pesticide poison. The stomach wash of both Prathyusha and Siddharth Reddy also contained the said pesticide poison as revealed by the State FSL. The report of the FSL has precedence over the postmortem report since the opinion corroborates with the direct evidence of the case.

The following facts revealed that Prathyusha was not manually strangulated or sexually assaulted.:

(1) Prathyusha came to the hospital alive and made no mention about any strangulation or rape/sexual assault to any of hospital staff or her mother who met her there. During the time she was with Siddharth (i.e. from 6-00 p.m. to 7-30 p.m. on 23.3.2002), she talked thrice to her cousin Siri, once to her mother, twice to Anand, co-director and other friends and she did not disclose that she is being raped or strangulated.

(2) There were no injuries on the body of Prathyusha at the time of admission in the hospital to indicate any physical violence leading to a manual strangulation or sexual assault.

(3) Even though a male DNA was detected by CDFD in the cotton swab, notwithstanding the fact that it could be a case of contamination, the fact that during the crucial time (6.00 p.m. to 7.30 p.m.) on 23.02.2002 the deceased was with Siddharth alone and that the male DNA did not match with Siddharth or his friends coupled with other evidences clearly show that there was no sexual assault/rape.

(4) Even at the time of postmortem there were no indications of manual strangulation such as wide open eyes, finger nail marks on her neck etc.,

(5) Sexual assault / rape was not suspected by the doctor is proved by the fact that he did not collect (i) loose pubic hair and sample pubic hair to identify the accused from the foreign hair (ii) matted pubic hair to identify the material responsible for the matting of the hair and to identify the accused The fact that Siddharth Reddy survived could be for the following plausible reasons:

(1) Prathyusha was on diet and had lost 12 kgs. prior to her death. On that day she had only two chapatis while Siddharth Reddy had attended a lunch party that afternoon. Their physical conditions were poles apart.

(2) In females collinestrous enzyme is 50% less than in males, so the effect of poison is much stronger on the females.

(3) Siddharth Reddy could not have known the fatal dose of the pesticide. The offence of attempt to commit suicide (309 IPC) against Siddarth Reddy is clearly brought out. He has aided the act of suicide by purchasing the pesticide, coca-cola etc. on 23.02.2002. Therefore the offence of abetment of suicide (306 IPC) is attracted against him. It was observed during investigation that Dr. B. Muniswamy who conducted the postmortem examination had committed the following omissions and commissions which culminated in an opinion regarding the cause of death of Prathyusha which was erroneous and unprofessional.

1. Dr. B. Muniswamy disclosed his opinion to the media on 25.2.2002 even before the receipt of reports from APFSL and even before he sent the PME report dated 26.2.2002 to the IO.

2. In his interview to the TV he stated that it was a gang rape and in his final opinion he revealed that rape/ sexual assault cannot be ruled out.

3. Even after receipt of the APFSL reports and a copy of the case sheet relating to Prathyusha he opined that death was due to manual strangulation and sexual assault/ rape cannot be ruled out.

4. Dr. B. Muniswamy had falsely represented to the Hon'ble High Court regarding the following two injuries found on the body of Prathyusha (i) Swelling of the neck (ii) Injuries on the back of the thighs in his affidavit dated 20.3.2002 filed before the Hon'ble court. It should be noted that he has not mentioned these injuries in his postmortem report dated 26.2.2002.

5. The original final opinion of Dr. B. Muniswamy is not available on record. The carbon copy of his opinion dated 13.3.2002 could not have been prepared on that date since in his another letter dated 13.3.2002 sent to Panjagutta P.S he declined to give a final opinion till he received the original case sheets and the negatives of the photographs taken during postmortem examination.

In view of these commissions & omissions on the part of Dr. Muniswamy, disciplinary action is called for. A report is being sent to Govt. of Andhra Pradesh in this regard.

xxxx xxxx xxxx xxxx

CONCLUSION:

(1). Prathyusha committed suicide by consuming a pesticide poison, Nuvocron.

(2) Siddharth Reddy abetted the suicide of Prathyusha and also attempted to commit suicide whereby he is liable for prosecution u/s. 306 and 309 IPC.

(3) Dr. B. Muniswamy, Professor, Department of Forensic Medicine, Gandhi Medical College who conducted the postmortem examination gave an opinion regarding the cause of death of Prathyusha which was erroneous and unprofessional.

(4) There was negligent response on the part of police officials attached to Panjagutta PS and the Police Control Room when Prathyusha and Siddharth Reddy were under treatment at the Care Hospital. The report is placed before this Hon'ble Court.

(Prem Kumar) Dy. Supdt. of Police CBI/SCB/Chennai"

(emphasis supplied)

25. The High Court after examining the entire record including the affidavit filed by Dr. B. Muni Swamy closed the public interest litigations vide its order dated 6th September 2002 and permitted the CBI to file its charge-sheet. Accordingly, CBI filed a chargesheet for offences punishable under Sections 306 and 309 IPC.

26. To prove the fact of past relationship between the deceased and the accused, the prosecution examined Sarojini Devi (PW-1), who produced Ex. P2 autograph book, Ex. P3, P5 and P6 love letters, and Ex. P4 a chit, all in the handwriting of the deceased and addressed to the Appellant-Accused. The relevant part of the testimony of PW-1 is reproduced hereinbelow:

"About 9 months prior to her death, my daughter informed me that she was in love with the accused and that she intended to marry him. As a mother, I initially objected for the love affair between the accused and my daughter for a period of one month, during which I advised her to concentrate on building up the career of herself first. My daughter was stubborn and asserted that she was love with the accused and that she would marry him. Then I relented and agreed for their marriage in principle, but I advised both of them to first pursue and build up their careers, and then only their marriage can be performed. She spoke on the phone for about 10 to 15 minutes.

I heard her shout loudly into the phone "don't irritate me". I then rushed to her bed room and asked her to whom she was speaking to. She told me that she was talking to the accused. I asked her why they were speaking so loudly, she told me that the accused conveyed to her that his parents were not willing for his marriage with my daughter and that they even threatened to commit suicide enmasse if the accused marries my daughter and that the accused was worried about the prospects of the marriage.

There was a call from Buddha films, Bangalore confirming her booking in a Kanada film. My daughter talked to them on phone enthusiastically over all aspects pertaining to her role and remuneration. I found my daughter lying on the bed with an Oxygen mask and other gadgeteries with several doctors and nurses around her. One of the doctors asked my daughter how she was feeling, my daughter replied in feeble voice that she was O.K. and her legs were shivering.

After 2 or 3 minutes, I was asked to go out, so as not to cause any disturbance to the patient, I then came out. It was the last time I have seen my daughter alive. The hospital staff informed that my daughter is condition became serious because of consumption of poison...On the previous evening itself, we found some pressing marks of fingers on the throat of my daughter. On the next morning we again saw the deadbody and found those press marks on throat."

27. Ms. Prafulla Sri, cousin of the deceased (PW-2) was examined to prove the relationship between the deceased and the accused and the fact that they were last seen together outside the parlour. The relevant portion of her evidence is reproduced hereinbelow:

"The deceased Prathyusha was in love with the accused. The deceased and the accused were close to each other since the time of Intermediate. The same closeness was maintained till the death of the deceased. As we were to go to Bangalore on the next morning, we went to Ferry's Beauty Parlour in Panjagutta on that evening. Myself and the deceased left home at about 4 p.m. on my Kinetic Honda and reached Beauty Parlour about an hour later. We were waiting there for our turn as there were some more customers. During that wait the deceased telephoned to the accused. Then she sat down on a chair and was getting her done and told me that she wanted to call the accused there for one last time before she went to Bangalore.

Then I telephoned to the accused and told him what exactly the deceased wanted me to tell him. The accused agreed to come. After some time the deceased asked me to go outside and check around whether he came. I came out looked around and found the accused there. I told him to wait a minute and that I would go inside and informed, the deceased. I told the deceased that accused has come, she asked me to give him some company till she came out. I came out and spoke to the accused. He told me the same thing which the deceased told us in the morning after the telephone talk to the accused. The accused told me that his mother was not agreeing for the marriage and told him that she would take poison if he goes through the marriage with the deceased and that his other family members also told him the same thing.

When myself and accused were discussing about it, the deceased came out of the Beauty parlour. All of a sudden the accused and the deceased were in tears. As people were looking at us. I suggested that we may sit down and talk. The accused suggested that we may sit in his car and talk. The deceased told me to wait there or go to my friends as she wanted to discuss with the accused something in private and she told me that she would be back in five or ten minutes. I told the deceased to come back soon so that we can go and book the Air tickets for our trip to Bangalore. The deceased then left with the accused in his car. It was a white Maruti Zen."

(emphasis supplied)

28. Similarly, G. Raghava (PW-6) and K. Bhasker (PW-7) were examined to prove the past relationship between the deceased and the accused, and the fact that they had met outside the beauty parlour and were thereafter admitted in hospital together. Relevant portion of the evidence of G. Raghava (PW-6) and K. Bhasker (PW-7) is reproduced hereinbelow:

G. Raghava (PW-6):

"The accused again telephoned to me, when I was still in Ranga's house and told me that he was going to Somajiguda Ferry's Beauty Palour to meet the deceased there. The accused told me that as he was going to meet the deceased, if his parents telephoned to us and enquired about him, we may tell them that he is with us only. After sometime he called me back. I asked him where he was. He told me that he was at Tank Bund.

Then I passed on the cell phone to Ranga and Suraj, they talked to the accused. Suraj told me that accused wanted me to telephone after sometime. From Baker's Inn, myself, Suraj, Bhasker and others went to Necklace road. After reaching there Suraj telephoned the accused. The accused told that he was in Himayathnagar. After sometime the accused telephoned to the mobile of Bhasker and asked him to give the phone to Ranga. We were in the necklace road at that time. Ranga informed us that the accused and the deceased were in the Care Hospital and that we should go there."

K. Bhasker (PW-7):

"I am aware that the deceased and the accused were in love with each other. Myself, PW.6, Ranga and Suraj went to Necklace road. Before we left for Necklace road, Siddharth contacted us and asked to contact him half an hour later. After reaching the necklace road Suraj among us called the accused on Phone, and asked him where he was and the accused informed us that he was in Himayathnagar. After sometime the accused called me again on my cell, and asked me to hand over the cell phone to Ranga. Then Ranga talked to accused.

During that call the deceased also talked to me and told me Hai Bhasker and Bai Bhasker.

The accused told Ranga to come to Care hospital. After putting down the phone we were in doubt as to which Care hospital we have to go. I again telephone to the accused and he told us that he was in Care Banjara Hospital and asked me to come there. All of us went to Care hospital, Banjara Hills. We saw the car of the accused parked outside the hospital. We did not open the car. We entered the hospital, we could not find the accused. Ranga again called the accused on the cell phone and accused told Ranga that he was in I.C.C.U."

29. The presence of the deceased along with PW-2 was also spoken of by K. Lavanya (PW-11), an employee of the beauty parlour. The relevant portion of her testimony is reproduced hereinbelow:

"I am working in Ferry's beauty parlour in Amruthamall, Somajiguda since seven years. The deceased Prathysha was a regular customer of our beauty parlour. On 23-2-2002 the deceased came to our beauty parlor at 4:30 p.m. She was accompanied by her cousin whose name I do not know. The deceased was given Hair doing and hair setting in our beauty parlour at that time. The deceased and her cousin left our beauty parlour at 6 p.m, before leaving the deceased telephoned from our beauty parlour. The deceased was in good mood at that time. The cousin of the deceased was waiting outside while the deceased was getting her hair done."

30. The deceased and the accused were admitted to Care Hospital, Banjara Hills and were attended to by Dr. Saraschandra (PW-10), Dr. Laxmi Kantaiah (PW-13) and Dr. Kalyanasundaram (PW-32). The relevant portion of the evidence of PW-10, PW-13 and PW-32 is reproduced hereinbelow:

Dr. Saraschandra (PW-10):

"Ex.P.17 is the Case sheet pertaining to the deceased Prathyusha maintained in Care Hospital, Banjara Hills. On 23-2-2002 I went to Care Hospitals; Banjara Hills. The deceased was admitted in the Hospital at 8 p.m. on 23-2- 2002, I saw the deceased in ICCU at about 10.30p.m. while she was undergoing treatment, I have gone through the case sheet of the deceased. The deceased and accused were both admitted in the hospital as per the initial evaluation as disclosed by the accused, the deceased and the accused consumed poison. It was organophosphorus poison.

After initial evaluation we found the deceased quite sick and she was unable to breathe on her own. She was put on life supporting measures. As the deceased was seriously ill, we have put her on Central Veinus, Arterial blood lines and she was put on a mechanical ventilation. On 23.2.2002 I have seen the accused

also, we was admitted in the acute medical care unit which is situate adjacent to ICCU. Ex. P.18 is the case sheet in respect of the accused maintained by the hospital. The condition of the accused is also critical but his vitals were found to the stable.

We started the standard treatment for poisoning for him also. The deceased was directly admitted into ICCU because her condition was more critical and she needed more life supporting measures which are available in ICCU. The seriousness due to poisoning depends on the sex and also whether the stomach is empty or otherwise. In case of females the poisoning will have more serious effect and also if the poison is consumed on empty stomach, it will have more impact. In females the body surface is less and the levels of enzymes were also less and therefore the poison will have more effect."

(emphasis supplied)

Dr. Laxmi Kantaiah (PW-13):

"On 23.2.2002 at 5 p.m. I went to CARE Hospital, Banjara Hills, on duty, While I was in the hospital I received a phone from the ICCU at 8 p.m. saying that there was a poison case and I should attend. I immediately went to ICCU, I have seen a woman aged about 20 to 22 years. The woman was conscious. I asked her what has happened. She told me that she consumed poison. She is the deceased Prathyusha, I asked her what poison she has consumed. She replied that it, was some pesticide. Immediately she vomited. I immediately put ryles tube through her nose into stomach and I did stomach wash. At about. 8.30 p.m. her condition was deteriorating and she was sinking.

She was nearing arrest. So immediately I put endotracheal tube through mouth into the wind pipe to give artificial respiration. I connected her to the ventilator. Till about 1.30 a.m. fluid was coming out from her lungs through the tube. Then I called for help. At about 11 p.m. Dr. Sharath Chandra PW-10 came. He has put an external jugular vein, small plastic canula into the jugular vein by the side of the neck and into the heart which helped assess the pressure in the heart. She was improving till the morning of next day. Whenever I was calling her by name she was responding by opening her eyes and nodding her head.

I was in the ICCU throughout night and till 6 a.m. I obtained consent from the mother of the deceased for doing above procedure. The brother of PW.1 was also present outside the ICCU. At about 6:30 a.m. Dr.Soma Raju came to see the patient. As the patient was moving with pain, he suggested to me to give some sedation to her. I did not give the sedation to the patient as we wanted to observe the brain function and I told Dr.Soma Raju about it.

At 9:00 a.m. my reliver came and I handed over the patient case sheet to Dr.Murli who was my reliver. At that time the deceased was conscious and is opening her eyes and nodding her head and her B.P. was stable. On the night of 23-2-2002 I had another call from A.M.C. which is adjacent to ICCU to attend on another patient Siddartha Reddy the same person the accused now before the Court. I went there and saw the accused, I asked him what has happened. He told me that he has consumed two gulps of pesticide. He was struggling to breathe... I have not seen any Injuries on the person of the deceased."

(emphasis supplied)

Dr. Kalyanasundaram (PW -32)

"At about 8 p.m. on 23-2-2002 Dr. Prakash, Junior Resident doctor who was my colleague informed that there is a patient of consumption of Poison. I advised him to admit in the Acute Medical Care Unit. At that time, I was attending on another patient at Acute Medical Care Unit. The AMCU and ICCU are adjacent to each other. The patient was brought from ICCU to AMCU in a wheel chair. I attended on the patient immediately. The said patient is Siddartha Reddy, accused herein. I asked him whether the can get the poison container. He did not say anything. I was called to see another patient admitted in ICCU. I went there and saw the said patient who is the deceased Pratyusha. She was already on treatment.

We did stomach wash. All the treatment given to deceased Pratyusha is noted in the case sheet Ex:P.70 under my signatures. I did not notice any injuries on the person of the deceased at the time of admission in the hospital. I told Junior Residents Dr.Prakash and Dr.Chima to secure the container of the poison through the relatives of the patient. About 2 hours later, the friends of the accused showed me the poison container. M0.1 is the said poison container and it is Nuvokran, inspite of the treatment, the deceased could not survive. She died about 11.45 a.m. In the case sheet Ex. P. 70 the cause of death is noted as consumption of Organo Phosperous Poisoning."

(emphasis supplied)

31. The deceased was also attended to by A. Anitha (PW-16), who was working as Ayaha in CARE Hospital. The relevant part of the deposition of A. Anitha (PW-16) is reproduced hereinbelow:

A. Anitha (PW-16)

"On 23-2-2002 I was on duty in the second shift at ICCU. On that night I continued on duty in the night shift also as my reliever who was a muslim could not attend duty because it was Bakrid Festival day. When my second

shift was about to come to an end, a boy and a girl came to ICCU. The sister on duty asked me to bring two basins as those two patients were vomiting. At that time, I did not know the names of those two patients. Both the patients. Both the patients vomited. The girl vomited slightly and the boy vomited severely. I took that boy to AMC in a wheel chair and I came back. By that time the girl was lying on the bed and some pipes were put in her nose and mouth.

After some time the girl passed urine and motioned. The sister instructed me to wine clean up and I cleaned the patient. The dress the girl was wearing was so tight that it could not be easily removed. Then the sister on duty by name Tushara instructed me to cut the dress and remove it. I cut the dress of the girl and removed it and put it in the dust bin. I cleaned the whole bed and also the patient. The removed clothes were kept in another dust bin outside the ICCU in the dust bin room. I continued on duty on the next morning first shift also as that reliever also a muslim did not turn up. I was on duty till 1 p.m, on 24.2.2002.

After the girl died. Myself and another sister on duty at that time packed the body of the deceased in another dress brought by the patient's people. After that I left duty. The deceased was admitted to Bed No.8 and then shifted to Bed No.5. The accused now before the court was the" boy who came to the hospital that night and whom I have taken to AMC in the wheel chair from the ICCU. I came to know subsequently that the name of the deceased is Prathyusha and the name of the accused is Siddhartha Reddy. I have not observed any injuries on the person of the deceased, when I cleaned her. I was examined by the CBI and my statement was recorded."

(emphasis supplied)

32. The Investigating Officer, Mr. M. Narendra Chungi (S.I. Panjagutta PS) was examined as PW-24. SI M. Narendra Chungi had issued the requisition for conducting postmortem on 25th February 2002. The relevant portion of his deposition is reproduced hereinbelow:

M. Narendra Chungi (PW-24)

"PW-1 the mother of the deceased and uncle of the deceased came to me and informed me that the deceased had consumed poison. When I saw the dead body I found injuries on the neck and also on the wrist. I asked Dr. Kalyana Sundaram of CARE Hospital about those injuries. He told me that the said injuries were caused during the course of the treatment."

33. Dr. M. Narayana Reddy, who was part of the three-member Expert Committee constituted by the Government of Andhra Pradesh vide order dated 05th March 2002 and which gave its report dated 09th March 2002, was

examined as PW-31. The relevant portion of his evidence is reproduced hereinbelow:

Dr. M. Narayana Reddy (PW-31)

"As per the PME report stomach contained 150 ml of yellowish brown liquid of thick consistency, abnormal odour was present Mucosa was congested, brain, lungs, liver, pancreas, spleen, kidneys and adrenals were congested. These signs are consistant with that of poisoning. The Hyoid bone, Crycoid cartilage and Thyroid cartilage were intact. Nothing abnormal was noted in the genital organs. The reports of FSL shows on Chemical analysis organo phosphate poison was found in the internal organs. Semon and spermatozoa were not detected from the cotton swabs. After going through all the above documents we expressed the following opinion:-

1) No signs of death due to manual strangulation were noted in the post mortem report on the contrary there was evidence she was under treatment from 8 p.m. on 23.2.2002 to 11.45 a.m. (not 11.45 p.m. as mistakenly typed in the report of 24.2.2002, for organo phosphate poisoning.

2)The post mortem signes such as the congestion of them mucus membrane of the stomach and the presence of abnormal odour in the contest of the stomach were consistent with that of death due to poisoning.

3) In the opinion column it has been stated that the semen was collected from the vagina. It is not possible to identify from the naked eye examination whether the fluid collected from the vagina was semen or vaginal secretions. It could be known as semen only on the Laboratory examination. The opinion of the expert committee is as follows:-

1) The cause of death was due to Organo Phosphate poisoning.

2) There was no evidence of death due to manual strangulation.

3) There was no evidence of sexual assault prior to her death."

34. The case of the prosecution was that due to opposition to the marriage proposal between the deceased and the Appellant-Accused by the family of the latter, both of them decided to commit suicide by consuming 'Nuvacron' pesticide mixed with coca-cola. According to the prosecution, it was the Appellant- Accused who purchased the poison, i.e., 'Nuvacron' on the evening of 23rd February 2002 from G. Anil Kumar (PW-34) who was at that time a salesman in a shop called Revathi Agencies at Hyderguda, Hyderabad. Further, the Appellant- Accused also procured chocolate and knife from Anand Rao (PW-35) who at the time was working in Foodworld Shop at Himayatnagar.

Relevant portion of the testimonies of G. Anil Kumar (PW-34) and Anand Rao (PW-35) are reproduced hereinbelow:

G. Anil Kumar (PW-34)

"I am studying intermediate 1st year, Vivekavardhini College, Hyderabad. In the year 2002, I was studying 9th class in PR Vidyalaya High school. The school timings were from 12-30 p.m to 5 p.m. I was working as Sales Boy in Revathi Agencies in the year 2002. The owner of the said shop is my uncle by name B.Ravi Kumar. The shop timings are from 9.30 a.m to 9 p.m. The shop is situate in Hyderguda. After the school timings are over, I will be working in the shop from 5 p.m to 9 p.m. We sell seeds and pesticides in that shop.

On the orders placed by the owner of the shop, the stocks are received and I enter them in the stock register. Bills are issued (for the purchases made if they are asked for by the purchasers. If bills are not asked for by the purchasers, we prepare a comprehensive bill of all such sales at the end of the day for our record purpose and we enter the same in the stock register. On 23-2-2002 between 5 p.m and7 p.m, one person came to the shop and asked for Novokran bottle. The cost of the said Novokran bottle is Rs. 100/-. I prepared the bill Ex.P.42 regarding the sale of the said Novokran bottle.

In Ex.P.42 bill, there are two other entries one in respect of Dalraet 250 ml for Rs.60/- and Ara 250 ml for Rs.60/-. Ex.P.42 bill was prepared in the evening regarding the total sales. The person who purchased the Novokran bottle is now present before the court as accused. I entered the bill Ex.P.42 in the stock register under Ex.P.44 entry. We purchased 80 tills of Novokran from Rekha corporation on 21-6-2001 and the same is entered in the stock register at page 75. MO.1 is Novokran bottle sold by me to the accused.

Subsequently, local police came to our shop and took me to the Care hospital and asked me to identify the person to whom I sold the bottle and I identified him. Local police took the bill book and also the stock register. Subsequently, the CBI police came to our shop and seized one bottle of Novokran from our shop . I appeared for the Test Identification Parade in the Jail conducted by Magistrate and in that parade also I identified the accused. I signed the statement before the Magistrate at the time of Test Identification Parade. Ex.P.58 is my statement before the Magistrate on the eve of T.I.Parade. I was examined by CBI and my statement was recorded. I was examined by CBI on 9-4-2002.

As per Ex. P.42, all the three items are not purchased by the same person. There was a bill prepared by us for purpose of stock register entry. Ex.P.42 does not show that the three items mentioned there were purchased by different

persons. The bill book containing Ex.P.42 and also the stock register contained Ex.P.44 were taken by local police."

(emphasis supplied)

Anand Rao (PW-35)

"I am a resident of Sirpur Kagaznagar, RR District. I am now doing contract work along with my father in Sirpur Kagaznagar. I worked in Foodworld shop at Himayatnagar from January, 2000 to December, 2002.

ACP Mohd. Ismail came and met me on 23-2-2002. I do not remember the exact date. He showed me Ex.P.40. Ex.P.40 bills pertains to fisker knife and two cadburry chocolates. I was cashier in food world shop at the time of the said purchase. I gave the bill Ex.P.40 for the said purchase. After issuing the bill, I verified with the stock monitoring machine and assured that the bill was issued by me. M.O. 4 is the fisker knife covered by Ex.P.40. Accused now before the court was the person who purchased M0.4 knife and the chocolates under Ex.P.40. I was examined by CBI and my statement was recorded.

CROSS EXAMINATION FOR THE ACCUSED:-

I was examined by CBI on 9.4.2002. I had no prior acquaintance with the accused prior to date of purchase. Subsequently. I have seen the accused in the media. There is no other record to show that the accused was the person who purchased the knife MO.4 under Ex. P.40 bill. I was taken to the jail to identify the accused in Test Identifiation Parade. I did not identify the accused in T.I. parade. It is not true that the accused did not purchase MO.4 knife at our shop. Police did not ask me for any document to show that I was the employee of food world and that is why I have not produced any such document before them."

35. The Sessions Court vide judgment dated 23rd February 2004 convicted the Appellant-Accused of offences punishable under Sections 306, and 309 IPC and sentenced him to rigorous imprisonment for five years and fined ₹ 5,000/- under Section 306 IPC and one year simple imprisonment and fined ₹1,000/- under Section 309 IPC. The relevant portion of the judgment dated 23rd February 2004 is reproduced hereinbelow:-

"31. From the evidence, of PW26 coupled with Ex, P39 report the learned counsel for the accused contended that the stomach wash of the deceased and accused were not containing the pesticide and so the case of the prosecution that the death was due to poisoning cannot be accepted. It is to be noted that PW18 examined the stomach wash within three days of its collection and gave the report Ex, P26 stating that the stomach was as also the other items of

viscera contained the pesticide poison. The examination of the remnants of the same sample of stomach was by PW26 was much later ie., between 29-4-2002 and 16-5-2002 as can be seen from Ex.P.39 report which is more than two months after the incident.

The possibility of the traces of the poison in the remnants of the sample after such long lapse of time disappearing cannot be ruled out. Further apart from the stomach wash the other Items of Viscera examined by PW26 were found to contain the poison, the sample of MQ.1. The same Monocrotophos which is an Organo Phosphate insecticide was found in the control item of Nuvocron also; The testimony of PW26 coupled with Ex, P39 report also supports the prosecution case except that the poison was not found in the sample of stomach wash at that length of time. The above evidence of the Forensic Experts establishes that it was a case of poisoning and the poison consumed is monocrotophos an organo phosperous insecticide.

36. The learned counsel for the accused contended that the prosecution has not placed before the court the reports of the D.N.A. finger printing. The learned Special Public Prosecutor contended that as there was nothing incriminating in the said reports, they are not placed before the court. He filed a memo on 16-12-2002 to the effect that the C.D.F.D. has submitted one the report to the Honourable High Court and one copy to the 'C.B.I. and the C.D.F.D. reports are not found relevant to the present case and they are no more required to the C.B.I, When the prosecution found it not relevant, or required for the purpose of their case, there is no call upon them to file such documents. In the present case, the evidence of various experts discussed supra, clearly shows that the death was only due to poisoning and not manual strangulation with or without sexual assault."

36. Vide the impugned judgment, the criminal appeal filed by the Appellant-Accused and the criminal revision filed by the Appellant-Complainant, were dismissed. The relevant portion of the said judgment is reproduced hereinbelow:-

"25. It should be noted that in both the above cases the accused and the deceased entered into a suicide pact and executed it, but one of them died and the other survived. The survivor was put on trial for murder or manslaughter. At that time in England when the above cases were decided there was no provision akin Section 306 IPC though it is not known what the position now is.

However the principle is important. The principle and the reasons in the above two cases would, in my opinion, show that in such cases which are akin to the present case, each of them i.e. the two partners must be held responsible for the

abetment of the suicide by the other in keeping silent i.e. by an illegal omission and encouraging the other to go for suicide while the abettor himself/herself also making an attempt to commit suicide. At the end of the second case the authors of the commentary gave an opinion that in India in such cases the survivor can be held guilty of abetment.

35. It may be noted that after the CBI has filed the charge sheet alleging the offences under Section 306 and 309 IPC against the accused, the de facto complainant did not take any steps either by filing a protest petition or a private compliant or otherwise to plead before the committal court that the investigation done by the CBI was faulty and the accused should have been prosecuted for the offences of murder and rape. The de facto complainant also gave evidence as P.W.1 and her evidence does not show that she alleged that the accused has committed the murder of her daughter. P.W.2 Prafulla Sri is a cousin of the deceased. She also did not complain against the CBI.

What should be noted is that the de facto complainant allowed the committal proceedings and the trial to go on, for the offences alleged by the CBI and they did not pursue any steps which were available to them before the committal court for prosecution of the accused for more serious offences. From the evidence on record also nothing has been brought to the notice of this court to set aside the convictions and for directing a committal and a re-trial for severe offences though this court has got that power under Section 386(b) of Cr.P.C. even in an appeal from conviction."

ARGUMENTS ON BEHALF OF THE APPELLANT-ACCUSED

37. Mr. S. Nagamuthu and Mr. L. Narasimha Reddy, learned senior counsel for the Appellant-Accused stated that the present case was based on circumstantial evidence. They submitted that each circumstance projected by the prosecution was required to be proved beyond reasonable doubt and such proved circumstance would have to form a complete chain without any missing link and unerringly pointing to the guilt of the accused, without any alternative hypothesis which would have to be inconsistent with the guilt of the accused. According to them, the circumstances projected by the prosecution to prove the guilt of the Appellant-Accused in the present appeals were the following:-

A. Appellant-Accused and deceased were in tears because their marriage proposal had become impossible on account of the suicide threat given by the parents of the accused in the event they went ahead with their marriage proposal.

B. The Appellant-Accused and deceased were last seen together in the car of the Appellant-Accused.

C. The Appellant-Accused and the deceased reached the hospital together for their treatment.

D. The deceased told the Dr. Laxmi Kanthaiah (PW-13) that she had consumed pesticide. E. The deceased died of organophosphate poisoning.

F. The Appellant-Accused had purchased the pesticide from the shop of Mr. G. Anil Kumar (PW-34).

G. The Appellant-Accused had purchased a knife as well as coca-cola and chocolates from PW-35.

38. According to them, the circumstances 'A' and 'B' stood proved from the testimony of PW-2. They stated that circumstance 'C' was proved by PW-13, who stated that both the accused and the deceased appeared together in the hospital for treatment. Apropos circumstances 'D' and 'E', they stated that the same were proved by Dr. Laxmi Kanthaiah (PW-13) and the medical opinion given by Dr. M. Narayana Reddy (PW-31).

39. They, however, stated that circumstances 'F' and 'G', that the Appellant-Accused had purchased pesticide as well as Coca-Cola, chocolates and knife, were not proved by the prosecution beyond reasonable doubt.

40. They pointed out that to prove the purchase of the poison, i.e., Nuvacron, the prosecution had examined PW-34 from whose shop the Appellant-Accused allegedly purchased the poison on 23rd February 2002 between 5:00 PM and 7:00 PM. The bill for the alleged purchase was marked as Ex. P-42. They pointed out that Ex. P-42 showed sale of three items viz. Dalraet and Ara for ₹60 (Rupees Sixty) each and Nuvacron for ₹100 (Rupees One Hundred). They stated that it was not the prosecution's case that the Appellant-Accused had purchased all three items and therefore, by relying upon Ex. P-42, it was doubtful that the Appellant- Accused had purchased any item. They further pointed out that the bill Ex. P-42 did not bear the name of the purchaser and therefore, the Appellant-Accused could not be linked with the purchase of the pesticide.

41. They further stated that G. Anil Kumar (PW-34) was examined by the CBI on 09th March 2002. They emphasised that before the Magistrate, Mr. G. Anil Kumar (PW-34) had stated that Nuvacron was purchased one month prior to examination by the CBI. They, therefore, contended that Appellant-Accused did not purchase the pesticide on 23rd February 2002.

42. They contended that the prosecution had failed to establish that the Test Identification Parade (TIP) was properly conducted. They stated that though

PW- 34 identified the Appellant-Accused during the TIP; however, the learned Magistrate who conducted the TIP was not examined.

43. They stated that even before the TIP, the Appellant-Accused was shown to PW-34 in hospital. They contended that there was no special reason for PW-34 to have an imprint of the identifying features of the person who purchased the items, so as to correctly identify him during TIP. They contended that the dock identification two years after the incident was of no value. In support of their submission, they relied upon the judgments of this Court in Umesh Chandra vs. State of Uttarakhand (2021) 17 SCC 616; Ganpat Singh vs. State of Rajasthan (1997) 11 SCC 565; Girja Shankar Misra vs. State of U.P. 1994 Supp (1) SCC 26; Amrik Singh vs. State of Punjab (2022) 9 SCC 402.

44. They emphasised that there was no evidence to prove either the recovery of the bottle of Nuvacron or the place of its recovery. They pointed out that Mr.K. Bhasker (PW-7), the recovery witness had turned hostile. Therefore, according to them, the purchase of the pesticide/poison had not been proved by the prosecution beyond reasonable doubt.

45. Similarly, they contended that the prosecution had failed to prove that the Appellant-Accused purchased the fiskar knife, coca-cola and chocolate from the shop of PW-35 vide Bill Ex. P-40. They pointed out that PW-35 during cross examination had stated that in the TIP, he did not identify the Appellant-Accused. They stated that the Appellant-Accused was identified for the first time in court, two years after the incident. They stated that Ex. P-40 did not bear the name of the purchaser.

46. They submitted that offence under Section 306 IPC is no exception to the requirement of mens rea. They contended that the conduct of the deceased and the Appellant-Accused in going to the hospital after consuming poison was a relevant fact under Sections 8 and 9 of the Evidence Act, 1872. According to them, if the intent of the accused and deceased was to end their lives, they would not have gone to the hospital at all. They contended that the conduct of both the deceased and the Appellant-Accused gave rise to a presumption under Section 114 of Evidence Act, 1872 that they had either accidentally consumed the pesticide, or had done so with intent to threaten their family members that if their marriage proposal was not accepted, they may end their lives.

47. They also contended that the statement of the deceased before Dr. Laxmi Kantaiah (PW-13) amounted to a dying declaration under Section 32(1) of the Evidence Act, 1872. They contended that the dying declaration did not remotely indicate that the deceased had consumed poison upon any instigation or aid of the Appellant-Accused. They pointed out that the deceased had

merely stated that she had consumed pesticide, thereby ruling out any instigation or aid of the Appellant- Accused.

48. They contended that the dying declaration as well as the subsequent conduct of the appellant and deceased gave rise to an alternative hypothesis which is inconsistent with the guilt of the accused.

49. They submitted that in similar circumstances where the deceased had died due to poisoning, this Court in Velladurai vs. State (2022) 17 SCC 523, had acquitted the accused therein. The relevant portion of the judgment in Velladurai vs. State (supra) is reproduced hereinbelow:

"12. Now so far as the offence under Section 306 IPC is concerned, in a case where if any person instigates other person to commit suicide and as a result of such instigation the other person commits suicide, the person causing the instigation is liable to be punished for the offence under Section 306 IPC for abetting the commission of suicide. Therefore, in order to bring a case within the provision of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. As observed and held by this Court in Amalendu Pal [Amalendu Pal v. State of W.B., (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] , mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to the suicide would not amount to an offence under Section 306 IPC.

13. Abetment by a person is when a person instigates another to do something. Instigation can be inferred where the accused had, by his acts or omission created such circumstances that the deceased was left with no other option except to commit suicide. In the instant case, the allegation against the appellant is that there was a quarrel on the day of occurrence. There is no other material on record which indicates abetment.

There is no material on record that the appellant-accused played an active role by an act of instigating the deceased to facilitate the commission of suicide. On the contrary, in the present case, even the appellant-accused also tried to commit suicide and consumed pesticide. Under the circumstances and in the facts and circumstances of the case and there is no other material on record which indicates abetment, both the High Court as well as the learned trial court have committed an error in convicting the accused for the offence under Section 306 IPC."

50. However, learned senior counsel for the Appellant-Accused admitted that since the deceased was no more, the appellant was bound to explain the events between the time period when the appellant and deceased were last seen outside the beauty parlour and when they arrived at the hospital for treatment. They submitted that the explanation can either be expressly made by way of defence or gathered from the evidence on record.

They submitted that this burden under Section 106 of Evidence Act is required to be discharged by preponderance of probabilities and not beyond reasonable doubt. They contended that the dying declaration as well as the subsequent conduct of the appellant and deceased duly explained as to what had happened in between. They, therefore, contended that the Appellant-Accused had discharged the burden under Section 106 of Evidence Act, 1872.

51. Even otherwise, they stated that assuming that the Appellant-Accused had failed to discharge the burden under Section 106 of the Evidence Act, 1872, that by itself would not go to prove the guilt of the Appellant-Accused beyond reasonable doubt. They emphasised that failure to discharge such burden at most can only be an additional link in the chain of circumstance.

52. They conceded that insofar as the offence under Section 309 IPC was concerned, since the accused had offered no explanation as to how he came to consume the poison, there was no valid defence. They, however, submitted that this Court in Gian Kaur vs. State of Punjab (1996) 2 SCC 648 has held that an accused held guilty under Section 309 IPC was entitled to be released under Section 4 of Probation of Offenders Act, 1958.

ARGUMENTS ON BEHALF OF MOTHER OF THE DECEASED AND APPELLANT IN CRIMINAL APPEAL NOS.894-985 OF 2012

53. Mr. Gireesh Kumar, learned counsel appearing for the mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012 contended that the present case is of rape and murder by manual strangulation and not poisoning as alleged by the prosecution and as held by the Courts below. He contended that the FIR was registered for an offence punishable under Section 302 of the Indian Penal Code ('IPC'), but no investigation was conducted to prove the case of murder. He stated that the respondent-CBI filed a chargesheet for offences under Sections 306 and 309 IPC alone. He pointed out that the postmortem of the deceased was conducted by Dr. B. Muni Swamy, who in his report dated 25th February 2002 opined the cause of death as under:

"Pressure over the neck, Asphyxia due to manual strangulation. However, viscera is preserved for chemical analysis to detect poison if any. Semen collected from vagina for grouping and DNA fingerprinting test."

54. He stated that even though the said Dr. B. Muni Swamy died in 2009, yet he was never produced as a witness before the Court. He stated that the semen which was collected by Dr. B. Muni Swamy was sent to CDFD. However, the report stating that semen was detected and the male fraction of the semen of Exhibit A (Part of cotton swab) contained DNA of a human male individual was not produced before the Courts below.

55. He further alleged that there had been tampering with the evidence in the present case as the CDFD report stated that source of Exhibits C & D, i.e., part of kidney and liver and reddish turbid liquid (blood) were not that of the victim.

56. He also stated that the CFSL report dated 16th May 2002 proved that the death of the deceased was not due to poisoning as no poison was detected in the stomach wash of the deceased, meaning thereby, the consumption of poison by the accused was doubtful.

57. He stated that PW-1 to PW-3 had categorically stated that they had found pressing marks/injuries on the throat of the deceased. He further stated that Investigating Officer (PW-24) had deposed that he had found injuries/pressing marks on the throat of the deceased.

58. According to Mr. Gireesh Kumar, learned counsel, the aforesaid circumstances proved beyond doubt that the deceased was raped and thereafter murdered by strangulation. He contended that the investigating agency failed to properly investigate the death of the deceased and erroneously filed the chargesheet for offences under Sections 306 and 309 IPC.

59. He pointed out that according to Mr. G. Raghava (PW-6), the accused had contacted Ranga and Suraj and asked them to get the container containing the pesticide. He stated that the accused had falsely denied any relationship with the deceased in his Section 313 Cr.P.C. statement. According to him, the said conduct of the accused was unnatural.

ARGUMENTS ON BEHALF OF RESPONDENT-CBI

60. Per contra, Mr. Nachiketa Joshi, learned senior counsel for the CBI submitted that the impugned judgment is in consonance with the facts and legally tenable.

61. He pointed out that admittedly, on 23rd February 2002, the Appellant-Accused had conveyed to the deceased his parents' opposition to the marriage between the Appellant-Accused and the deceased and that the deceased was very upset. He pointed out that PW-2 had deposed that the Appellant-Accused had arrived at Ferry's beauty parlour at around 5:45 PM on the date of the

incident and thereafter both the deceased and the Appellant-Accused had left in the Maruti Zen car of the Appellant-Accused.

62. He stated that G. Raghava (PW-6) had deposed that the Appellant-Accused had informed him that he was going to Ferry's beauty parlour to meet the deceased. G. Raghava (PW-6) had further deposed that after some time, the Appellant-Accused had informed Ranga (a friend) that both the deceased and the Appellant-Accused were in CARE Hospital. He stated that presence of deceased at Ferry's beauty parlour had also been corroborated by K. Lavanya (PW-11), who at the time was an employee of the beauty parlour. He, therefore, contended that the abovementioned evidence proved beyond doubt that the Appellant- Accused was last seen together with the deceased at Ferry's beauty parlour and thereafter they arrived together at the hospital for their treatment.

63. He contended that in a mutual bid to end their lives, the Appellant-Accused had purchased 250 ml of 'Nuvacron', a pesticide, from Revathi Agencies in Hyderguda and also purchased a fiskar knife from Foodworld Store, Himayatnagar for opening the 'Nuvacron' tin can and 2 bottles of 1.5 liters of coca-cola from King's Bakery. He stated that the 'Nuvacron' pesticide was mixed with coca-cola and both the deceased and the Appellant-Accused had consumed the same around 7 PM on the same day.

64. He stated that G. Anil Kumar (PW-34), who at the time was a salesman at Revathi Agencies had deposed that the Appellant-Accused had purchased the pesticide 'Nuvacron' on the date of the incident. He pointed out that the bill for the purchase was Ex. P-42 and sale & stock registers had also been exhibited as Ex. P-43 and Ex. P-44. He stated that G. Anil Kumar (PW-34) had identified the Appellant-Accused in the hospital and in the Test Identification Parade in the presence of a Magistrate. He emphasised that G. Anil Kumar (PW-34) again identified the Appellant-Accused in Court. He thus contended that the purchase of 'Nuvacron' pesticide by the Appellant-Accused had been proved beyond doubt.

65. He stated that similarly, Anand Rao (PW-35), an employee of the Food World Shop had testified that the Appellant-Accused was the person who purchased fiskar knife and two chocolates under a receipt Ex. P-40.

66. He contended that the evidence of G. Anil Kumar (PW-34) could not be brushed aside only on the ground that the learned Magistrate was not examined. He emphasized that identification in Court is admissible in law, especially when the presence of the Appellant-Accused at the time of consumption of poison is proved beyond doubt. He pointed out that this Court in Dana Yadav alias Dahu and Ors. vs. State of Bihar (2002) 7 SCC 295 has

held that failure to hold TIP does not make the evidence of identification inadmissible, rather the same is very much admissible in law. He submitted that it is settled position of law that the identification parade of the accused before the court of law is not the main and substantive piece of evidence but is only a corroborative piece of evidence.

67. He pointed out that the fact that they both consumed poison is proved from the AP FSL report dated 27th February 2002, which records that organophosphate poison was found in all the items sent for testing. He pointed out that as per the AP FSL report dated 27th February 2002, the deceased had consumed 150 milli liters of poison. He stated that the three-member Committee vide its report dated 09th March 2002 has recorded that the deceased was under treatment for organophosphate poisoning and that the external injuries were a result of the treatment given to the deceased.

68. He pointed out that Dr. Laxmi Kantaiah (PW-13) at CARE Hospital had deposed that the deceased had informed her that she had consumed poison. He stated that Dr. Saraschandra (PW-10) had deposed that the deceased and the accused had consumed organophosphate poison. According to him, from the above evidence it is proved that the Appellant-Accused had purchased pesticide and thus aided in the consumption of the said pesticide by the deceased. He contended that the act of the accused in procuring the poison and not preventing the deceased from consuming the same makes him culpable for offences punishable under Section 306 read with 107 IPC. He further contended that the above evidence makes it apparent that the accused did not dissuade the deceased and, in fact, joined the deceased in consuming poison.

69. He submitted that the ingredients essential to establish a case of abetment of suicide have been reiterated in a recent judgment passed by this Court in Abhinav Mohan Delkar vs. State of Maharashtra and Others 2025 SCC Online SC 1725, wherein this Court has held as under:

"21. It was held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing and without a positive act on the part of the accused, in aiding or instigating or abetting the deceased to commit suicide, a conviction cannot be sustained.

22. What comes out essentially from the various decisions herein before cited is that, even if there is allegation of constant harassment, continued over a long period; to bring in the ingredients of Section 306 read with Section 107, still there has to be a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the extreme act of taking one's life. Figuratively, 'the straw that broke the camel's back'; that final event, in a series,

that occasioned a larger, sudden impact resulting in the unpredictable act of suicide.

What drove the victim to that extreme act, often depends on individual predilections; but whether it is goaded, definitively and demonstrably, by a particular act of another, is the test to find mens rea. Merely because the victim was continuously harassed and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. Mens rea cannot be gleaned merely by what goes on in the mind of the victim."

70. He contended that the Appellant-Accused had not given any explanation in his statement recorded under Section 313 CrPC thereby pointing to the guilt of the Appellant-Accused. He stated that the Appellant-Accused had denied having any relationship with the deceased and had even denied being admitted to the hospital. He pointed out that the Appellant-Accused had stated that he did not consume any poison and that he did not know how the deceased died. He contended that these facts were within the exclusive knowledge of the deceased/the appellant/accused. According to him, since the deceased had passed away, it was for the Appellant-Accused to explain the circumstances under Section 313 CrPC, but he had failed to do so.

71. According to him, the fact that the deceased was alive when admitted in hospital and was receiving treatment for organophosphate poisoning rules out death by strangulation. He stated that the entire forensic and medical evidence rules out death by strangulation and points conclusively to a case of death of organophosphate poisoning.

72. He submitted that as per Section 114 IPC, where the person was present when the act or offence was committed, he shall be deemed to have committed such an act or offence and would be liable to be punished as an abettor. In support of his submission, he relied upon a judgment of this Court in Patel Babubhai Manohardas and Ors. vs. State of Gujarat 2025 SCC Online SC 503.

73. He further submitted that Appellant-Accused is not entitled to benefit under Section 3 of Probation of Offenders Act, 1958 as the case of the Appellant-Accused did not fall in any of the categories mentioned therein, as the punishment for offence under Section 306 IPC could extend to ten (10) years.

74. He pointed out that both the AP FSL report dated 27th February 2002 and CFSL report dated 20th May 2002 recorded that semen and spermatozoa were not detected on the cotton swab. He stated that the three-member committee in its report dated 09th March 2002 also recorded that there was no evidence of sexual assault prior to death. He, therefore, contended that the present case was

not that of rape and death by manual strangulation, as alleged by the mother of the deceased and Appellant in Criminal Appeal Nos. 894-895 of 2012.

75. The learned senior counsel stated that the postmortem report dated 25th February 2002 was not only erroneous but the same was prepared by Dr. B. Muni Swamy in a wholly unprofessional manner as he had given an opinion of presence of sperm on a naked eye examination and without waiting for the AP FSL report dated 27th February 2002. The learned senior counsel further stated that Dr. B. Muni Swamy had misinterpreted the injuries received during the treatment as external injuries. He pointed out that the three-member Expert Committee vide its report dated 09th March 2002 had clearly opined that cause of death of deceased was Organophosphate poisoning. He emphasised that the three-member Expert Committee was of the opinion that Dr. B. Muni Swamy ought to have exercised restraint before expressing an opinion contrary to the Inquest Report.

76. He stated that a recommendation for initiation of RDA for imposition of a major penalty was made against Dr. B. Muni Swamy for contravention of Rules 3(1) to 3(4) of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, on account of furnishing an erroneous and unprofessional opinion regarding the cause of death.

REJOINDER

77. In rejoinder, Mr. Nagamuthu and Mr. L. Narasimha Reddy, learned senior counsel for the Appellant-Accused stated that the AP FSL report dated 27th February 2002 and CFSL report dated 20th May 2002 had confirmed that no semen had been detected on the cotton swabs forwarded to them. They stated that even the CDFD report dated 24th May 2002 only mentioned that DNA was found but it did not mention the presence of semen. They contended that the complainant's assumption that the said DNA necessarily represented semen was unfounded and scientifically untenable. They stated that there was no conclusive proof of the presence of semen and in any event, the deceased's declaration that she consumed poison ruled out any interference of sexual assault or homicidal violence.

78. Further, the complainant-deceased mother's reliance on CDFC report dated 05th April 2002 was misconceived as according to the said report, Exhibit A (Cotton Swab) and Exhibit B (stomach and intestine) belonged to the deceased but Exhibit C (liver and kidney) and Exhibit D (blood) did not. They stated that nothing turned on the alleged "mix-up", since Exhibit B (stomach and intestine) - in which poison was found by AP FSL and CFSL - admittedly belonged to the deceased. They contended that this fact confirmed consumption of poison by the deceased.

REASONING MURDER BY STRANGULATION IS RULED OUT

79. This Court is of the view that the allegation of homicidal death by manual strangulation is wholly unsustainable. The testimony of PW-1, the mother of the deceased and appellant in Criminal Appeal Nos. 894-895 of 2012, is particularly telling. She admitted that when she saw her daughter in the ICU of CARE Hospital, the latter was not only alive but also conscious, able to respond in a feeble voice to the doctor's questions and her legs were trembling. Such a condition is medically inconsistent with strangulation. The fact that the deceased was able to speak and exhibit motor activity demonstrates beyond doubt that strangulation was not the cause of death.

80. This conclusion is further reinforced by the testimony of Dr. Laxmi Kanthaiah (PW-13), who stated that at the time of admission, the deceased was conscious and herself disclosed that she had consumed poison. Dr. Saraschandra (PW-10) corroborated this account, testifying that both the deceased and the accused informed him that they had consumed organophosphate poison. These statements, made contemporaneously by the deceased herself, carry great evidentiary weight and cannot be brushed aside.

81. Moreover, three witnesses namely, Dr. Kalyansundaram (PW-32), Dr. Saraschandra (PW-10) and A. Anitha (PW-16), all confirmed that they observed no external injuries on the deceased's body. The absence of injuries is significant because strangulation ordinarily leaves tell-tale signs such as abrasions, bruises or hemorrhages.

82. Taken together, these facts conclusively establish that the deceased was conscious at the time of admission, bore no injuries consistent with strangulation and herself disclosed poisoning. The argument of death by strangulation is therefore ruled out.

OVERWHELMING OCULAR AND MEDICAL EVIDENCE PROVES DEATH DUE TO POISONING

83. Having ruled out strangulation, the Court turns to the actual cause of death. A wealth of ocular and medical evidence points to poisoning. The materials on record, when examined holistically, leave no room for doubt that the deceased died due to consumption of organophosphate poison, specifically Nuvacron. 84. Dr. Laxmi Kanthaiah (PW-13) of CARE Hospital has deposed that the deceased had informed her in the ICU that she had consumed poison which was some sort of pesticide.

Dr. Kalyanasundram (PW-32) of CARE Hospital has deposed that when he was informed that the deceased and the Appellant-Accused had consumed poison he had asked his junior resident doctors to secure the container of the

poison through the relative of the persons. Dr. Kalyanasundram (PW-32) has further deposed that after about two hours the friends of the Appellant-Accused had shown him the poison container which was marked as M.O.1 which contained Nuvacron poison.

Dr. Saraschandra (PW-10) of CARE Hospital has deposed that Ex. P-17 & P-18 prepared at the time of admission mentioned that the deceased and the Appellant-Accused had consumed Organophosphate poison and the entire line of treatment in the hospital was on that basis. Even, Investigating Officer (PW-24) has deposed that the mother of the deceased and appellant in Criminal Appeal Nos.894-895 of 2012 and the uncle of the deceased had informed him that the deceased had consumed poison.

85. Also, the death summary prepared by CARE Hospital mentions the cause of death as Organophosphate poison. Even, the postmortem report dated 25th February 2002 prepared by Dr. B. Muni Swamy records that the stomach of the deceased contained 150 ml. yellowish brown liquid with thick consistency and an abnormal odor with the congested mucosa.

86. Additionally, the AP FSL upon a chemical analysis of viscera and stomach wash of the deceased had stated in its report dated 27th February 2002 that it had found Organophosphate, an insecticide poison, in all the body pieces and liquids forwarded to it for examination.

87. Further, Mr. R.K. Sarine (PW-26), CFSL Hyd., confirmed the presence of Monocrotophos in the items sent to FSL. Dr. M. Narayana Reddy (PW-31) reiterated his opinion given in three-member Expert Committee report dated 09th March 2002 that death was caused by poison. Dr. D.N. Baradwaj (PW-33), Additional Professor Forensic Medicine and Toxicology, AIIMS stated that considering all the documents provided, the observations recorded in PME report dated 25th February 2002 prepared by Dr. B. Muni Swamy did not appear to be indictive of manual strangulation as the congestion in the brain and abdominal organs, as found in the present case, is found in cases of Organophosphate poisoning.

88. Consequently, the convergence of multiple independent expert opinions lends overwhelming credibility to the conclusion that the deceased died of poisoning.

OFFENCE OF RAPE AGAINST APPELLANT-ACCUSED IS NOT MADE OUT

89. Two separate and independent laboratory reports, namely, report by AP FSL dated 27th February 2002 and report by CFSL, New Delhi dated 20th May

2002 on analysis of cotton swabs forwarded in sealed bottles concluded that Semen and Spermatozoa were not detected thereon.

90. Though the CDFD report dated 24th April 2002 stated that cotton swab contained two fractions i.e. female fraction and male fraction and the male fraction of Exhibit A (Part of Cotton Swab) contained DNA of a human male individual, yet CDFD in its subsequent report dated 13th May, 2002 concluded upon STR analysis that the biological fluid present on the cotton swab of the deceased did not match with the DNA profiles of the person whom the mother of the deceased (i.e. Appellant herein in Criminal Appeal Nos.894-895 of 2012) suspected to be involved in alleged rape of the deceased, which included the DNA profile of the Appellant-Accused.

91. This Court is of the view that non-production of CDFD report before the Courts below is immaterial, insofar as, it does not reveal the commission of rape and murder as alleged by mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012. The CDFD report is in fact exculpatory qua the Appellant-Accused insofar as it concludes that male DNA strand in the cotton swab did not match with the samples taken from the accused or any of the persons suspected by the mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012.

92. Additionally, the three-member Expert Committee Report dated 09th March 2002 recorded that it was not possible to identify from a naked eye examination whether the fluid collected from the vagina was semen or vaginal secretion and that clothes had been removed to facilitate the treatment. The threemember Expert Committee also pointed out that postmortem report dated 25th February 2002 itself did not find any evidence of sexual assault prior to death, inasmuch as, it did not find any bite marks on the lip, cheeks, neck or breast or injury marks or scratch marks that are normally found in cases of sexual assault.

93. The AIIMS Committee of doctors has concluded in its report dated 16th July 2002 that, "Semen cannot be identified solely by naked eye examination. Semen has a distinct smell when fresh, but smell is not a basis for its identification. An Autopsy Surgeon is not competent to comment on the presence of semen before subjecting the specimen to microscopic and histo-chemical tests." Further, the AIIMS report dated 02nd May 2002 records that FSL report dated 27th February 2002 does not indicate any evidence of sexual assault in the case.

94. Also, Dr. Kalyanasundram (PW-32) of CARE Hospital has clarified to the Investigating Officer (PW-24) that injuries found on the neck and the wrist of the deceased had been caused during the course of treatment.

95. Consequently, in light of the deceased's own statement, hospital records, forensic reports and expert opinions, allegations of rape or murder are devoid of legal or factual foundation.

AT THIS BELATED STAGE, IT IS DIFFICULT TO ALLEGE THAT THE CAUSE OF DEATH WAS RAPE AND STRANGULATION

96. It is also pertinent to mention that the High Court of Andhra Pradesh had monitored the investigation in Public Interest Litigations being W.P. Nos.4054 and 4329 of 2002 to which Dr. B. Muni Swamy, was a party. The High Court after considering all facts, including, the affidavit filed by Dr. B. Muni Swamy as well as CDFD report and status reports filed by CBI, was satisfied with the investigation conducted by CBI and it was only thereafter that it closed the writ petitions.

97. The mother of the deceased and Appellant in Criminal Appeal Nos.894-895 of 2012 never filed any protest petition or sought further investigation. Even in the present appeals, no pleading is forthcoming as to why the said steps were not taken. Consequently, at this belated stage, allegations of rape and strangulation cannot be revived.

DR. B. MUNI SWAMY HAD FURNISHED AN UNPROFESSIONAL POSTMORTEM REPORT

98. This Court is of the opinion that non-examination of Dr. B. Muni Swamy is immaterial as the subsequent three-member Expert Committee report and the AIIMS Committee report, completely belies the postmortem report prepared by him. The three-member Expert Committee and AIIMS committee after careful examination of all relevant facts have concluded that it was a case of poisoning and not strangulation and that Dr. B. Muni Swamy had prematurely given the findings of presence of semen on naked eye examination without waiting for the FSL report.

99. In fact, the three-members Expert Committee of doctors appointed by the State of Andhra Pradesh has commented adversely on the opinion given by Dr. B. Muni Swamy. The three-members Expert Committee was of the view that Dr. B. Muni Swamy had not only misinterpreted the therapeutic injuries as the injuries caused by violence but had not exercised restraint before expressing his opinion. This conduct of Dr. B. Muni Swamy demonstrates lack of professional restraint and objectivity.

100. Even the AIIMS Committee of doctors was unanimous in its opinion that Dr. B. Muni Swamy had misinterpreted the findings to conclude that the cause of death was manual strangulation. The AIIMS Committee of doctors was of the view that the opinion given by Dr. B. Muni Swamy suffered from an error

of judgment and the observations made by the Autopsy Surgeon did not appear to be correct.

101. Pertinently, even though Dr. Krupal Singh was the duty doctor at the mortuary, Dr. B. Muniswamy, Professor came to the mortuary on his own and conducted postmortem. The duty roster revealed that Dr. Muniswamy was neither on duty at the mortuary nor on call duty as Professor. This was revealed by Dr. Rajgopal Reddy, HOD, Department of Forensic Medicine, who stated that Dr. Muniswamy did not intimate or seek permission for conducting the postmortem.

102. Consequently, this Court concurs with the finding of the CBI that Dr. B. Muni Swamy had furnished an erroneous and unprofessional postmortem report in the present case and had gone to the press with premature sensational claims. His actions were not only medically unsound but also irresponsible, as they created unnecessary public controversy.

CONSEQUENCES OF PREMATURE AND DELIBERATE PUBLICATION

103. The premature and erroneous opinion of Dr. Muni Swamy unleashed a wave of public controversy. Media reports amplified his conclusions, leading to widespread suspicion of investigators and calls for immediate action against alleged perpetrators. This demonstrates how a single erroneous report, when publicised prematurely, can distort public perception and derail the course of justice.

104. This Court is of the view that the impact of a doctor issuing an erroneous postmortem report and publicising it through the media goes far beyond individual misconduct. It spreads misinformation, erodes trust in investigative agencies and institutions such as the police and judiciary, prejudices public opinion, traumatises the victim's family, and undermines the rule of law. Such misconduct does not merely harm one case; it corrodes public trust in medicine, law, and governance, destabilising peace and harmony in society. It also violates the sub judice rule, which restricts commentary on matters under judicial consideration to preserve fairness and integrity.

105. The Court emphasises that justice is not served by following majority sentiment or public pressure. Justice is served by truth, established through evidence and impartial investigation. While public outrage is understandable in high-profile cases, it should never dictate the course of inquiry. Investigations require careful collection of evidence, impartial analysis, and conclusions grounded in fact. Allowing public sentiment to shape outcomes risks miscarriages of justice.

A society committed to fairness must recognise that investigators and courts serve the truth, not popularity. Their independence is not a luxury but the foundation of justice itself. 106. Consequently, this Court holds that the conduct of Dr. Muni Swamy in furnishing an erroneous report, publicising it prematurely and thereby violating professional ethics and the sub judice rule constitutes contempt of Court. It also breaches medical ethics, which demand competence, honesty and diligence. However, in view of his demise, this Court refrains from imposing any further consequences.

EVIDENCE OF PW-34 INSPIRES CONFIDENCE AND IS TRUSTWORTHY

107. The submission that Appellant-Accused is entitled to benefit of doubt merely because of a purportedly faulty TIP is untenable. In the present case, G. Anil Kumar (PW-34) and Anand Rao (PW-35) identified the accused in Court as the person who purchased Nuvacron as well as knife and chocolates. It is pertinent to mention that TIPs are primarily meant to give an assurance to the investigating agency that their progress with the investigation into the offence is proceeding in the right direction. TIP or identification in Court is not sine qua non in every case if from circumstances the guilt is otherwise established. The fact that a particular witness has been able to identify the accused at an identification parade is only a circumstance corroborative of the identification in Court.

108. This Court is of the view that the evidence of PW-34 with respect to identification of the Appellant-Accused as the person who bought 'Nuvacron' on 23rd February 2002 inspires confidence. There is nothing on record to doubt his deposition.

109. The contention of the learned senior counsel for the Appellant-Accused that Ex. P-42 is not a reliable document as the said bill shows sale of three items when allegedly the accused had purchased only a single item, is misconceived on facts. A perusal of the deposition of G. Anil Kumar (PW-34) shows that he has explained that all the three items mentioned in Ex. P-42 were not purchased by the same person and that Ex.P-42 bill reflected consolidated daily sales for accounting purposes, not a single transaction. His explanation is logical and consistent with business practice and therefore the objection is rejected.

ADVERSE INFERENCE AGAINST APPELLANT-ACCUSED

110. Additionally, it is an admitted fact that both the deceased and the Appellant- Accused consumed poison. It is also an admitted fact that both the deceased and Appellant-Accused were seen outside the beauty parlor and

thereafter seen together in the hospital for their treatment. Since the deceased is no more, it was for the Appellant-Accused to explain the circumstances in which the poison was purchased and consumed. In his Section 313 CrPC statement, the response of the accused was that of complete denial. In fact, not only did the Appellant-Accused denied being in a relationship with the deceased, but he also denied being admitted in CARE Hospital, despite overwhelming evidence to the contrary.

No explanation regarding the manner of purchase or consumption of pesticide was forthcoming from the Appellant-Accused. It was not his case that the deceased or some other person had purchased the poison for them or that either of them were in possession of the poison prior to the date of the incident. Consequently, in the circumstances, an adverse inference has to be drawn against the Appellant- Accused. [See: Munna Kumar Upadhyay Alias Munna Upadhyaya vs. State of Andhra Pradesh Through Public Prosecutor, Hyderabad, Andhra Pradesh, (2012) 6 SCC 1741; State of W.B. vs. Mir Mohammad Omar & Ors., (2000) 8 SCC 3822; RajKumar vs. State of Madhya Pradesh, (2014) 5 SCC 3533; Munish Mubar vs, State of Haryana, (2012) 10 SCC 4644]

DEFENCE OF ACCIDENTAL CONSUMPTION REJECTED

111. The accused's contention that he consumed pesticide either accidentally or with intent to threaten family members is implausible. As an engineering student, he was expected to understand the lethal nature of pesticide. There is no evidence to suggest that he mistook pesticide for a harmless substance. His defence is therefore rejected as unbelievable.

112. Pertinently, the pesticide Nuvacron is one of the highly toxic pesticides available for purchase. It is the evidence of PW-34 that the accused came to the shop and asked for Nuvacron, meaning thereby that the accused was likely aware of the toxicity of the said pesticide and had purchased it with the knowledge that ingesting the same will likely result in death.

ABETMENT BY PURCHASE OF NUVACRON

113. The offence of abetment is defined under Section 107 of the IPC, the same is reproduced hereinbelow:-

"107. Abetment of a thing.-

A person abets the doing of a thing, who-

First.-Instigates any person to do that thing; or

Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

114. Also, in order to constitute abetment, the abettors must have intentionally aided the commission of offence. Aiding can be construed as an act of intentionally facilitating the commission of an offence.

115. In the present case, the Appellant-Accused has abetted the offence under Section 306 of the IPC by purchasing the pesticide with the knowledge of its lethal nature. Furthermore, in absence of any explanation by the accused as to why the deceased and the accused consumed poison would lead to an adverse inference that it was consumed with intent to commit suicide. Driving to the hospital is a natural human conduct in face of death.

INAPPLICABILITY OF VELLADURAI (SUPRA) TO THE PRESENT CASE

116. The judgment in Velladurai (supra) is not applicable to the present matter as in the said case, the accused-husband had harassed the deceased-wife to the extent that she was left with no option but to commit suicide. In the said case, there were no allegations of aiding the deceased wife in commission of suicide.

SURVIVING PARTNER IN A MUTUAL SUICIDE PACT IS LEGALLY CULPABLE

117. Notwithstanding the culpability of the act of purchasing pesticide, the Accused's participation in a suicide pact renders him culpable under Section 107 IPC. A suicide pact involves mutual encouragement and reciprocal commitment to die together. The survivor's presence and participation acts as a direct catalyst for the deceased's actions. It is pertinent to mention that abetting as defined under Section 107 IPC is not limited to physical act of supplying means to commit suicide. Accordingly, any psychological assurance or instigation, as long as the same is intentional and directly related to the commission of offence, also constitutes abetment.

118. This Court is of the view that it is the reciprocal commitment of each party to commit suicide which provides necessary impetus/support to the other to go through with the act. In a suicide pact, it is implicit that each participant knows the intent of the other to commit the act knowing that their withdrawal from the pact will likely deter the other.

Each party's resolve to commit the act is, therefore, reinforced and strengthened due to the participation of the other party. Suicide in a suicide pact is conditional upon mutual participation of the other. In other words, if not for the active participation of both the parties, the act would not occur. The law treats such conduct as abetment because the State has a fundamental interest in preserving life. Any assistance in ending life is treated as a crime against the State.

119. Consequently, this Court holds that the accused's conduct in entering into and acting upon the suicide pact falls squarely within all the three situations envisaged in Section 107 of the IPC. His participation directly facilitated the deceased's suicide. Notably, it is not his defence that the deceased was the dominant personality who pressured him into the pact. His culpability therefore stands established.

CONCLUSION

120. Keeping in view the aforesaid reasons, the present Appeals being bereft of merits are dismissed, but with no order as to costs. The Appellant is directed to surrender within four weeks.

.....J. [Rajesh Bindal]

.....J. [Manmohan]

New Delhi;

February 17, 2026

1
"76. If the accused gave incorrect or false answers during the course of his statement under Section 313 CrPC, the court can draw an adverse inference against him. In the present case, we are of the considered opinion that the accused has not only failed to explain his conduct, in the manner in which every person of normal prudence would be expected to explain but had even given incorrect and false answers. In the present case, the Court not only draws an adverse inference, but such conduct of the accused would also tilt the case in favour of the prosecution."

2

"36. In this context we may profitably utilise the legal principle embodied in Section 106 of the Evidence Act which reads as follows: "When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."

37. The section is not intended to relieve the prosecution of its burden to prove the guilt of the accused beyond reasonable doubt. But the section would apply to cases where the prosecution has succeeded in proving facts from which a reasonable inference can be drawn regarding the existence of certain other facts, unless the accused by virtue of his special knowledge regarding such facts, failed to offer any explanation which might drive the court to draw a different inference."

3

"22. The accused has a duty to furnish an explanation in his statement under Section 313 CrPC regarding any incriminating material that has been produced against him. If the accused has been given the freedom to remain silent during the investigation as well as before the court, then the accused may choose to maintain silence or even remain in complete denial when his statement under Section 313 CrPC is being recorded. However, in such an event, the court would be entitled to draw an inference, including such adverse inference against the accused as may be permissible in accordance with law. (Vide Ramnaresh v. State of Chhattisgarh , Munish Mubar v. State of Haryana and Raj Kumar Singh v. State of Rajasthan."

4

31. It is obligatory on the part of the accused, while being examined under Section 313 CrPC to furnish some explanation with respect to the incriminating circumstances associated with him, and the court must take note of such explanation, even in a case of circumstantial evidence, so as to decide, whether or not, the chain of circumstances is complete."

IN THE SUPREME COURT OF INDIA

Parameshwari
Vs.
State of Tamil Nadu & Ors.

[Criminal Appeal No._____ of 2026
arising out of SLP (Criminal) No. 7495 of 2021]

Head Note – Compensation payable to the victim is only restitutory in nature, and it cannot be considered as equivalent to or a substitute for punishment.

JUDGMENT

Vijay Bishnoi, J.

"नृपस्य परमो धर्मः प्रजानां परिपालनम्।
दुष्टानां ग्रहणं नित्यं नित्यानां च विनाशनम्॥"

1. The supreme objective of law is the protection of society and creating a deterrence against crime by imposing adequate punishment. Leave Granted.

2. This appeal has been preferred by the Appellant challenging the Judgment dated 18.12.2020 (hereinafter referred to as "impugned judgment") passed in Crl. R.C. (MD) No. 121 of 2016 by the High Court of Judicature at Madras, Madurai Bench (hereinafter referred to as "the High Court") wherein the criminal revision filed by the Respondent No. 2 and Respondent No. 3 (hereinafter referred to as "Private Respondents") was allowed by the High Court.

The High Court upheld the conviction of Private Respondents for the offences punishable under Section 307, 326 and 324 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC"), but it modified the sentence awarded to them from three years rigorous imprisonment along with a fine of ₹ 5,000/- each (totalling to ₹ 10,000/-) to period already undergone with an enhanced fine of ₹ 50,000/- each (totalling to ₹ 1,00,000/-).

FACTUAL MATRIX

3. As per the prosecution story, Crime No. 142/2009 was registered at Thiruppachethi Police Station, wherein it was alleged that there was previous enmity between the victim and the Private Respondents. On 06.06.2009 at about 03.00 PM, the Private Respondents came with knives, while the other two accused persons came with sticks. The Private Respondents stabbed the

victim with knives on the left side of the chest, in the left rib, abdomen, and on the right hand palm. The other accused persons attacked the victim with sticks, causing minor injuries. Further, it was also alleged that the Private Respondents, along with the other accused persons, have used abusive language against the victim.

4. During the investigation, the Private Respondents and the other accused persons were arrested, and based on the confessional statement of one of the other accused persons, the knives used for committing the offence were discovered. Further, the Police recorded the statements of the victim and other witnesses. After completion of the investigation, a charge sheet dated 25.06.2009 was filed under Sections 294(b), 323, 324, 326, and 307 of IPC against all the accused persons (including the Private Respondents) before the Addl. District Munsif cum Judicial Magistrate Court, Manamadurai.

5. Subsequently, the Addl. District Munsif cum Judicial Magistrate Court, Manamadurai, committed the case to the District and Sessions Court, Sivagangai, which framed charges under Sections 294(b), 326, and 307 of the IPC against Respondent No 2 and under Sections 294(b), 324, and 307 of the IPC against Respondent No 3, and under Sections 294(b) and 323 of the IPC against the other accused persons. Thereafter, the case was transferred by the District and Sessions Court, Sivagangai, to the Chief Judicial Magistrate cum Subordinate Court/ Assistant Sessions Judge, Sivagangai (hereinafter referred to as "Trial Court").

6. During the trial, the complainant Rajendran (hereinafter referred to as "PW1"), deposed that he knew the accused persons, including the Private Respondents, as they belonged to his village. Further, PW1 reiterated the complaint and stated that he took the victim to the Thiruppachethi Police Station and lodged the complaint. Further, the Appellant herein was examined as PW3, and the victim was examined as PW2. Additionally, Dr. Prabhakaran, who was examined as PW9, identified that the victim had sustained four stab injuries, and that these types of injuries, if not immediately treated, could be lifethreatening.

7. After analysing all the evidence produced before it, the Trial Court vide its final order and judgment dated 28.11.2013, convicted the Private Respondents under Section 307, 326 and 324 of the IPC. The Trial Court held that the evidence of PW1, PW9, and the Appellant herein were corroborating the evidence of the Victim. Further, the other accused persons were acquitted of the charge under Section 323 of the IPC, as the prosecution failed to prove their guilt beyond a reasonable doubt. Additionally, the Trial Court acquitted all the accused persons, including the Private Respondents, of the charge framed under Section 294(b) of the IPC.

8. Accordingly, the Trial Court sentenced the Private Respondents to undergo rigorous imprisonment of three years and to pay a fine of ₹ 5,000/- each, and failing which to undergo a simple imprisonment for a period of one month, under Section 307 of the IPC. It further held that there was no requirement to award separate sentences under Sections 326 and 324 of the IPC.

9. Aggrieved, the Private Respondents filed Crl. Appeal No. 55/2013 before the District Sessions Fast Track Mahila Court, Sivagangai, challenging the judgment and final order dated 28.11.2013 passed by the Trial Court.

10. The District Sessions Fast Track Mahila Court, Sivagangai vide judgment and final order dated 23.02.2016, dismissed the appeal preferred by the Private Respondents and upheld the conviction and sentence awarded by the Trial Court. The District Sessions Fast Track Mahila Court, Sivagangai, held that the Private Respondents with the motive and intention to murder the victim, have inflicted the injuries on the victim. Additionally, they had the knowledge that causing such bodily injury is sufficient in the ordinary course of nature to cause death, and hence, the charge under Section 307 of IPC is proved beyond doubt. Further, it was also held that the occurrence of the incident had been sufficiently corroborated by the oral evidence and medical evidence on record.

11. Aggrieved, the Private Respondents preferred Criminal Revision bearing Crl. R.C. (MD) No.121 of 2016 before the High Court against the judgment dated 23.02.2016 passed by the District Sessions Fast Track Mahila Court, Sivagangai. During the pendency of the same, the victim passed away on 10.04.2017 under circumstances not germane to the present case. It appears that during the pendency of the Criminal Revision bearing Crl. R.C. (MD) No.121 of 2016, the Appellant herein (wife of the victim) was impleaded as Respondent No. 2 pursuant to the order dated 13.08.2019 passed by the High Court.

12. Before the High Court, it was contended by the Private Respondents that more than 10 ½ years had elapsed since the occurrence of the alleged incident, and some other persons had also murdered the victim. The Private Respondents did not challenge their guilt; however, they depicted their willingness to pay a sum of ₹ 1,00,000/- (₹ 50,000/- each) to the Appellant herein.

13. Accepting the aforesaid contentions raised on behalf of the Private Respondents, the High Court vide impugned judgment, confirmed the conviction of the Private Respondents but modified the sentence from rigorous imprisonment for three years to the period of imprisonment already undergone by them, i.e., two months. Further, the High Court also enhanced the amount of the fine imposed on the Private Respondents from ₹ 5,000/- each (totalling to ₹

10,000/-) to a further sum of ₹ 50,000/- each (totalling to ₹ 1,00,000/-). The impugned judgment is reproduced hereinbelow for reference:

"ORDER

1. The revision petitioners were prosecuted for the offences under Sections 294(b), 323, 324, 326 and 307 of I.P.C. on the file of the Chief Judicial Magistrate/Assistant Sessions Judge, Sivagangai.

2. In support of the charges, the prosecution examined as many as ten witnesses. The case of the prosecution is that the accused herein stabbed the victim in the abdomen. The victim was said to have been in hospital for about 20 days. P.W.1 was the complainant. P.W.2 was the injured witness. P.W.3 who is the second respondent herein is the wife of P.W.2. The trial Judge, after going through the evidence on record came to the conclusion that the prosecution had proved its case beyond reasonable doubt.

Vide Judgment dated 28.11.2013, the learned trial Judge convicted both the petitioners herein for the offences under Section 307 of I.P.C. and sentenced each of them to undergo three years Rigorous Imprisonment. Fine of Rs.5,000/- was also imposed. Though they were also convicted for the other charges, no separate sentence was awarded. Though there were two other accused in this case, namely, accused Nos.3 and 4, they were acquitted. The same was put to challenge in C.A.No.55 of 2013. Vide Judgment dated 23.02.2016, the learned appellate Judge confirmed the conviction Judgment of the trial Court and dismissed the appeal. Challenging the same, this criminal revision case came to be filed.

3. Even before commencing the argument, the learned counsel appearing for the revision petitioners submitted that having regard to the evidence on record, he would not challenge the finding of guilt. He only seeks modification in the matter of sentence. He pointed out that the occurrence had taken place way back in June 2009. More than 10½ years have elapsed. The petitioners did not come under any adverse notice either before or after the occurrence. The victim had been murdered by some other persons a few years later. The petitioners are willing to pay a sum of Rs.1,00,000/-as compensation (Rs.50,000/-each) to the wife of the victim.

4. The petitioners had been in prison for about two months. Taking note of all these aspects, even while confirming the conviction imposed on the petitioners, the sentence of imprisonment imposed on the petitioners is modified to the period already undergone by them. The fine amount of Rs.5,000/- each imposed on them is enhanced and the petitioners are directed to pay a further sum of Rs.50,000/- each (Totally Rs.1,00,000/-). The enhanced fine amount

will be paid by the petitioners within a period of eight weeks from the date of receipt of a copy of this order. The enhanced fine amount to be paid by the petitioners will be handed over by the Court below to the wife of the victim as compensation. The second respondent herein Parameshwari, wife of the victim is represented by her counsel. If the petitioners fail to deposit the enhanced fine amount, they will have to undergo one year Rigorous Imprisonment by way of default sentence.

5. In this view of the matter, the sentence imposed by the impugned Judgment is modified and this criminal revision case is partly allowed."

CONTENTION OF THE PARTIES

14. Learned Counsel for the Appellant, Mr. A Velan, herein primarily contended that the reduction of sentence to the period already undergone by the High Court is illegal and misplaced. It was submitted that the sentence must be commensurate with the seriousness of the crime, as held by this Court in State of Madhya Pradesh vs. Suresh reported in (2019) 14 SCC 151, wherein it was observed that it is the duty of the Court to award just and adequate punishment to the wrongdoer, in proportion with the gravity of the crime.

Reliance was also placed on the judgment of this Court passed in State of Madhya Pradesh vs. Kashiram & Ors reported in (2009) 4 SCC 26, mentioning that mere lapse of time is not a mitigating factor. Additionally, with regard to compensating the victim's family, it was contended that additional compensation to a victim who has passed away is fruitless. The learned counsel, thus, contended that by relying on irrelevant factors and reducing the sentence without cogent reasons, the High Court exceeded its revisional jurisdiction.

15. Mr. V. Krishnamurthy, Learned Additional Advocate General (hereinafter referred to as "AAG") for the State of Tamil Nadu, in tandem with the arguments led by the counsel of Appellant, submitted that the High Court failed to state cogent reasons for such a reduction in sentence, which is an essential requirement as reiterated by this Court in State of Madhya Pradesh vs. Mohan and others reported in (2013) 14 SCC 116.

The learned AAG has also stated that freeing the accused of punishment would lead them to flee from justice and might harm society as a whole. It was further submitted that the punishment must be commensurate with the gravity of the crime and that herein, the High Court, while exercising its revisionary powers, showed undue sympathy in reducing the sentence. He has also pointed out to the fact that a three-year sentence as imposed by the trial Court would not be improper based on the heinous nature of the crime.

16. Mr. M.P. Parthibhan, learned counsel appearing for the Private Respondents have contended before us that the judgment of the High Court could not be faulted with as the High Court had passed the order of reducing the sentence after due consideration of all the relevant factors including the time lapsed since the incident, the death of the victim (attributable to murder in some other incident), and the antecedents of the Private Respondents.

It was further contended that the Private Respondents were willing to pay ₹ 1,00,000/- (₹ 50,000/- each) as compensation to the family of the victim and accordingly, the High Court had rightly reduced the sentence from rigorous imprisonment for three years to the period already undergone, i.e., 2 months and increased the amount of fine from ₹ 10,000/- (₹ 5,000/- each) to ₹ 1,00,000/- (₹ 50,000/- each). It was further contended by the learned counsel for Private Respondents that the High Court precisely took note of all the relevant factors in reducing the sentence and increasing the fine amount so as to reinforce the spirit of the criminal justice system by affording the opportunity for reformation to the Private Respondents.

ANALYSIS

17. To appreciate the contentious submissions made at the bar, we have meticulously perused the petition and appreciated the materials on record and the judgments of the subordinate Courts. The only question that requires determination in this appeal is whether the High Court was justified in reducing the sentence awarded to the Private Respondents.

18. It is required to be stated outrightly that the Trial Court convicted the accused persons under Section 307, 324 and 326 of the IPC and sentenced them to undergo rigorous imprisonment of three years and a fine of ₹ 5,000/- each (totalling to ₹ 10,000/-). The High Court vide impugned judgment maintained the conviction; however, it reduced the sentence to the period already undergone, i.e., 2 months, in a case wherein the accused persons inflicted life-threatening injuries to the victim in an assault.

19. We are constrained to observe that the High Court acted in complete defiance of the law and created a travesty of the established criminal jurisprudence in arriving at its conclusion. The High Court in the impugned judgment noted that more than 10 ½ years had elapsed since the incident and that the victim had been murdered by some other persons a few years later. Based on these aspects, the High Court modified the sentence awarded to the accused persons. Apart from the above, the High Court failed to reason out the circumstances, acting on which, it reduced the sentence for such a heinous offence and thereby, erred in not applying its judicial mind to accurately decide the sentence.

20. Before we jump into the merits of the case, it is quintessential to touch upon the foundational aspects of criminal jurisprudence, including punishment, penology and victimology.

21. While deliberating upon the desirability of punishment, Prof. HLA Hart observed:

"We do not live in society in order to condemn though we may condemn in order to live." (HLA Hart's Punishment and Responsibility, pp. 182)

The objective of punishment is not to seek vengeance for the crime, rather, it is an attempt to reconstruct the damaged social fabric of society in order to pull back its wheel on the track.

22. The objective of punishment is to create an effective deterrence so that the same crime/actions are prevented and mitigated in future. The consideration to be kept in mind while awarding punishment is to ensure that the punishment should not be too harsh, but at the same time, it should also not be too lenient so as to undermine its deterrent effect.

23. This Court, in the judgment of Hazara Singh vs. Raj Kumar and others reported in (2013) 9 SCC 516, held that the cardinal principle of sentencing policy is that the sentence imposed on an offender should be commensurate to the crime committed and be proportionate to the gravity of the offence. This Court therein held as under:

"11. The cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence. This Court has repeatedly stressed the central role of proportionality in sentencing of offenders in numerous cases.

17. We reiterate that in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

We also reiterate that undue sympathy to impose inadequate sentences would do more harm to the justice system to undermine the public confidence in the efficacy of law. It is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The court must not only keep in view the rights of the victim of the

crime but also the society at large while considering the imposition of appropriate punishment."

(emphasis supplied)

24. This objective was also reiterated by this Court in a catena of judgments (see: Ahmed Hussein Vali Mohammed Saiyed and Another vs. State of Gujarat reported in (2009) 7 SCC 254); Guru Basvaraj Alias Benne Settappa vs. State of Karnataka reported in (2012) 8 SCC 734 and various others) wherein it was held that the object of awarding appropriate sentences is that society should be protected and the crimes should be deterred. The balancing has to be done between the rights of the accused and the needs of the society at large.

25. This Court in the judgment of State of M.P. vs. Saleem Alias Chamaru and Another reported in (2005) 5 SCC 554 was dealing with the validity of the judgment of the High Court wherein the High Court had reduced the sentence awarded to the accused (in conviction under Sections 307 and 330 of the IPC) from 5 years to the period already undergone, i.e., six months and 23 days. This Court, therein, while setting aside the judgment of the High Court, held that undue sympathy shown towards the accused while imposing an inadequate sentence would do more harm to society and erode the trust of the public in the justice system. The Court therein held as follows:

"6. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471 : 1991 SCC (Cri) 724 : AIR 1991 SC 1463]

7. After giving due consideration to the facts and circumstances of each case, for deciding just and appropriate sentence to be awarded for an offence, the aggravating and mitigating factors and circumstances in which a crime has been committed are to be delicately balanced on the basis of really relevant circumstances in a dispassionate manner by the court. Such act of balancing is indeed a difficult task.

It has been very aptly indicated in Dennis Councle McGautha v. State of California [402 US 183 : 28 L Ed 2d 711 (1971)] that no formula of a foolproof nature is possible that would provide a reasonable criterion in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. In the absence of any foolproof formula which may provide any basis for reasonable criteria to correctly assess various

circumstances germane to the consideration of gravity of crime, the discretionary judgment in the facts of each case, is the only way in which such judgment may be equitably distinguished.

8. The object should be to protect society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be.

9. Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by a string of deterrence inbuilt in the sentencing system.

10. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal"."

26. The view taken by this Court in Saleem (supra) has been consistently reiterated by this Court in a series of judgments, including State of Punjab vs. Saurabh Bakshi reported in (2015) 5 SCC 182, State of Punjab vs. Dil Bahadur reported in (2023) 18 SCC 183 and several others.

27. This Court, while again discussing the same issue in Suresh (supra) reiterated that the Courts must keep in mind several factors, while imposing or reducing the sentence of any accused. The Court therein also held that sentencing is awarding just and adequate punishment to the wrongdoer, and is the primary duty of the courts. The relevant portion of the said judgment is reproduced herein under:

"11. In State of M.P. v. Ghanshyam Singh [State of M.P. v. Ghanshyam Singh, (2003) 8 SCC 13 : 2003 SCC (Cri) 1935] , relating to the offence punishable under Section 304 Part I IPC, this Court found sentencing for a period of 2 years to be too inadequate and even on a liberal approach, found the custodial sentence of 6 years serving the ends of justice. This Court underscored the principle of proportionality in prescribing liability according to the culpability; and while also indicating the societal angle of sentencing, cautioned that undue sympathy leading to inadequate sentencing would do more harm to the justice system and undermine public confidence in the efficacy of law. This Court observed, inter alia, as under: (SCC pp. 19-21, paras 12-15, 17 & 19)

"12. Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in Sevaka Perumal v. State of T.N. [Sevaka Perumal v. State of T.N., (1991) 3 SCC 471 : 1991 SCC (Cri) 724] 13. Criminal law adheres in general to the principle of proportionality in prescribing liability according to the culpability of each kind of criminal conduct.

It ordinarily allows some significant discretion to the Judge in arriving at a sentence in each case, presumably to permit sentences that reflect more subtle considerations of culpability that are raised by the special facts of each case. Judges, in essence, affirm that punishment ought always to fit the crime; yet in practice sentences are determined largely by other considerations. Sometimes it is the correctional needs of the perpetrator that are offered to justify a sentence, sometimes the desirability of keeping him out of circulation, and sometimes even the tragic results of his crime. Inevitably, these considerations cause a departure from just deserts as the basis of punishment and create cases of apparent injustice that are serious and widespread.

14. Proportion between crime and punishment is a goal respected in principle, and in spite of errant notions, it remains a strong influence in the determination of sentences. The practice of punishing all serious crimes with equal severity is now unknown in civilised societies, but such a radical departure from the principle of proportionality has disappeared from the law only in recent times. Even now for a single grave infraction drastic sentences are imposed. Anything less than a penalty of greatest severity for any serious crime is thought then to be a measure of toleration that is unwarranted and unwise. But in fact, quite apart from those considerations that make punishment unjustifiable when it is out of proportion to the crime, uniformly disproportionate punishment has some very undesirable practical consequences.

15. After giving due consideration to the facts and circumstances of each case, for deciding just and appropriate sentence to be awarded for an offence, the aggravating and mitigating factors and circumstances in which a crime has been committed are to be delicately balanced on the basis of really relevant circumstances in a dispassionate manner by the court.

Such act of balancing is indeed a difficult task. It has been very aptly indicated in McGautha v. California [McGautha v. California, 1971 SCC OnLine US SC 89 : 28 L Ed 2d 711 : 402 US 183 (1971)] that no formula of a foolproof nature is possible that would provide a reasonable criterion in determining a just and appropriate punishment in the infinite variety of circumstances that may affect the gravity of the crime. In the absence of any foolproof formula which may provide any basis for reasonable criteria to correctly assess various circumstances germane to the consideration of gravity of crime, the discretionary judgment in the facts of each case is the only way in which such judgment may be equitably distinguished.

17. Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order and public interest cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic a view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by a string of deterrence inbuilt in the sentencing system.

19. Similar view has also been expressed in Ravji v. State of Rajasthan [Ravji v. State of Rajasthan, (1996) 2 SCC 175 : 1996 SCC (Cri) 225] . It has been held in the said case that it is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should 'respond to the society's cry for justice against the criminal'."

(emphasis supplied)

13. Therefore, awarding of just and adequate punishment to the wrongdoer in case of proven crime remains a part of duty of the court. The punishment to be awarded in a case has to be commensurate with the gravity of crime as also with the relevant facts and attending circumstances. Of course, the task is of striking a delicate balance between the mitigating and aggravating circumstances.

At the same time, the avowed objects of law, of protection of society and responding to the society's call for justice, need to be kept in mind while taking up the question of sentencing in any given case. In the ultimate analysis, the proportion between the crime and punishment has to be maintained while further balancing the rights of the wrongdoer as also of the victim of the crime and the society at large. No straitjacket formula for sentencing is available but the requirement of taking a holistic view of the matter cannot be forgotten.

14. In the process of sentencing, any one factor, whether of extenuating circumstance or aggravating, cannot, by itself, be decisive of the matter. In the same sequence, we may observe that mere passage of time, by itself, cannot be a clinching factor though, in an appropriate case, it may be of some bearing, along with other relevant factors. Moreover, when certain extenuating or mitigating circumstances are suggested on behalf of the convict, the other factors relating to the nature of crime and its impact on the social order and public interest cannot be lost sight of."

28. At this juncture, it is also imperative for us to mention that retribution is not the ultimate aim of our criminal justice system, rather it hinges on principles of reformation and restitution. The criminal justice system aims to achieve the twin objectives of creating a deterrence against crime and also providing an opportunity for reformation to the offender. Due consideration has also been provided by our legal system to the rights of the victim, who essentially are the first sufferers of the crime.

29. Section 395 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (herein referred to as "BNSS") (alternatively Section 357 of the Criminal Procedure Code, 1973) recognises the loss caused to the victim and accordingly provides for granting monetary compensation to the victim. The said provision of victim compensation is not an alternative to the sentence or punishment imposed, however, the compensation is just an addition to the sentence already awarded.

30. The provision of victim compensation finds its roots in victimology, which acknowledges victims as the primary sufferers of the crime and advocates the idea of providing some relief to the victims from their grief and suffering. The rationale behind victim compensation is to rehabilitate the victim for the loss

and injury caused to them as a direct consequence of the crime or offence and not to exonerate the offender/accused from their culpability.

31. The practice of enhancing the compensation payable to the victim and reducing the sentence, especially in cases of grave offence, is dangerous as it might send a wrong message to society that the offenders/accused persons can absolve themselves from their liability by merely paying a monetary consideration.

32. Compensation payable to the victim is only restitutory in nature, and it cannot be considered as equivalent to or a substitute for punishment. Punishment is punitive in nature, and its object is to create an adequate deterrence against the said crime and to send a social message to the miscreants that any violation of the moral turpitude of society would come with consequences, which cannot merely be "purchased by money".

33. It would be apt to discuss the judgment of this Court in the Shivani Tyagi vs. State of U.P. & Another reported in 2024 SCC OnLine SC 842, wherein this bench through one of us (Rajesh Bindal, J.) while concurring with the judgment was dealing with a horrendous situation where in an offence related to acid attack, the High Court suspended the sentence of the accused in lieu of payment of ₹ 25 lakhs to the victim for medical treatment. The High Court went to the extent of directing the payment to be deposited with the court when the victim refused to accept the said amount. This Court while setting aside the judgment of the High Court termed that such payment was kind of "Blood Money" to the victim by the offenders. The relevant extracts from the said judgment are reproduced herein below:

"22. From the facts it can safely be noticed that there is no question of acceptance of money by the victim as she has challenged the order of suspension of sentence of the private respondents.

27. The impugned order passed by the High Court is perused. Specifically the order dated 21.02.2024 passed in the Correction Application. The order does not suggest that there was any consideration of the parameters laid down by this court for grant of bail or suspension of sentence. Instead, the High Court had noticed and directed that the convicts have offered to pay compensation to the victim for grant of suspension of sentence, which when she refused to accept, was directed to be deposited in the court. It was in a way kind of "Blood Money" offered by the convicts to the victim for which there is no acceptability in our criminal justice system."

34. The misplaced understanding of various courts in treating compensation as a substitute of sentence is both a matter of concern and a practice which should

be condemned. We have observed a trend amongst various High Courts wherein the sentences awarded to the accused persons by the Trial Court are reduced capriciously and mechanically, without any visible application of judicial mind. Considering the gravity of the situation as thus, we have culled out certain basic factors, which are to be kept in mind by the courts while dealing with imposition of sentence, in line with the view taken by this Court in the aforementioned cases. The said factors are enunciated as below:

A. Proportionality: Adherence to the principle of "just deserts" ought to be the primary duty of the courts. There should be proportionality between the crime committed and the punishment awarded, keeping in consideration the gravity of the offence.

B. Consideration to Facts and Circumstances: Due consideration must be given to the facts and circumstances of the case, including the allegations, evidence and the findings of the trial court.

C. Impact on Society: While imposing sentences, the courts shall bear in mind that crimes essentially impair the social fabric of the society (of which the victim(s) is/are an indispensable part) and erodes public trust. The sentence should be adequate to maintain the public trust in law and administration, however, caution should also be taken, and the Court shall not be swayed by the outrage or emotions of the public and must decide the question independently.

D. Aggravating and Mitigating Factors: The courts, while deciding the sentence or modifying the sentence, must weigh the circumstances in which the crime was committed, and while doing so, the court must strike a fair balance between the aggravating and the mitigating factors.

35. In the present case, the testimonies on record of the PW1 (the complainant), PW2 (the victim), and PW3 (the Appellant herein), when taken conjointly, clearly establishes existence of prior enmity between the victim and the Private Respondents herein who had caused injuries to the victim. Further, these testimonies have been corroborated by the statements of PW9 (Doctor), who had stated that the victim suffered 4 stab injuries, which were grievous in nature to the extent that, if not given immediate care, could have been lifethreatening.

36. We have carefully considered the decisions of the Trial Court, and are of the view that the Trial Court rightly convicted the Private Respondents under Sections 307, 324 and 326 of the IPC as the injuries were grievous and lifethreatening. This decision was further affirmed, correctly so, by the District and Sessions Fast Track Mahila Court, Sivagangai.

37. Thereafter, the High Court, while exercising its revisionary powers, very ignominiously reduced the sentence of the Private Respondents to the period already undergone. The High Court was so undesirous to even glance through the fact that the Trial Court had already taken into consideration all the relevant factors while imposing the sentence and showed adequate leniency while awarding sentence of rigorous imprisonment for three years only, whereas the maximum punishment permissible for the offence under Section 307 of the IPC is ten years. Additionally, the undue sympathy shown by the High Court herein was totally unwarranted, and such displays of overt sentiments risk undermining the administration of justice, as it is imperative that justice is not merely done but also seen to be done.

38. In light of the above discussion, we are of the view that the impugned judgment warrants interference and is, therefore, set aside. Further, the judgment of conviction and sentence dated 28.11.2013 passed by the Chief Judicial Magistrate/Assistant Sessions Judge, Sivagangai and later confirmed by the District Sessions Fast Track Mahila Court, Sivagangai, are affirmed. The appeal stands allowed.

39. We direct that the Private Respondents must surrender before the Trial Court within four weeks from today and shall serve the remaining part of the sentence awarded to them. The Trial Court shall ensure that they serve the remaining sentence, after adjustment of the period already undergone by them. In case the Private Respondents fail to surrender within the stipulated time, the Trial Court shall take appropriate steps as permissible under the law to ensure compliance of the above stated directions.

40. Pending application(s), if any, shall stand disposed of.

.....J. (Rajesh Bindal)

.....J. (Vijay Bishnoi)

New Delhi;

February 17, 2026

IN THE SUPREME COURT OF INDIA

Priyanka Kumari and Ors.
Vs.
State of Bihar and Ors.

[Civil Appeal No. 797 of 2026
arising out of SLP (C) No. 5431 of 2026
arising out of Diary No. 30148 of 2022]

Sanjay Kumar Rai and Ors.
Vs.
State of Bihar and Ors.

[Civil Appeal No. 798 of 2026
arising out of SLP (C) No. 981 of 2023]

Ganesh Kumar Singh and Anr.
Vs.
State of Bihar and Ors.

[Civil Appeal No. 799 of 2026
arising out of SLP (C) No. 3595 of 2023]

Head Note – Degrees obtained before University was declared defunct remain valid.

JUDGMENT

Rajesh Bindal, J.

1. The appellants in Civil Appeal No. 797 of 2026 are aggrieved against the judgment dated 11.04.2019, passed by the High Court1 in Letters Patent Appeal No. 671 of 2018. The High Court dismissed the appeal against the order of the Single Judge dated 22.02.2018 passed in Civil Writ Petition No. 6827 of 2016, thereby affirming the termination of services of the petitioners therein.

1.1 The appellants in Civil Appeal No. 798 and 799 of 2026 are before this Court, aggrieved against the dismissal of Letters Patent Appeal No. 567 of 2018 by the High Court vide order dated 01.11.2022. The High Court dismissed the aforesaid LPA relying upon earlier order dated 11.04.2019 passed in LPA No. 671 of 2018, since both the matters involved same issue.

2. Briefly, the facts are that the appellants approached the High Court challenging their dismissal from the post of librarian on which they were appointed by the State of Bihar. It was on account of the fact that the degree obtained by them from the University of Technology and Science, Raipur, Chhattisgarh, 2 was declared invalid as the Chhattisgarh Niji Kshetra Vishwavidyalaya Act, 2002 3 under which the University was established, was later on declared to be ultra vires.

3. Briefly, the facts available on record are that the 2002 Act was enacted by the Chhattisgarh State Legislature providing for establishment of self-financing universities to promote higher education in the State. The University in question was granted recognition vide order dated 04.02.2002 by the State of Chhattisgarh under the provisions of the 2002 Act.

On 28.05.2004, a public notice was issued enlisting the names of the universities that have been established under the 2002 Act, wherein the name of the University in question is mentioned at Serial No. 23. After getting admission in the aforesaid University, the appellants passed out with a degree of Bachelor of Library Science (B.Lib) in the year 2004. Even the Central Government vide communication dated 26.01.2004 issued by the Ministry of Human Resources Development, Government of India, had recognized the courses conducted by the University.

4. A Writ Petition was filed in this Court by Professor Yash Pal, former Chairman of the University Grants Commission (UGC), challenging the competence of the Chhattisgarh State Legislature to enact the 2002 Act. Vide judgment dated 11.02.2005,4 the 2002 Act was declared to be ultra vires, by this Court.

4.1 In 2009, the State of Bihar issued an advertisement for recruitment to the post of librarians. On 22.05.2010, the appellants were selected as librarians and were working satisfactorily on the post. A Public Interest Litigation (PIL)5 was filed before the High Court raising an issue that certain persons have been appointed as librarians on the basis of qualification obtained by pursuing the courses from the University, which was not a recognized institution.

The writ petition was dismissed on 15.05.2014 as it lacked foundational facts. However, the State had taken action and as a result thereof, the services of the appellants were terminated vide order dated 22.08.2015. Challenging the same, writ petition 6 was filed before the High Court, which was dismissed on 22.08.2018. The order passed by the Single Judge was upheld in intracourt appeal7 vide order dated 11.04.2019. Challenging the aforesaid order, the present appeal has been filed.

5. Mr. Navniti Prasad Singh, learned senior counsel for the appellants submitted that after the 2002 Act was enacted, the University was established. It was duly recognized and even the education being imparted by it, was recognized by the Central Government. The appellants passed out in the year 2004. Writ Petition was filed before this Court, challenging legislative competence of the Chhattisgarh State Legislature to enact the 2002 Act. This Court vide judgment dated 11.02.2005 had struck down the 2002 Act.

It is mentioned in the aforesaid judgment that the students who are studying in the University will have to be shifted to other recognized universities in the State, so that their career does not suffer. This clearly makes out a case that this Court was conscious of the fact that the management which had set up the University was not at fault, as it was established under the 2002 Act enacted by the State, which was later struck down by this Court. The students who were studying should not suffer. Taking analogy therefrom, even the students who had passed out earlier, even their degrees and certificates have to be protected.

5.1 Learned counsel has referred to a judgment of the Bombay High Court in Anil Bhimraj Purane Versus The Uniion of India and Others,8 where identical issue was involved pertaining to the University in question and the relief was granted to the petitioner therein. He further referred to the judgment of this Court in Goan Real Estate and Construction Limited & Anr. v. Union of India & Ors.,9 in support of the argument that the earlier judgment in Professor Yash Pal's case (supra) has to be read on the principle of prospective overruling. Meaning thereby, the actions taken prior to the judgment of this Court declaring the 2002 Act to be ultra vires, have to be protected.

6. On the other hand, learned counsel for the State submitted that once the 2002 Act has been struck down, any certificates / diplomas or degrees awarded by the University will become unrecognized. On the declaration of the 2002 Act to be ultra vires on account of legislative incompetence, no relief can be granted to any of the students even if they had earlier passed out from the University. Principles of prospective overruling cannot be applied in the case in hand.

When the appellants made applications for selection to the post of librarians in the year 2010, they very well knew about the fact that their degrees had been declared to be invalid as the 2002 Act under which the University was established and in which they studied, had been declared to be ultra vires. It is clearly evident from the judgment in Professor Yash Pal's case (supra), that protection was granted only to the student, who were still studying in the University and not to those who had already passed out. There is no merit in the present appeal. The same deserves to be dismissed.

7. Heard learned counsel for the parties and perused the paperbook.

8. The undisputed facts of the case in hand can be summed up briefly. The State of Chhattisgarh enacted Chattisgarh Niji Kshetra Vishwavidyalaya Act, 2002. The University of Technology and Science, Raipur, was established under the aforesaid Act. It is also claimed that a public notice was issued on 28.05.2014 by the Chhattisgarh Niji Kshetra Vishwavidyalaya Regulatory Commission, Government of Chattisgarh, Education Department, detailing the list of universities established under the 2002 Act and the name of the University finds mention therein.

The appellants passed out in the year 2004 from the University after obtaining Bachelor's degree in Library Sciences (B.Lib). It is also evident from a letter dated 26.01.2004, from the Government of India, Ministry of Human Resource Development that the Degrees/ Diplomas/ Certificates including pre-University Courses (equivalent to 10+2) awarded by the University were recognized for higher studies and employment.

9. Professor Yash Pal, former Chairman of UGC filed a writ petition before this Court on 04.12.2003 challenging the validity of the 2002 Act on the ground of legislative incompetence of the Chhattisgarh State. Vide judgment dated 11.02.2005, Sections 5 and 6 of the 2002 Act were declared ultra vires. As a consequence, all such universities ceased to exist.

10. In 2009, an advertisement was issued by the State of Bihar for selection to the post of librarians. The appellants were selected and appointed on 22.05.2010. A PIL was filed before the High Court raising an issue that some persons have been appointed as librarians on the basis of certificates received from an institution, which was not recognized. As the writ petition lacked foundational facts to show that the University was bogus, the same was dismissed on 15.05.2014. It was claimed by the counsel for the appellant that though the writ petition was dismissed but the State took action otherwise. The services of the appellants were terminated vide order dated 22.08.2015 in the light of directions issued by Joint Secretary, Education Department, Bihar vide letter dated 16.07.2015.

11. While dealing with the arguments raised by the learned counsel for the parties, it would be relevant to refer to the final findings recorded by this Court in the Professor Yash Pal's case (supra) in paragraphs 64 and 65 thereof. The same are extracted below:

"64. As a consequence of the discussion made and the findings recorded that the provisions of Sections 5 and 6 of the Act are ultra vires and the gazette notifications notifying the universities are liable to be quashed, all such

universities shall cease to exist. Shri Amarendera Sharan, learned Additional Solicitor General has submitted that UGC had conducted an inquiry and it was found that most of the universities were nonexistent, but the report was not placed before the Court as the complete exercise had not been done. Learned counsel for the universities have seriously disputed this fact and have submitted that the universities are functioning.

We have not gone into this question as it is purely factual. In order to protect the interests of the students who may be actually studying in the institutions established by such private universities, it is directed that the State Government may take appropriate measures to have such institutions affiliated to the already existing State universities in Chhattisgarh. We are issuing this direction keeping in mind the interest of the students and also Sections 33 and 34 of the Act, which contemplate dissolution of the sponsoring body and liquidation of a university whereunder responsibility has to be assumed by the State Government.

It is, however, made clear that the benefit of affiliation of an institution shall be extended only if it fulfils the requisite norms and standards laid down for such purpose and not to every kind of institution. Regarding technical, medical or dental colleges, etc. affiliation may be accorded if they have been established after fulfilling the prescribed criteria laid down by All India Council of Technical Education, Medical Council of India, Dental Council of India or any other statutory authority and with their approval or sanction as prescribed by law.

65. In view of the discussions made above, Writ Petition (C) No. 19 of 2004 (Prof. Yashpal v. State of Chhattisgarh) and Writ Petition (C) No. 565 of 2003 [For directions passed earlier, see below] (Gopalji Agarwal v. Union of India) are allowed and provisions of Sections 5 and 6 of the Chhattisgarh Niji Kshetra Vishwavidhyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 are declared to be ultra vires and are struck down.

As a consequence of such declaration, all notifications issued by the State Government in the gazette in the purported exercise of power under Section 5 of the aforesaid Act notifying the universities (including Respondents 3 to 94) are quashed and such universities shall cease to exist. If any institutions have been established by such universities, steps may be taken for their affiliation to already existing State universities in accordance with the direction contained in para 64 above. Parties would be at liberty to approach the High Court if any dispute arises in implementation of this direction. All writ petitions, civil appeals and transferred cases filed by the private universities are dismissed."

12. A perusal of the aforesaid paragraphs shows that this Court had finally struck down the provisions of Sections 5 and 6 of the 2002 Act. However, in order to protect the interest of the students who may be studying in the institutions established by the private universities, the State Government was directed to take appropriate measures to get the institutions affiliated with the existing State universities. Meaning thereby, the career of the students who were still studying in the institutions set up by the University, the establishment of which had been set aside, in view of striking down of the 2002 Act, was protected.

13. The issue before this Court is regarding the students who had passed out prior to the filing of the writ petition in Professor Yash Pal's case (supra). Nothing has come on record to suggest that the University in which the appellants studied was non-existent. Meaning thereby, they must have studied and after passing the examination, had got their degrees.

14. It is also a fact evident from record that despite there being judgment in Professor Yash Pal's case (supra), which was in public domain, when the appellants applied for the post of librarian and were selected in the year 2010, their candidature was not rejected on the ground that the degree is from a university, established under the 2002 Act, which was struck down. Rather, they were appointed and continued working for a period of more than 5 years.

14.1 It is also a fact evident from the record that the Writ Petition No.19559 of 2010 was filed in the High Court in the year 2010 only raising an issue that some of the private respondents in the aforesaid writ petition, had been appointed as librarians on the basis of certificates from a unrecognised institution. Meaning thereby, the issue was well within the knowledge of the State, immediately after the appointment of various candidates on the post of librarians. Even otherwise, the writ petition was finally dismissed by the High Court on 15.05.2014 as the same was lacking foundational facts to prima facie establish that the institution from which the private respondents in the aforesaid petition had passed out, was a bogus institution. Still, as claimed by the counsel by the appellant, the State had taken action and terminated the services of the appellants.

15. Firstly, we may refer to the Division Bench judgment of the High Court of Bombay in Anil Bhimraj Purane's case (supra) on which reliance has been placed by the learned counsel for the appellant. The petitioner therein had passed his pre-University course from an Extension Center of the University in the year 2004. On the basis thereof, the petitioner therein got admission in Bachelor of Homeopathic Medicine and Surgery (BHMS) course. Nearly 4 years after he got admission, a communication was issued to him to get

recognition letter from the University so as to consider the eligibility of the petitioner therein for further course of action.

The same was challenged. The Bombay High Court held that the petitioner therein had submitted his marksheet and the migration certificate issued by the University at the time of taking admission. On consideration thereof, he was admitted. The judgment of this Court in Professor Yash Pal's (supra) case was also referred to. However, while holding that there was no misinterpretation or fraud on the part of the petitioner therein, his admission was held to be valid.

16. What is evident from the facts of the case is that the University from which the appellants had studied had been set up under the 2002 Act enacted by the Chhattisgarh State Legislature. The aforesaid Act was declared to be ultra vires by this Court vide order dated 11.02.2005. Till such time, the students had been studying and passing out. At the time of declaration of the said Act to be ultra vires, this Court had protected the students who were still studying.

They were directed to be transferred to alternative institutions recognized by the State. Considering the aforesaid fact and also that in the factual situation in hand, the appellants cannot be said to be at fault as they had studied in the University, which has been set up under the 2002 Act enacted by the State Legislature. Hence, they should not be deprived of the benefits of the degree obtained by them while studying in the University. It is not the case of the State that the University in which the appellants studied was bogus or no study was actually imparted.

17. While recording the aforesaid findings, the next question would be about the relief to which the appellants are entitled to. From the facts on record, it is evident that the services of the appellants were terminated only for the reason that the institution in which they had studied was declared to be unrecognised. Accordingly, the orders vide which the services of the appellants were terminated have to be declared as illegal. Ordered accordingly.

18. As a consequence, the impugned order passed by the High Court is set aside. The Writ Petition filed by the appellants before the High Court is allowed. They are directed to be reinstated back in service, with continuity. However, considering the fact that they have not performed their duties for the intervening period, and it cannot be said to be a case where only the respondent-State is at fault, in our view, they should not be entitled to any back wages.

19. The appeals are accordingly allowed.

20. Pending application(s), if any, shall stand disposed of.

.....J. (Rajesh Bindal)

.....J. (Vijay Bishnoi)

New Delhi;

February 18, 2026.

1 High Court of Judicature at Patna

2 For short "the University"

3 For short "the 2002 Act"

4 Prof. Yashpal and Anr. v. State of Chhattisgarh and Ors., (2005) 5 SCC 420

5 Writ Petition No. CWJC No. 19959/2010

6 CWJC No. 6827/2016

7 LPA No. 671/2018

8 Writ Petition No. 9039/2012

9 (2010) 3 S.C.R. 1160

IN THE SUPREME COURT OF INDIA

Dr. Naresh Kumar Garg
Vs.
State of Haryana and Ors.

[Criminal Appeal No._____ of 2026
arising out of SLP (Criminal) No. 5915 of 2025]

Head Note – Illegality in search for want of proper authorization cannot render the materials or evidence gathered during the search invalid.

JUDGMENT

Ujjal Bhuyan, J.

1. Leave granted.

2. This appeal by special leave is directed against the judgment and order dated 24.07.2024 passed by the High Court of Punjab and Haryana at Chandigarh (briefly 'the High Court' hereinafter) in CRM-M No. 52858 of 2022 (Naresh Kumar Garg Vs. State of Haryana).

3. It may be mentioned that appellant as the petitioner had filed a petition under Section 482 of the Code of Criminal Procedure, 1973 (briefly 'the Cr.P.C.' hereinafter) for quashing of the complaint bearing No. COMA/116/2018 dated 19.09.2018 filed under various provisions of the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (briefly, 'the PCPNDT Act' hereinafter) as well as the summoning order dated 12.09.2022 passed by the Judicial Magistrate First Class, Gurugram. However, vide the impugned judgment and order dated 24.07.2024, the High Court dismissed the aforesaid petition.

4. At the outset, a brief recital of the relevant facts would be in order.

5. It is stated that appellant is a qualified radiologist by profession.

5.1. On 17.09.2015, Chairman, District Appropriate Authority-cum-Civil Surgeon, Gurugram, Dr. Pushpa Bishnoi received a complaint from a lady named Smt. Rajni to the effect that she knew a person called Dr. Abdul Kadir of Geetanjali Hospital in Badshahpur who was allegedly running a racket of illegal sex-determination. On receipt of such a complaint, the Chairman constituted a threemember team alongwith support staff to conduct a raid and investigate the complaint against the said Dr. Abdul Kadir.

5.2. A pregnant lady named Smt. Suman had come to the Civil Hospital, Gurugram for her routine checkup on 17.09.2015. Dr. Saryu Sharma, who was a member of the team constituted by the Chairman, approached her and apprised her about the complaint against Dr. Abdul Kadir. Dr. Sharma requested her if she could help the authority by becoming a decoy patient in the proposed raid. The lady Smt. Suman agreed to the proposal and gave her written consent to become a decoy patient.

5.3. Thereafter, shadow witness Rajni was asked to call Dr. Abdul Kadir and to ask him for sex-determination of her relative i.e. the decoy patient Smt. Suman. Dr. Kadir was informed that Smt. Suman was pregnant and that she wanted to know the sex of her foetus. Dr. Abdul Kadir agreed to the proposal but demanded Rs. 25,000.00 for carrying out sex-determination of the foetus and thereafter to disclose the same. Shadow witness Rajni agreed to pay the same.

5.4. Dr. Saryu Sharma gave Rs. 25,000.00 (Rs. 1,000 into 25 notes) to shadow witness Rajni whereafter Smt. Suman accompanied by shadow witness Rajni went to Sector 56, Gurugram (near Badshahpur) to meet Dr. Abdul Kadir, who came after some time in his vehicle. Dr. Kadir asked the two of them to sit in his vehicle whereafter he was paid Rs. 25,000.00. He started driving his vehicle towards Vatika Medicare in Sector 45, Gurugram.

After talking with someone over phone, he told the two of them that he had a word with one Dr. Naresh Garg, a radiologist, at Vatika Medicare who would conduct the ultrasound on the patient in order to determine the sex of her foetus. Dr. Kadir informed the two ladies that Dr. Naresh Garg would neither ask the patient to sign any document nor would he sign Form F. Dr. Kadir further clarified that Dr. Naresh Garg would not make any entry of the patient in the register and that he would provide the patient the ultrasound report without putting his signature within a day or two.

5.5. It may be mentioned that the team constituted by the Chairman was following the vehicle of Dr. Abdul Kadir. When Dr. Kadir and the two ladies reached Vatika Medicare, he asked the patient to go to the room of the ultrasonologist to get her ultrasound done. It is the case of the complainant that the ultrasound on patient Suman was conducted by Dr. Naresh Garg himself. Dr. Garg neither signed Form F nor did he ask Smt. Suman to sign any document. He also did not sign the ultrasound report.

5.6. It was at this stage that the team members constituted by the Chairman alongwith other officials and police personnel confronted Dr. Abdul Kadir and recovered Rs. 25,000.00 from his right pocket. The numbers of these notes matched the numbers of the notes given by the team to the decoy patient. The team also confronted Dr. Naresh Garg and on checking all records found that

Form F had not been signed by Dr. Naresh Garg. There was no entry of the name of the decoy patient Smt. Suman in any register maintained in the hospital.

6. Dr. Saryu Sharma gave first information to the police at the spot on the basis of which FIR No. 336 of 2015 dated 17.09.2015 was registered by the police of Police Station Sector 40, Gurugram.

6.1. On conclusion of investigation, police filed a discharge application dated 28.10.2015 before the trial court stating that there was no incriminating material against the appellant. By order of the same date i.e. 28.10.2015, trial court allowed the application filed by the police and discharged the appellant.

7. District Advisory Committee adopted resolution dated 17.12.2015 recommending lodging of a complaint against the appellant Dr. Abdul Kadir, the appellant, and Vatika Medicare. Ultimately one Dr. Chitranjan, Deputy Civil Surgeon, was authorized by the District Appropriate Authority to lodge a complaint against the appellant under the PCPNDT Act vide the authorization letter dated 17.09.2018.

7.1. Pursuant thereto, a complaint bearing No. COMA/116/2018 was lodged against the appellant and Dr. Abdul Kadir under various provisions of the PCPNDT Act as well as under Rules 9 and 10 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (briefly, 'the PCPNDT Rules' hereinafter). As there was delay in lodging of the complaint, an application for condonation of delay was also filed.

7.2. By order dated 18.09.2018, the trial court allowed the application for condonation of delay. Thereafter the trial court i.e. Judicial Magistrate First Class, Gurugam vide order dated 12.09.2022 summoned the accused persons i.e. Dr. Abdul Kadir and Dr. Naresh Garg under Section 3 of the PCPNDT Act for 30.11.2022.

8. Aggrieved thereby, appellant filed a petition before the High Court under Section 482 Cr.P.C. for quashing of the complaint dated 18.09.2018, the summoning order dated 12.09.2022 and all consequential proceedings, which was registered as CRM-M-52858/2022. By the impugned judgment and order dated 24.07.2024, the High Court dismissed the said petition holding that there was no merit therein.

9. Aggrieved thereby, the related special leave petition was filed.

10. This Court vide the order dated 15.04.2025 had issued notice and in the meanwhile directed stay of proceedings of complaint case bearing No.

COMA/116/2018 pending before the Chief Judicial Magistrate, (Judicial Magistrate First Class) Gurugram, Haryana.

11. Learned senior counsel for the appellant Mr. Bhalla submits that appellant is a doctor who works as an employee in a diagnostic center at Gurugram. He is being wrongly and illegally prosecuted for the offences under Sections 23 and 29 of the PCPNDT Act, Sections 4, 5 and 6 thereof added later on. According to him, appellant is a victim of an illegal raid/sting operation which led to registration of an FIR in which appellant was discharged. It is unfortunate that after his discharge, the District Appropriate Authority, Gurugram lodged the related complaint in which appellant was summoned.

11.1. It is submitted that nothing has been recovered from the appellant. Witnesses had deposed both in the complaint proceedings as well as before the police that appellant did not disclose the sex of the foetus. On the other hand, an amount of Rs. 25,000.00 was recovered from Dr. Abdul Kadir. The only surviving allegation against the appellant is that he did not fill in the requisite forms and registers.

11.2. Referring to the order dated 17.09.2015 directing conduct of a sting operation, learned senior counsel submits that the said order was not a legally valid order in as much as the same was passed by a solitary member of the District Appropriate Authority. In this connection, reference has been made to a judgment of this Court reported in Ravinder Kumar Vs. State of Haryana1 wherein it has been held that an order passed by a single member of the District Appropriate Authority directing conduct of a sting operation is illegal and void and renders the entire proceedings null and void.

Learned senior counsel asserts that the order dated 17.09.2015 which led to the sting operation which further led to registration of FIR and lodging of complaint against the appellant amongst others was not passed by the District Appropriate Authority but by a single member of the said authority. Therefore, in view of Section 30 of the PCPNDT Act and the judgment of this Court in Ravinder Kumar, the said order dated 17.09.2015 has no legal significance; as a result, the resultant sting operation, the documents collected pursuant thereto, the complaint and the order of summoning by the trial court are illegal and void; thus liable to be set aside.

11.3. Learned senior counsel asserts that facts in Ravinder Kumar are identical to the facts in the appellant's case in as much as the sting operation was ordered by a single member of the District Appropriate Authority. That being so, the decision of this Court in Ravinder Kumar is squarely applicable to the facts of the present case. Consequently, the sting operation directed by order dated

17.09.2015 would be a nullity; hence the complaint and the summoning order are liable to be quashed as being wholly untenable in law as well as on facts.

11.4. Learned senior counsel submits that the District Appropriate Authority is defined under Section 2(a) of the PCPNDT Act. It is appointed and notified under Section 17. The notification constituting the District Appropriate Authority in the present case was issued on 07.11.2013 and comprises of the following members:

(i) Civil Surgeon;

(ii) District Programme Officer, Women and Child Development Department; and

(iii) District Attorney.

11.5. The power to conduct search and seizure is contained in Section 30 of the aforesaid Act. The order to conduct search and seizure is required to be passed by the District Appropriate Authority i.e. by all the three members. In so far the present case is concerned, the order to conduct the raid was admittedly passed only by the Civil Surgeon on 17.09.2015 without associating the other two members viz. the District Programme Officer of the Women and Child Development Department and the District Attorney.

11.6. In so far FIR No. 0336 dated 17.09.2015 is concerned, learned senior counsel submits that the said FIR was registered against Dr. Abdul Kadir and the appellant pursuant to the raid. However, the appellant was discharged by the trial court vide the order dated 28.10.2015 pursuant to an application dated 28.10.2015 of the prosecution on the ground that police could not find any connection between the appellant and Dr. Abdul Kadir who is now facing prosecution in the criminal case arising out of the FIR registered under Section 420 of the Indian Penal Code, 1860 (IPC).

11.7. It was only after the discharge of the appellant that the complaint was filed. Learned senior counsel submits that the subsequent complaint is not maintainable in as much as the complaint is based on the same set of facts on which the appellant was earlier discharged.

11.8. Mr. Bhalla, learned senior counsel, submits that appellant was discharged because both the witnesses had denied that he had informed them about the sex of the foetus. That apart, one of the witnesses Smt. Rajni denied her presence at Vatika Hospital; rather, she stated that she was present at Medanta Hospital. That apart, respondents have failed to establish beyond a reasonable doubt any relationship between the parties. Further, it was the case of the respondents that

appellant had allegedly committed the offence on the instructions of Dr. Abdul Kadir. However, no evidence was tendered to prove the relationship.

11.9. Learned senior counsel submits that the raiding party comprised of Dr. Saryu Sharma (Deputy Civil Surgeon, Gurugram), Shri Shyam Sundar (Secretary, Red Cross, Gurugram) and Shri Amandeep Chauhan (Drugs Control Officer). Thereafter, the District Advisory Committee was formed in which one of the members of the raiding party i.e. Shri Shyam Sundar was made a member of the District Advisory Committee vide the resolution dated 27.12.2015. This is contrary to Rule 18A(2)(ii) of the PCPNDT Rules which prohibits a member of the investigating authority in becoming a part of the District Advisory Committee.

11.10. Much emphasis has been laid by learned senior counsel for the appellant on the fact that it was only after the discharge of the appellant in the criminal case based on the FIR, that the complaint was filed. Such a complaint is not maintainable. That apart, court proceedings have revealed that both the witnesses i.e. the pregnant lady Suman and the shadow witness Rajni have categorically denied that Dr. Naresh Kumar Garg, the appellant, had ever informed them about the sex of the foetus.

Appellant was summoned and made party to the complaint despite having been discharged in the criminal case arising out of FIR No. 336 of 2015 which pertained to the same incident and identical evidence. Therefore, the contention is that the complaint and all proceedings arising therefrom should be quashed as otherwise the appellant would have to suffer the ordeal of a criminal trial which is based on identical evidence as in the criminal case arising out of the related FIR in which the appellant was discharged.

11.11. Based on the aforesaid submissions, learned senior counsel for the appellant submits that the present appeal should be allowed in the interest of justice.

12. Per contra, Mr. Neeraj, learned Additional Advocate General appearing for the respondents submits that the impugned judgment is a well-reasoned one. The present appeal is wholly misconceived. It is totally devoid of merit. It seeks to unsettle the well-reasoned judgment of the High Court. Therefore, the appeal should be dismissed.

12.1. Learned Additional Advocate General thereafter gave a brief narration of the facts. He submitted that on 17.09.2015, acting upon information indicative of illegal pre15 natal sex determination, the district authority conducted a raid in the clinic of the appellant. The raiding team seized the ultrasound machine, documents, incomplete and deficient forms and entries, unregistered referrals

and records that were prima-facie in violation of Rules 9 and 10 of the PCPNDT Rules. He then referred to the provisions of Rules 9 and 10.

12.2. An FIR was initially registered and based upon police investigation, appellant was discharged in that proceeding on 28.10.2015.

12.3. Asserting that PCPNDT Act confers independent powers upon the District Appropriate Authority to initiate proceedings upon examination of the records and statutory contravention, learned Additional Advocate General submits that the District Advisory Committee met on 17.12.2015 and examined the materials whereafter it recommended filing of complaint. The District Appropriate Authority authorized initiation of complaint proceedings by issuing a formal authorization to the Deputy Civil Surgeon under Rule 18A of the PCPNDT Rules on 17.09.2018.

12.4. Submitting that no case for interference by this Court in the complaint proceedings have been made out, learned Additional Advocate General submits that appellant has failed to establish that the complaint discloses no offence and that the prosecution is manifestly absurd or that the action is barred by law. It is contended that the raid was carried out on 17.09.2015 by a duly constituted enforcement team, supervised by the District Appropriate Authority and documented contemporaneously. The mere allegation that the authorization letter did not contain all signatures is insufficient to quash a complaint. The presumption of validity of the raid stood reinforced by subsequent ratification through the District Advisory Committee proceedings, the decision of the District Appropriate Authority and Rule 18A of the PCPNDT Rules. No mala fide or perversity has been demonstrated by the appellant.

12.5. Adverting to Section 17(4)(c) of the PCPNDT Act, learned Additional Advocate General submits that the said provision expressly empowers the appropriate authority to take immediate action if the circumstances so warrant. The Chairperson upon receiving credible information acted promptly to prevent destruction and manipulation of record. The subsequent discovery of Form F entries fully validates the need for urgency.

12.6. Referring to the decision of this Court in Federation of Obstetrics and Gynaecological Societies of India (FOGSI) Vs. Union of India2, learned Additional Advocate General submits that there is clear violation of Rules 9 and 10 of the PCPNDT Rules in this case. Such violations by the appellant are not minor procedural lapses but grave statutory contraventions that strike at the very heart of the PCPNDT Act. He has also referred to Rule 18A of the PCPNDT Rules which empowers the appropriate authority to delegate its functions to subordinate authority. Accordingly, the District Appropriate Authority delegated to the Deputy Civil Surgeon the authority to file the

complaint. Contention of the appellant that the District Appropriate Authority as a whole must physically authorize filing of complaint is untenable.

12.7. Further submission is that the argument of the appellant that the District Advisory Committee also comprised of an individual who was a member of the raiding party, thus vitiating proceedings of the District Advisory Committee, is irrelevant. Even assuming irregularity, which is not conceded, such irregularity in the composition of an advisory body cannot vitiate a prosecution initiated independently by the District Appropriate Authority. However, he has clarified that this submission of the appellant is factually incorrect.

The allegation that one Shyam Sunder was a member of the District Advisory Committee who also participated in the raid is factually incorrect. The said individual was not a member of any investigating agency. He was a civilian volunteer associated with the Red Cross assisting the district authorities in social welfare enforcements. He had neither any formal investigative powers nor was he part of the police machinery.

Rule 18A(2)(ii) of the PCPNDT Rules applies only to persons from the investigating machinery meaning police or statutory enforcement bodies. Even assuming an irregularity in the composition of the District Advisory Committee, such irregularity cannot invalidate an entire prosecution based on a statutory complaint. The role of the District Advisory Committee is purely advisory; its views are not binding and the independent decision of the District Appropriate Authority to lodge complaint is unaffected.

12.8. Learned counsel for the respondents also refuted the submission made on behalf of the appellant regarding violation of Section 30(2) of the PCPNDT Act. He submits that there has been substantial compliance to Section 30(2) of the aforesaid Act. A search which is otherwise valid, cannot be invalidated on a hyper technical ground.

12.9. That apart, the complaint was lodged well within limitation. Though the FIR was registered on 17.09.2015, police filed final report on 15.11.2015. Thereafter District Advisory Committee in its meeting held on 17.12.2015 recommended initiation of complaint proceedings. The District Appropriate Authority, Gurugram formally authorized Dr. Chitranjan on 17.09.2018 to lodge the complaint which was duly instituted on 18.09.2018. Learned Additional Advocate General submits that limitation would run from the date of recommendation of the District Advisory Committee or authorization of the District Appropriate Authority and not from the date of registration of FIR. Since the offence carries a punishment of three years, complaint falls squarely within the ambit of Section 468(2)(c) Cr.P.C.

12.10. Finally, learned Additional Advocate General submits that the discharge granted on 28.10.2015 pertained to police investigation following lodging of FIR. However, the PCPNDT Act mandates that the court should take cognizance only upon a complaint filed by the appropriate authority. A police discharge order would have no bearing on the independent statutory power of the District Appropriate Authority.

12.11. Learned Additional Advocate General has drawn the attention of the Court to the object of the legislation. He submits that female foeticide is a matter of national concern. Social welfare statutes, like the PCPNDT Act, must be implemented with all seriousness. This Court has time and again directed the States to ensure strict compliance with the statute. Quashing of a complaint proceeding at the threshold on hyper technical grounds would send a contrary signal and weaken enforcement at the grass root. Considering all these factors, the appeal should be dismissed, he submits.

13. Submissions made by learned counsel for the parties have received the due consideration of the Court.

14. At the outset, let us advert to the relevant provisions of the PCPNDT Act and the PCPNDT Rules.

15. The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (already referred to as 'the PCPNDT Act' hereinabove) is a social welfare legislation. It is a law enacted to prohibit sex selection leading to female foeticide in India. It, inter alia, aims to arrest the declining sex ratio in India. The objectives of the PCPNDT Act declare that the said Act provides for prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques to prevent their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto. The PCPNDT Act, inter alia, provides for:

(i) prohibition of the misuse of pre-natal diagnostic techniques for determination of the sex of the foetus, leading to female foeticide;

(ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex;

(iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;

(iv) permitting the use of such techniques only under certain conditions by the registered institutions; and

(v) punishment for violation of the provisions of the Act.

16. Preamble to the PCPNDT Act says that it is an Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto.

17. In Federation of Obstetrics and Gynaecological Societies of India (FOGSI), this Court was examining the challenge to the constitutional validity of certain provisions of the PCPNDT Act. It was in that context that this Court observed that it is a social welfare legislation which was conceived in the light of the skewed sex ratio in India and to avoid the consequences of the same. A skewed sex ratio is likely to lead to greater incidences of violence against women and increase in practices of trafficking, bride-buying etc. It is an effort to save the girl child. The focus of the PCPNDT Act is to protect the right to life of the girl child under Article 21 of the Constitution of India.

18. Discrimination against women, more particularly against the girl child, is widely prevalent across several parts of the country. Female foeticide is a crude manifestation of such a social malady. It is with a view to prevent such crime and to aligning with the global perspective for a discrimination free world, that the aforesaid legislation has been enacted in India.

19. As per Section 2(a), 'appropriate authority' has been defined to mean the authority appointed under Section 17.

20. Section 3A prohibits sex selection. It says that no person, including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them. Section 3B prohibits sale of ultrasound machines, etc. to persons, laboratories, clinics, etc. which are not registered under the PCPNDT Act.

21. Regulation of pre-natal diagnostic techniques is laid down in Section 4. It basically prohibits conducting prenatal diagnostic techniques for sex determination, only permitting the use of such techniques for detection of abnormalities mentioned in sub-section (2) and subject to fulfillment of the conditions as provided in sub-section (3). Section 4 being exhaustive, is extracted in its entirety hereunder:

4. Regulation of pre-natal diagnostic techniques.-

On and from the commencement of this Act,-

(1) no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);

(2) no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:-

(i) chromosomal abnormalities;

(ii) genetic metabolic diseases;

(iii) haemoglobinopathies;

(iv) sex-linked genetic diseases;

(v) congenital anomalies;

(vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;

(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely:-

(i) age of the pregnant woman is above thirty-five years;

(ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss;

(iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;

(iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease;

(v) any other condition as may be specified by the Board:

Provided that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of the provisions of Section 5 or Section 6 unless contrary is proved by the person conducting such ultrasonography;

(4) no person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purposes specified in clause (2).

(5) no person including a relative or husband of a woman shall seek or encourage the conduct of any sex selection technique on her or him or both.

21.1. Thus, in terms of the proviso to sub-section (3) of Section 4, it is mandatory for the person conducting ultrasonography on a pregnant woman to keep the complete record relating to the ultrasonography in the clinic in such manner as may be prescribed and any deficiency or inaccuracy found in the maintenance of such record shall amount to contravention of Sections 5 or 6. However, the burden is on the person conducting such ultrasonography to prove the contrary.

22. Section 5 deals with written consent of pregnant woman for conducting pre-natal diagnostic procedure which is provided for in sub-section (1). Sub-section (2) bars all persons including the person conducting pre-natal diagnostic procedures from communicating to the pregnant woman or her relatives or any other person the sex of the foetus by words, signs or in any other manner.

23. Section 6 makes it categorically clear that determination of sex is completely prohibited. It says that no genetic counselling centre or genetic laboratory or genetic clinic or person shall conduct or cause to be conducted any pre-natal diagnostic technique including ultrasonography for the purpose of determining the sex of the foetus; and no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception. Infact, sex determination of a foetus is completely prohibited under Section 6, which reads thus:

6. Determination of sex prohibited.-

On and from the commencement of this Act,-

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any prenatal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus;

(c) no person shall, by whatever means, cause or allow to be caused selection of sex before or after conception.

24. 'Appropriate authority' and 'advisory committee' are dealt with in Section 17. Sub-section (1) says that the Central Government shall appoint, by notification in the official gazette, one or more appropriate authorities for each of the Union Territories for the purposes of the PCPNDT Act. As per sub-section (2), the State Government shall appoint, by notification in the official gazette, one or more appropriate authorities for the whole or part of the State for the purposes of the PCPNDT Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide. Sub-section (4) mentions the various functions that may be performed by the 'appropriate authority'. Subsection (4) of Section 17 reads thus:

17. Appropriate Authority and Advisory Committee-

(4) The Appropriate Authority shall have the following functions, namely:-

(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;

(b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;

(c) to investigate complaints of breach of the provisions of this Act or the Rules made thereunder and take immediate action; and,

(d) to seek and consider the advise of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration;

(e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter;

(f) to create public awareness against the practice of sex selection or pre-natal determination of sex;

(g) to supervise the implementation of the provisions of the Act and Rules;

(h) to recommend to the Board and State Boards modifications required in the rules in accordance with changes in technology or social conditions;

(i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.

24.1. As per sub-section (5), the Central Government or the State Government, as the case may be, shall constitute an advisory committee for each appropriate authority to aid and advise the appropriate authority in the discharge of its functions and shall appoint one of the members of the advisory committee to be its Chairman. Composition of advisory committee is provided for in sub-section (6).

24.2. From a close reading of sub-section (4), more particularly clause (e) thereof, it is evident that the appropriate authority has been mandated to take appropriate legal action against the use of any sex selection technique by any person at any place suo moto or brought to its notice and also to initiate an independent investigation in such matter.

25. Power of appropriate authority is dealt with in Section 17A. Amongst other things, the appropriate authority shall have the power to issue search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination. Section 17A reads as under:

17A. Powers of Appropriate Authorities.-

The Appropriate Authority shall have the powers in respect of the following matters, namely:-

(a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the Rules made thereunder;

(b) production of any document or material object relating to clause (a);

(c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and (d) any other matter which may be prescribed.

26. Section 23 deals with offences and penalties. Section 23 reads as under:

23. Offences and penalties.-

(1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with

imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered medical practitioner shall be reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of and on conviction for removal of his name from the register of the Council for a period of five years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or ultrasound clinic or imaging clinic or of a medical geneticist, gynaecologist, sonologist or imaging specialist or registered medical practitioner or any other person for sex selection or for conducting pre-natal diagnostic techniques on any pregnant women for the purposes other than those specified in sub-section (2) of Section 4, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and with fine which may extend to one lakh rupees.

(4) For the removal of doubts, it is hereby provided that the provisions of sub-section (3) shall not apply to the woman who was compelled to undergo such diagnostic techniques or such selection.

27. As per Section 24, a court shall presume unless the contrary is proved that the pregnant woman was compelled by her husband or by any other relative, as the case may be, to undergo pre-natal diagnostic technique for the purposes other than those specified in sub-section (2) of Section 4 (which permits such techniques only for the purposes of detection of certain abnormalities mentioned therein); such person shall be liable for abetment of the offence under sub-section (3) of Section 23 and shall be punished for the offence specified under Section 23.

28. Cognizance of offences is dealt with in Section 28 which reads as under:

28. Cognizance of offences.-

(1) No court shall take cognizance of an offence under this Act except on a complaint made by-

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or the State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

Explanation.-For the purpose of this clause, "person" includes a social organisation.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

28.1. Section 28 is a procedural provision which places clear limitations on the taking of cognizance by criminal courts, thereby ensuring that prosecutions under this specialized social welfare legislation are instituted in a controlled and legally structured manner. Sub-section (1), more particularly clause (a) thereof, mandates that no court shall take cognizance of an offence under the PCPNDT Act except on a complaint made by the appropriate authority or by any officer authorized in this behalf by the Central Government or by the State Government or by the appropriate authority itself.

29. While Section 29 deals with maintenance of records, Section 30 provides for the power of search and seizure of records, etc. Sub-section (1) of Section 29 mandates that all records, charts, forms, reports, consent letters and all other documents required to be maintained under the PCPNDT Act and the PCPNDT Rules shall be preserved for a period of two years or for such period as may be prescribed. Sub-section (2) says that all such records shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorized by the appropriate authority in this behalf.

29.1. Section 30(1) makes it clear that if the appropriate authority has reason to believe that an offence under the PCPNDT Act has been committed or is being committed at any genetic counselling centre, genetic laboratory, genetic clinic or any other place, such authority or any officer authorised in this behalf may enter and search at all reasonable times such genetic counselling centre, genetic laboratory, genetic clinic or any other place and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under the PCPNDT Act. Sub-section (2) clarifies that provisions of CrPC relating to searches and seizures shall apply to every search or seizure made under the PCPNDT Act, as far as may be.

30. Section 32 is the rule making provision.

31. In exercise of the powers conferred by Section 32 of the PCPNDT Act, the Central Government has made the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (already referred to as 'the PCPNDT Rules' hereinabove).

32. Rule 9 deals with maintenance and preservation of records. As per sub-rule (1), every genetic counselling centre, genetic laboratory, genetic clinic including a mobile genetic clinic, ultrasound clinic and imaging centre shall maintain a register showing, in serial order, the names and addresses of the men or women given genetic counselling, subjected to pre-natal diagnostic procedures or pre-natal diagnostic tests, the names of their spouses or fathers and the date on which they first reported for such counselling, procedure or test. Sub-rule (4) says that the record to be maintained by every genetic clinic including a mobile genetic clinic in respect of each man or woman subjected to any pre-natal diagnostic procedure/ technique/test shall be as specified in Form F.

32.1. In terms of sub-rule (6), all case related records, forms of consent, laboratory results, microscopic pictures, sonographic plates or slides, recommendations and letters shall be preserved by the genetic counselling centre, genetic laboratory, genetic clinic, ultrasound clinic or imaging centre for a period of two years from the date of completion of counselling, pre-natal diagnostic procedure or pre-natal diagnostic test, as the case may be. In the event of any legal proceedings, the records shall be preserved till the final disposal of legal proceedings or till the expiry of the said period of two years, whichever is later.

32.2. In case such centres or laboratory or clinics maintain records on computer or other electronic equipment, sub-rule (7) provides that a printed copy of the record shall be taken and preserved after authentication by a person responsible for such record.

32.3. Sub-rule (8) requires every such centre, laboratory and clinic to send a complete report in respect of all pre-conception or pregnancy related procedures/techniques/tests conducted by them in respect of each month by 5th day of the following month to the concerned appropriate authority.

33. Thus, under Rule 9, it is mandatory for every ultrasound clinic amongst others to maintain a detailed register in terms of Form F of the woman undergoing any pre-natal diagnostic procedure or pre-natal diagnostic test. Not only that, such clinic etc are required to submit a complete report regarding such procedures or tests conducted by it to the concerned appropriate authority.

34. Rule 10 deals with conditions for conducting pre-natal diagnostic procedures. Sub-rule (1) mandates obtaining of a written consent in the manner provided in Form G and in a language the person undergoing such procedure understands, before conducting such a procedure. Sub-rule (1A) mandates that any person conducting ultrasonography/image scanning on a pregnant woman shall give a declaration on each report on ultrasonography/ image scanning that he has neither detected nor disclosed the sex of the foetus of the pregnant woman to anybody. Likewise, the pregnant woman shall before undergoing ultrasonography/image scanning shall declare that she does not want to know the sex of her foetus.

35. Facilities for inspection are dealt with in Rule 11. Sub-rule (1) provides that every such centre, laboratory, clinic, nursing home, hospital, etc. where any of the machines or equipments capable of performing any procedure, technique or test capable of pre-natal determination of sex or selection of sex before or after conception is used, shall afford all reasonable facilities for inspection of the place, equipment and records to the appropriate authority or to any other person authorized by the appropriate authority in this behalf, amongst others, for detection of misuse of such facilities or for selection of sex before or after conception or for detection/disclosure of sex of the foetus or for detection of cases of violation of the provisions of the PCPNDT Act in any other manner.

35.1. Sub-rule (2) empowers the appropriate authority or the officer authorized by it to seal and seize any ultrasound machine, scanner or any other equipment capable of detecting the sex of foetus, used by any organization if the organization has not got itself registered under the PCPNDT Act. Such machines shall be confiscated and further action shall be taken as per provisions of Section 23 of the PCPNDT Act.

36. Procedure for search and seizure is laid down in Rule 12. As per sub-rule (1), the appropriate authority or any officer authorized in this behalf may enter and search at all reasonable times any such centre, laboratory or clinic in the presence of two or more independent witnesses for the purposes of search and examination of any record, register, document, book, pamphlet, advertisement or any other material object found therein and seal and seize the same if there is reason to believe that it may furnish evidence of commission of an offence punishable under the PCPNDT Act.

Explanation 1 clarifies that such laboratory, clinic or centre would include an ultrasound centre/imaging centre /nursing home/hospital/institute or any other place by whatever name called where any of the machines or equipments capable of selection of sex before or after conception or performing any procedure, technique or test for pre-natal detection of sex of foetus is used. As per Explanation 2, 'material object' would include records, machines and

equipments; and Explanation 3 clarifies that 'seize' and 'seizure' would include 'seal' and 'sealing' respectively.

37. While Rule 18 lays down the code of conduct to be observed by persons working at genetic counselling centres, genetic laboratories, genetic clinics etc., Rule 18A lays down the code of conduct to be observed by appropriate authorities. Sub-rule (1) of Rule 18A reads as under:

18A. Code of Conduct to be observed by Appropriate Authorities.-

(1) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following general code of conduct, namely:-

(i) maintain dignity, and integrity at all times;

(ii) observe and implement the provisions of the Act and Rules in a balanced and standardised manner in the course of their work;

(iii) conduct their work in a just manner without any bias or a perceived presumption of guilt;

(iv) refrain from making any comments which demean individuals on the basis of gender, race, religion;

(v) delegate his or her powers by administrative order to any authorized officer in his or her absence and preserve the order of authorization as documentary proof for further action.

37.1 Thus, Rule 18A (1)(v) says that all the appropriate authorities including the State, District and Sub-district shall delegate his or her powers by administrative order to any authorized officer in his or her absence and preserve the order of authorisation as documentary proof for further action.

37.2. Sub-rule (2)(ii) places a duty on all the appropriate authorities to ensure that a person who is a part of the investigating machinery in cases under the PCPNDT Act is not nominated or appointed as a member of the advisory committee.

37.3. As per sub-rule (3), all the appropriate authorities including the State, District and Sub-district shall observe certain conduct for processing of complaint and investigation, such as, maintaining of appropriate diaries in support of registration of complaints etc. Those authorities shall not involve police for investigating cases under the PCPNDT Act as far as possible, as the cases under the PCPNDT Act are tried as complaint cases under the Cr.PC.

38. We may also refer to Form F before we wind up our reference to the relevant provisions of the statute. Form F, which is relatable to the proviso to Section 4(3), Rule 9(4) and Rule 10(1A), is as under:

Form F

[See Proviso to Section 4(3), Rule 9(4) and Rule 10(1-A)]

FORM FOR MAINTENANCE OF RECORD IN CASE OF PRE-NATAL DIAGNOSTIC TEST/ PROCEDURE BY GENETIC CLINIC/ ULTRASOUND CLINIC/ IMAGING CENTRE

Section A: To be filled in for all Diagnostic Procedures/Tests

1. Name and complete address of Genetic Clinic/ Ultrasound Clinic/ Imaging centre:.....

2. Registration No. (Under PC & PNDT Act, 1994).....

3. Patient's name..... Age .....

4. Total Number of living children: .....

(a) Number of living sons with age of each living son (in years or months):.....

(b) Number of living daughters with age of each living daughter (in years or months):.....

5. Husband's /Wife's/ Father's / Mother's Name: .....

6. Full postal address of the patient with Contact Number, if any.....

7.(a) Referred by (Full name and address of Doctor(s)/ Genetic Counseling Centre):..... (Referral slips to be preserved carefully with Form F)

(b) Self-Referral by Gynaecologist/Radiologist/ Registered Medical Practitioner conducting the diagnostic procedures:..... (Referral note with indications and case papers of the patient to be preserved with Form F)

Self-referral does not mean a client coming to a clinic and requesting for the test or the relative/s requesting for the test of a pregnant woman

8. Last menstrual period or weeks of pregnancy: .....

Section B: To be filled in for performing non-invasive diagnostic Procedures/ Tests only

9. Name of the doctor performing the procedure/s:.....

10. Indication/s for diagnosis procedure ..... (specify with reference to the request made in the referral slip or in a self -referral note)

(Ultrasonography prenatal diagnosis during pregnancy should only be performed when indicated. The following is the representative list of indications for ultrasound during pregnancy. (Put a "Tick" against the appropriate indication/s for ultrasound)

i. To diagnose intra-uterine and/or ectopic pregnancy and confirm viability.

ii. Estimation of gestational age (dating).

iii. Detection of number of fetuses and their chorionicity.

iv. Suspected pregnancy with IUCD in-situ or suspected pregnancy following contraceptive failure/MTP failure.

v. Vaginal bleeding/leaking.

vi. Follow-up of cases of abortion.

vii. Assessment of cervical canal and diameter of internal os.

viii. Discrepancy between uterine size and period of amenorrhea.

ix. Any suspected adenexal or uterine pathology/abnormality.

x. Detection of chromosomal abnormalities, fetal structural defects and other abnormalities and their follow-up.

xi. To evaluate fetal presentation and position.

xii. Assessment of liquor amnii.

xiii. Preterm labor / preterm premature rupture of membranes.

xiv. Evaluation of placental position, thickness, grading and abnormalities (placenta praevia, retro-placental hemorrhage, abnormal adherence, etc.).

xv. Evaluation of umbilical cord−presentation, insertion, nuchal encirclement, number of vessels and presence of true knot.

xvi. Evaluation of previous Caesarean Section scars.

xvii. Evaluation of fetal growth parameters, fetal weight and fetal well being.

xviii. Color flow mapping and duplex Doppler studies.

xix. Ultrasound guided procedures such as medical termination of pregnancy, external cephalic version, etc. and their follow-up.

xx. Adjunct to diagnostic and therapeutic invasive interventions such as chorionic villus sampling (CVS), amniocenteses, fetal blood sampling, fetal skin biopsy, amnio-infusion, intrauterine infusion, placement of shunts, etc.

xxi. Observation of intra-partum events.

xxii. Medical/surgical conditions complicating pregnancy.

xxiii. Research/scientific studies in recognised institutions.

11. Procedures carried out (Non-Invasive) (Put a "Tick" on the appropriate procedure)

i. Ultrasound

(**Important Note:** Ultrasound is not indicated/ advised/ performed to determine the sex of fetus except for diagnosis of sex-linked diseases such as Duchene Muscular Dystrophy, Hemophilia A & B etc.)

ii. Any other (specify) .....

12. Date on which declaration of pregnant woman/ person was obtained:.....

13. Date on which procedures carried out: .....

14. Result of the non-invasive procedure carried out (report in brief of the test including ultrasound carried out).....

15. The result of pre-natal diagnostic procedures was conveyed to .....on.....

16. Any indication for MTP as per the abnormality detected in the diagnostic procedures/ tests.....

Date: (.....)

Name, Signature and Registration Number with Seal of the Gynaecologist/Radiologist/ Registered Medical Practitioner performing Diagnostic Procedure/s

Place:

Section C: To be filled for performing invasive Procedures/Tests only

17. Name of the doctor/s performing the procedure/s:.....

18. History of genetic/medical disease in the family (specify):..... Basis of diagnosis ("Tick" on appropriate basis of diagnosis):

(a) Clinical (b) Bio-chemical
(c) Cytogenetic (d) other (e.g. radiological, ultrasonography, etc. specify)

19. Indication/s for the diagnosis procedure ("Tick" on appropriate indication/s):

A. Previous child/children with:

(i) Chromosomal disorders (ii) Metabolic disorders
(iii) Congenital anomaly (iv) Mental Disability
(v) Haemoglobinopathy (vi) Sex-linked disorders
(vii) Single gene disorder (viii) Any other (specify)

B. Advanced maternal age (35 years) C. Mother/father/sibling has genetic disease (specify) D. Other (specify).....

20. Date on which consent of pregnant woman / person was obtained in Form G prescribed in PC & PNDT Act, 1994:.....

21. Invasive procedures carried out ("Tick" on appropriate indication/s)

i. Amniocentesis ii.Chorionic Villi aspiration
iii. Fetal biopsy iv. Cordocentesis
v. Any other (specify)

22. Any complication/s of invasive procedure (specify)...

23. Additional tests recommended (Please mention if applicable)

(i) Chromosomal studies (ii) Biochemical studies
(iii) Molecular studies (iv) Pre-implantation gender diagnosis

(v) Any other (specify)

24. Result of the Procedures/ Tests carried out (report in brief of the invasive tests/ procedures carried out).....

25. Date on which procedures carried out:.....

26. The result of pre-natal diagnostic procedures was conveyed to.....on.....

27. Any indication for MTP as per the abnormality detected in the diagnostic procedures/tests.....

Date: (.....)

Place: Name, Signature and Registration Number with Seal of the Gynaecologist/Radiologist/Registered Medical Practitioner performing Diagnostic Procedure/s

Section D: Declaration

DECLARATION OF THE PERSON UNDERGOING PRENATAL DIAGNOSTIC TEST/ PROCEDURE

I, Mrs./Mr. ..... declare that by undergoing ..... Prenatal Diagnostic Test/ Procedure. I do not want to know the sex of my foetus. (.....)

(.....)

Date: Signature/ Thump impression of the person undergoing the Prenatal Diagnostic Test/ Procedure

In Case of thumb Impression:

Identified by (Name) .....Age:..... Sex:..... Relation (if any):..... Address & Contact No.:.....

Signature of a person attesting thumb impression:.....

Date:.....

DECLARATION OF DOCTOR/PERSON CONDUCTING PRE-NATAL DIAGNOSTIC PROCEDURE/TEST

I, ... (name of the person conducting ultrasonography/image scanning) declare that while conducting ultrasonography/image scanning on Ms./ Mr. ..... (name of the pregnant woman or the person undergoing pre-natal diagnostic procedure/ test), I have neither detected nor disclosed the sex of her fetus to anybody in any manner.

Signature:.....

(.....)

Date:..... Name in Capitals, Registration Number with Seal of the Gynaecologist/ Radiologist/ Registered Medical Practitioner Conducting Diagnostic procedure

39. Thus, Form F, which is statutory in character, is detailed and exhaustive providing for recording of the entire spectrum of information necessary and relatable to all such pre-natal diagnostic procedures and tests.

40. Form F in its entirety have been held to be mandatory by this Court in Federation of Obstetrics and Gynaecological Societies of India (FOGSI). This Court has held that non-maintenance of record is the springboard for commission of the offence of foeticide. Therefore, it can not be brushed aside merely as clerical error. This Court held thus:

98. Non-maintenance of record is springboard for commission of offence of foeticide, not just a clerical error. In order to effectively implement the various provisions of the Act, the detailed forms in which records have to be maintained have been provided for by the Rules. These Rules are necessary for the implementation of the Act and improper maintenance of such record amounts to violation of provisions of Sections 5 and 6 of the Act, by virtue of proviso to Section 4(3) of the Act. In addition, any breach of the provisions of the Act or its Rules would attract cancellation or suspension of registration of Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, by the appropriate authority as provided under Section 20 of the Act.

99. There is no substance in the submission that provision of Section 4(3) be read down. By virtue of the proviso to Section 4(3), a person conducting ultrasonography on a pregnant woman, is required to keep complete record of the same in the prescribed manner and any deficiency or inaccuracy in the same amounts to contravention of Section 5 or Section 6 of the Act, unless the contrary is proved by the person conducting the said ultrasonography. The aforementioned proviso to Section 4(3) reflects the importance of records in such cases, as they are often the only source to ensure that an establishment is not engaged in sex determination.

100. Section 23 of the Act, which provides for penalties of offences, acts in aid of the other sections of the Act is quite reasonable. It provides for punishment for any medical geneticist, gynaecologist, registered medical practitioner or a person who owns a Genetic Counselling Centre, a Genetic Clinic or a Genetic Laboratory, and renders his professional or technical services to or at the said place, whether on honorarium basis or otherwise and contravenes any provisions of the Act, or the Rules under it.

101. Therefore, dilution of the provisions of the Act or the Rules would only defeat the purpose of the Act to prevent female foeticide, and relegate the right to life of the girl child under Article 21 of the Constitution, to a mere formality.

102. In view of the above, no case is made out for striking down the proviso to Section 4(3), provisions of Sections 23(1), 23(2) or to read down Section 20 or 30 of the Act. Complete contents of Form F are held to be mandatory. Thus, the writ petition is dismissed. No costs.

41. Let us now deal with the judgment of this Court in Ravindra Kumar heavily relied upon by learned senior counsel for the appellant. That was a case where the quashing petition filed by the appellant for quashing the FIR and the complaint was rejected by the High Court against which the related appeal was filed. The specific challenge in that case was that the search and seizure carried out was that of the Chairman of the District Appropriate Authority and not by the appropriate authority.

After referring to Sections 17, 23, 26, 28 and 30 of the PCPNDT Act, a two Judge Bench of this Court held that the appropriate authority is not required to record reasons for concluding that it has reason to believe that an offence under the PCPNDT Act has been or is being committed but there has to be a rational basis to form that belief. Importantly, the Bench held that the decision to take action under subsection (1) of Section 30 must be of the appropriate authority and not of its individual members. In the facts of that case, it was found that under the notification dated 07.11.2013, the appropriate authority for the concerned District i.e. Gurugram consisted of the Civil Surgeon, the District Programme Officer of the Women and Child Development Department and the District Attorney, the Civil Surgeon being the Chairman of the appropriate authority.

Looking at the object of sub-section (1) of Section 30 which the Bench observed was a very drastic provision granting power to the appropriate authority or any officer authorised by it to enter a genetic laboratory, a genetic clinic or any other place to examine the record found therein, to seize the same, even to seal the same and the express language used therein, it has been held that only the Chairman or any other member acting alone cannot authorize a

search under sub-section (1) of Section 30; it must be a decision of the appropriate authority. If a single member of the appropriate authority authorizes a search, it will be completely illegal being contrary to sub-section (1) of Section 30.

In that case, it was found from the affidavit filed by the Chairman that the decision to conduct the search by appointing three officers was only his decision taken in his capacity as the Chairman of the appropriate authority; the other two members of the appropriate authority were not party to the said decision. In the facts of that case, it has been held that no legal decision was made by the appropriate authority in terms of subsection (1) of Section 30 to search for the appellant's clinic which vitiated the search.

Thereafter, on a perusal of the FIR and the complaint, the Bench concluded that these were based entirely on the materials seized during the search. Except for what was found in the search and the seized documents, there was nothing to connect the appellant accused with the offence under Section 23 of the PCPNDT Act. After holding that as the search itself was illegal, continuing prosecution based on such an illegal search would amount to an abuse of the process of law, this Court quashed the FIR and the complaint.

41.1. Thus, the ratio in Ravindra Kumar, which is a two-Judge Bench decision of this Court, is that the decision to authorize a search under sub-section (1) of Section 30 must be that of the appropriate authority collectively. If a single member of the appropriate authority, and that includes the Chairperson, authorizes a search, it will be illegal being contrary to sub-section (1) of Section 30. Such a decision would vitiate the search rendering the same illegal. This is the ratio in Ravindra Kumar. The relief granted or the final directions issued are on the facts of the case and are not part of the ratio decidendi.

42. Having noticed the statutory framework and the two decisions of this Court, let us now revert back to the facts of the present case.

43. Government of Haryana in the Health Department had issued a notification dated 17.11.2013 exercising powers conferred by Section 17(3)(b) of the PCPNDT Act and in supersession of the previous notification dated 04.03.2009 appointing appropriate authority for the districts. The appropriate authority for each of the districts comprised of the following: (i) Civil Surgeon - Chairperson; (ii) District Programme Officer, Women and Child Development Department-Member; and (iii) District Attorney-Member.

44. A perusal of the communication/order dated 17.09.2015 (Annexure P-2 to the SLP paperbook) would show that it was a directive of the Civil Surgeon acting as the District Appropriate Authority, Gurugram, directing Shri

Amandeep Singh Chauhan, District Child Officer and Shri Shyam Sunder of the District Red Cross Society, Gurugram to conduct raid under the PCPNDT Act and to register the FIR.

45. From a careful reading of the communication/ order dated 17.09.2015, it is true that it was issued by the Civil Surgeon, acting as the District Appropriate Authority, Gurugram. No doubt, the Civil Surgeon is the Chairperson of the District Appropriate Authority but this communication/order does not indicate any decision being taken collectively by the District Appropriate Authority to conduct raid in the premises of the appellant.

Nothing has been placed on record by the respondents to show that there was any meeting of mind of the members of the District Appropriate Authority on the basis of which the Chairperson had issued the communication/order dated 17.09.2015. If that be the position, then the ratio in Ravindra Kumar would be applicable to this case as well on the basis of which the search carried out by the District Appropriate Authority, Gurugram at Vatika Medicare i.e. the premises where the appellant worked, would be illegal. However, the matter would not stop at that.

46. We have already noted that on the basis of the search itself, FIR was lodged against the appellant and Dr. Abdul Kadir being FIR No. 336 of 2015. Following investigation, the police filed an application before the learned Judicial Magistrate First Class on 28.10.2015 for discharge of the accused appellant. In the application, it was mentioned that appellant had conducted ultrasound on the decoy pregnant woman but had not done sex determination. Police noted that on examination of the record, some differences had been found though no secret talk between the appellant and Dr. Kadir was found.

It was mentioned that for differences in the maintenance of record, there are separate provisions in the PCPNDT Act for filing a complaint case through the District Appropriate Authority. However, it was recorded that during investigation, it was found that Dr. Abdul Kadir had fraudulently taken money for the sex determination of the foetus of the pregnant woman from the shadow witness. Therefore, a case under Section 420 IPC and Section 23(3) of the PCPNDT Act was made out qua Dr. Abdul Kadir. In these circumstances, the investigating authority i.e. the police sought for the discharge of the appellant.

46.1. Learned Magistrate accepted the said application and discharged the appellant and also released him from custody vide the order dated 28.10.2015.

47. The District Advisory Committee held a meeting on 17.12.2015 wherein a decision was taken that a complaint case be filed against Dr. Abdul Kadir, Dr.

Naresh Garg (appellant) and Vatika Medicare for contravention of the provisions of the PCPNDT Act.

48. Pursuant thereto, complaint was filed by the District Appropriate Authority, Gurugram through Dr. Chitranjan, Deputy Civil Surgeon-cum-Nodal Officer on 18.09.2018 under Sections 4, 5, 6 and 29 of the PCPNDT Act read with Rules 9 and 10 of the PCPNDT Rules, all punishable under Section 23 of the aforesaid Act which was registered as COMA/47/591/2018. As already noted supra, the raid on the premises where the appellant worked for gain was carried out on 17.09.2015 which led to seizure of record etc.

Section 23 of the PCPNDT Act says that for the contravention of any of the provisions of the PCPNDT Act or the PCPNDT Rules, the maximum sentence is upto three years and with fine. Section 468(2)(c) CrPC has prescribed a period of limitation of three years for a competent court to take cognizance of an offence which is punishable with imprisonment for a term exceeding one year but not exceeding three years. Therefore, the limitation in this case was of three years.

Since there was a delay of one day in the filing of the complaint, an application for condonation of delay was also filed for condoning the said delay. The learned Magistrate by order dated 18.09.2018 condoned the delay. Thereafter, the learned Magistrate passed an order dated 12.09.2022 issuing summons to the accused persons under Section 23 of the PCPNDT Act by taking the view that there are sufficient grounds for proceeding against the two accused persons including the appellant.

49. Repelling the challenge made by the appellant, the High Court vide the impugned judgment and order held that the District Appropriate Authority had implemented the recommendation of the District Advisory Committee under Section 17 of the PCPNDT Act whereafter the District Appropriate Authority exercising power under Rule 18A of the PCPNDT Rules had authorized Dr. Chitranjan, Deputy Civil Surgeon for filing of the complaint. High Court has held that the procedure adopted cannot be said to be in contravention of the PCPNDT Act as per authorization given to Dr. Chitranjan on 17.09.2018.

50. While there is infraction of Section 30 of the PCPNDT Act qua the search carried out by the respondents on Vatika Medicare in as much as it was an individual decision of the Chairperson instead of being the collective decision of the District Appropriate Authority which has vitiated the search, and in this connection we are bound by the ratio laid down by the Coordinate Bench in Ravindra Kumar; we are however of the view that the evidence collected in the course of the search in the form of the seized record etc cannot be discarded altogether, like the baby with the bath water. While the search may be illegal,

the materials or evidence gathered or collected in the course of such search can still be acted or relied upon subject to the rule of relevancy and the test of admissibility. We are fortified in adopting such a view by several decisions of this Court a couple of which are by Benches of larger strength.

51. In Radha Kishan Vs. State of Uttar Pradesh3, a three-Judge Bench of this Court in the context of search operations in the premises of the appellant under Section 103 and 165 of the old Cr.P.C. which accidently led to discovery of a large number of letters and postcards, held that even if it is assumed that the search was illegal, the seizure of the articles is not vitiated. Of course, because of the illegality of the search, the court may be inclined to examine carefully the evidence regarding the seizure. This Court held thus:

5. So far as the alleged illegality of the search is concerned it is sufficient to say that even assuming that the search was illegal the seizure of the articles is not vitiated. It may be that where the provisions of Sections 103 and 165 of the Code of Criminal Procedure are contravened the search could be resisted by the person whose premises are sought to be searched. It may also be that because of the illegality of the search the court may be inclined to examine carefully the evidence regarding the seizure. But beyond these two consequences no further consequence ensues. The High Court has chosen to accept the evidence of the prosecution with regard to the fact of seizure and that being a question to be decided only by the court of fact, this Court would not re-examine the evidence for satisfying itself as to the correctness or otherwise of the conclusions reached by the High Court.

52. R.M. Malkani Vs. State of Maharashtra4 is a two- Judge Bench decision of this Court. In that case, this Court was examining admissibility of tape recorded conversation. In that context, this Court held that tape recorded conversation is admissible provided, firstly, the conversation is relevant to the matter in issue; secondly, there is identification of the voice; and thirdly, the accuracy of the tape recorded conversation is proved. Rejecting the contention of the appellant that the tape recorded conversation was obtained by illegal means, this Court held that even if evidence is illegally obtained, it is admissible.

However, by expressing a word of caution, this Court observed that the Judge has a discretion to disallow evidence in a criminal case if the strict rules of admissibility would operate unfairly against the accused. This Court referred to with approval its earlier decision in Magraj Patodia Vs. R.K. Birla5 which held that a document which was procured by improper or even by illegal means could not bar its admissibility provided its relevance and genuineness were proved. Referring to English decisions, this Court held that as long as evidence

is not tainted by an inadmissible confession of guilt evidence even if it is illegally obtained is admissible.

53. A Constitution Bench of this Court in Pooran Mal Vs. Director of Inspector (Investigation), New Delhi6 was examining a challenge to search and seizure of certain premises under Section 132 of the Income Tax Act, 1961 on the ground that the authorisation for the search as also the search and seizure were illegal. After referring to various provisions of the Indian Evidence Act, 1872, this Court opined that it had permitted relevancy as the only test of admissibility of evidence; the Indian Evidence Act or any other similar law in force does not exclude relevant evidence on the ground that it was obtained under an illegal search or seizure. Elaborating further, this Court held that courts have a discretion to admit evidence obtained as a result of illegal search. Unless there is an express or necessarily implied prohibition in law, evidence obtained as a result of illegal search or seizure is not liable to be shut out. Finally, the Constitution Bench concluded as under:

25. In that view, even assuming, as was done by the High Court, that the search and seizure were in contravention of the provisions of Section 132 of the Income Tax Act, still the material seized was liable to be used subject to law before the Income tax authorities against the person from whose custody it was seized and, therefore, no Writ of Prohibition in restraint of such use could be granted. It must be, therefore, held that the High Court was right in dismissing the two writ petitions. The appeals must also fail and are dismissed with costs.

54. Before finally concluding our discussion, we may also deal with two more submissions advanced by learned senior counsel for the appellant. Submission of Mr. Bhalla, learned senior counsel, is that though FIR No. 336 dated 17.09.2015 was registered against Dr. Abdul Kadir and the appellant following the illegal raid, the appellant was discharged by the learned Magistrate on the basis of an application filed by the police itself. The contention is that after discharge of the appellant, the criminal complaint is not maintainable since it is based on the same set of facts. We are afraid such a submission cannot be accepted.

Section 28(1) of the PCPNDT Act, which we have already taken note of supra, specifically says that no court shall take cognizance of an offence under the PCPNDT Act except on a complaint made by the appropriate authority or by any officer authorized by the appropriate authority etc. Further, as per Rule 18A (3) (iv) of the PCPNDT Rules, the appropriate authority should not involve police for investigating cases under the PCPNDT Act as the cases under this Act are tried as complaint cases under the CrPC. In any case, the police in the discharge application mentioned that appellant had infact

conducted ultrasound on the decoy pregnant woman but had not carried out sex determination.

However, police investigation revealed discrepancies in the maintenance of record for which it was pointed out that there are provisions in the PCPNDT Act for filing of a complaint case. We have already noted that as per the proviso to sub-section (3) of Section 4 of the PCPNDT Act, it is the duty of the person conducting ultrasonography on a pregnant woman to keep complete record thereof in the clinic in such manner as may be prescribed and any deficiency or inaccuracy found therein shall amount to contravention of Sections 5 or 6 of the PCPNDT Act. Burden is on the person conducting such ultrasonography to prove to the contrary.

Similarly, Rule 9(1) read with Rule 9(4) and Rule 10(1A) of the PCPNDT Rules mandate the person conducting ultrasonography on a pregnant woman to maintain the complete record of such procedure in the prescribed format, the failure of which would be construed to be an offence under Section 23 of the PCPNDT Act. That apart, this Court has held that complete contents of Form F are mandatory. Therefore, discharge of the appellant in the police case would be of no consequence.

55. It is also the submission of learned senior counsel for the appellant that the raiding party comprised of Dr. Saryu Sharma, Deputy Civil Surgeon, Gurugram who was also made a member of the District Advisory Committee. It is the contention of the appellant that such duality of role assigned to Dr. Saryu Sharma is illegal which not only vitiated the raid but also the decision to file the criminal complaint. Such a submission has no basis at all. Rule 18A lays down certain guidelines in the form of code of conduct to be observed by the appropriate authorities. As per Rule 18A(2)(ii), all appropriate authorities shall ensure that a person who is part of the investigating machinery in cases under the PCPNDT Act shall not be nominated or appointed as a member of the advisory committee.

Thus, Rule 18A(2)(ii) is applicable only to a person who is part of the investigating machinery in cases under the PCPNDT Act. Dr. Saryu Sharma was never a part of any investigating machinery. Therefore, there is no contravention of Rule 18A(2)(ii) of the PCPNDT Rules. In any case, going by language of Rule 18A, those guidelines can only be termed as directory being part of the general code of conduct to be observed by appropriate authorities, violation of which may render a proceeding irregular but not illegal. However, as we have seen in this case, there is no violation of Rule 18A(2)(ii) inasmuch as Dr. Saryu Sharma was not a part of any investigating machinery.

56. Discrimination against the girl child and by extension women is still prevalent in several parts of the country. Crude and ugly manifestation of such social malady is in the form of female foeticide. The first step towards commission of such an offence is in the sex determination of the foetus. Therefore, the Parliament has stepped in not only outlawing sex determination and selection but also prohibiting all related pre-conception and pre-natal techniques and procedures, making it mandatory to maintain the relevant record in the prescribed format.

Non-maintenance of the record in the prescribed form would be an offence under the PCPNDT Act and the Rules. In so far the present case is concerned, prima facie it has come on record that appellant had conducted ultrasonography on the pregnant woman. Whether or not he has maintained the record as required under the law in addition to nondisclosure of the sex of the foetus is a matter for trial. Therefore, it is not a case where the trial should be nipped in the bud.

57. Thus, having regard to the discussions made above and for the reasons recorded, the criminal complaint bearing No. COMA/116/2018 pending before the Judicial Magistrate First Class, Gurugram cannot be quashed. Therefore, no interference is called for in the impugned judgment and order of the High Court. However, we make it clear that we have not expressed any opinion on merit of the allegations and all contentions qua reliability and admissibility of evidence are kept open.

58. Subject to the above, the criminal appeal is dismissed. However, there shall be no order as to cost.

.....J. [Manoj Misra]

.....J. [Ujjal Bhuyan]

New Delhi;

February 23, 2026

1 2024 SCC Online SC 2495
2 (2019) 6 SCC 283
3 AIR 1963 SC 822
4 1973 (1) SCC 471
5 AIR 1971 SC 1295
6 (1974) 1 SCC 345

IN THE SUPREME COURT OF INDIA

Shobha Namdev Sonavane
Vs.
Samadhan Bajirao Sonvane and Ors.

[Criminal Appeal No(s)._____ of 2026
arising out of SLP (Crl.) No(s). 12440 of 2023]

Head Note – At the stage of considering a bail application, a detailed appreciation of the evidence is impermissible.

JUDGMENT

Mehta, J.

1. Heard.

2. Leave granted.

3. The original complainant, Shobha Namdev Sonavane1, is before us for assailing the order dated 1st March, 2023, passed by the High Court of Judicature at Bombay, Bench at Aurangabad2 in Criminal Appeal No. 132 of 2023, whereby respondent Nos. 1 & 2 were granted bail in connection with Crime No. 322 of 2022 registered with Kopargaon Taluka Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 354, 294, 326, 324, 323, 504, 506, 509, 143, 144, 147, 148, 149, 427 of Indian Penal Code, 18603 and under Sections 3(1)(r), 3(1)(s), 3(2)(5), 3(2)(v-a), 3(1)(w), 3(1)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.4

4. Briefly stated, facts relevant and essential for disposal of the appeal are noted hereinbelow.

I. BRIEF FACTS

5. The appellant lodged a complaint at P.S. Kopargaon Taluka on 19th August, 2022 alleging inter alia that a prior civil dispute existed between the complainant's family and the accused persons with respect to a right of way over agricultural land. The said dispute was pending adjudication, and an order of stay had been granted by the High Court in relation thereto. On 19th August, 2022, at around 10:00 A.M., her husband, Shri Namdev Sonavane, left home to drop their daughter to the school on his motorcycle.

At about 11:00 A.M., the complainant was informed by her brother-in-law, Sunil, that he had received a call from one Sainath Uttam Bacchav informing that six persons, including respondent Nos. 1 & 2 were assaulting her husband with iron rods and sticks near the shop of Tilekar on the Shirdi-Lasalgaon Road. Thereafter, the complainant, her brother-inlaw Sunil and Sunil's wife Usha proceeded to the spot, where they saw Shri Namdev lying on ground and being assaulted with iron rods and sticks.

When the complainant and her relatives attempted to intervene, they too were assaulted. According to the complainant, respondent No. 1, armed with an iron rod and Respondent No. 2 armed with a stick, assaulted Shri Namdev. The complainant further alleged that during the course of the incident, respondent Nos. 1 & 2, along with one another accused, removed their pants and uttered threatening and abusive words to the complainant in the name of her caste.

6. On the basis of the aforesaid complaint, FIR bearing No. 322 of 2022 came to be registered at P.S. Kopargaon Taluka for offences under Sections 354, 294, 326, 324, 323, 504, 506, 509, 143, 144, 147, 148, 149, 427 of the I.P.C. and under Sections 3(1)(r), 3(1)(s), 3(2)(5), 3(2)(v-a), 3(1)(w), 3(1)(g) of the SC/ST Act.

7. Shri Namdev Sonavane passed away on 24th August, 2022 while undergoing treatment and thus, Section 302 of the Indian Penal Code, 1860 was added to the case.

II. SUBMISSIONS ADVANCED BY APPELLANT

8. Learned counsel representing the appellant contended that the High Court, while allowing the appeal preferred by the respondents-accused and granting them bail, proceeded on extraneous considerations. It was urged that there are specific and clear allegations in the FIR based on the statement of the appellant, who herself sustained injuries in the incident, to the effect that respondent No.1 Samadhan Bajirao Sonvane was armed with an iron rod and respondent No.2 Ganesh Shankar Gawand was armed with a stick and that they actively participated in the fatal assault made upon the deceased Namdev by the members of the unlawful assembly, the objective whereof was to murder the victim and commit caste based violence with the complainant.

Learned counsel submitted that notwithstanding such specific role being attributed, the High Court granted bail to the respondents-accused on the flimsy and faulty assumption that the injured witness could not state with certainty as to which body part of the deceased Namdev was targeted by the respondents-accused during the assault.

9. It was further submitted that the High Court also fell in grave error in granting bail by dissecting the medical evidence as if the case was being finally decided at the stage of trial.

10. It was also contended that the findings recorded by the High Court in the impugned judgment affect the merits of the case and are bound to prejudice the trial.

11. Learned counsel further urged that the parameters for grant of bail in a case involving murder of a person belonging to Scheduled Caste community were not duly adverted to by the High Court while directing release of the respondents-accused on bail in such a grave case.

12. It was also urged that the High Court erroneously treated the pendency of civil litigation between the parties as a ground for granting bail, whereas, in fact, the said pending civil dispute constituted the very motive for the accused to launch the murderous assault on the deceased Namdev as well as the complainant.

13. It was thus submitted that the impugned order whereby the respondents-accused have been released on bail, is patently unjust and deserves to be set aside.

III. SUBMISSIONS ADVANCED BY RESPONDENTS

14. Learned standing counsel for the respondent No. 3-State of Maharashtra supported the submissions advanced by learned counsel for the appellant. He submitted that there are grave allegations against both the respondents-accused. Fuelled by the motive arising out of the pending civil litigation and land disputes between the parties, the accused launched a concerted attack on the deceased Namdev. It was urged that six assailants belabored Namdev and caused as many as eight injuries all over the body. Namdev became unconscious owing to the assault and subsequently expired due to the cumulative effect of the injuries, which resulted in severe cerebral damage, as recorded in the post mortem report.

15. Per contra, learned counsel representing the respondents-accused opposed the submissions advanced by learned counsel for the appellant and the learned counsel for the State.

16. It was submitted that the High Court has granted bail to the respondents-accused on apropos consideration of the material available on record. Bail was granted to the accused considering the fact that there were pending civil litigations between the parties, which could give reason to the complainant to falsely implicate the accused for the crime. The assailants were allegedly six in

number and yet, only eight injuries were caused on the body of the deceased Namdev.

17. The incident took place on 19th August, 2022 and Shri Namdev expired on 24th August, 2022. The significant gap between the date of the incident and the date of death of Shri Namdev, creates grave doubt regarding the nexus between the injuries sustained and his death. Learned counsel urged that neither the complainant nor the other eye witnesses attributed any specific injuries caused to the deceased to either of the respondents-accused, and the possibility of over implication cannot be ruled out.

18. Learned counsel for the respondents-accused fervently urged that the considerations for grant of bail and cancellation of bail are entirely different. It was submitted that cancellation of bail should be resorted to only in the rarest of rare cases, where there exists specific substantiated material suggesting that the accused released on bail has violated the terms and conditions of bail, or has tampered with the prosecution evidence, or where there is a likelihood of the accused absconding and thereby obstructing the process of trial. He submitted that none of the aforesaid scenarios exist in the present case and, therefore, there is no reason to interfere with the order granting bail to the respondents-accused. He thus implored the Court to dismiss the appeal.

IV. ANALYSIS

19. We have given our thoughtful consideration to the submissions advanced at the Bar and have gone through the impugned judgment and the material placed on record.

20. We make it clear that there is a clear distinction between cancellation of bail on the considerations provided under Section 439(2) CrPC (corresponding Section 483(3) BNSS) and reversal of an order of bail by the superior Court. While cancellation should only be resorted to in cases where the accused misuses the liberty of bail granted to him or tempers with the evidence. On the other hand, the order granting bail can be interfered with by the superior Court considering the nature and gravity of the offences; if the order granting bail ignores the relevant material available on record or that the same is based on extraneous considerations. The present is a case in the second category.

21. This court in the case of Shabeen Ahmad v. State of Uttar Pradesh & Anr.5, relying upon an earlier judgment in the case of Ajwar v. Waseem6, observed as follows:

"18. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very

perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalising a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem [Ajwar v. Waseem, (2024) 10 SCC 768 : (2025) 1 SCC (Cri) 320] in the following paras : (SCC pp. 783-84, paras 26-28)

"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; Masroor v. State of U.P. [Masroor v. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] .]

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order."

[Emphasis supplied]

22. Also, this court in the case of Victim 'X' v. State of Bihar & Anr.7, while setting aside the order granting bail to a person accused of committing grave offences, inter alia, under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, observed as follows:

"24. It is trite that bail once granted should not be cancelled ordinarily, but where the facts are so grave that they shake the conscience of the Court; and where the release of the accused on bail would have an adverse impact on the society, the Courts are not powerless and are expected to exercise jurisdiction conferred by law to cancel such bail orders so as to subserve the ends of justice. The present one is precisely a case of such nature."

[Emphasis Supplied]

23. Applying the aforesaid settled principles to the facts of the present case, we now proceed to examine whether the reasons assigned by the High Court for grant of bail can withstand judicial scrutiny.

24. The High Court has assigned the following reasons for granting bail to the respondents-accused:

"10. Perusal of the FIR would show that the appellants have their lands adjacent to the land of the deceased and it is said that there is long standing dispute in respect of way to the land. This Court has granted stay to the matter and, therefore, the dispute aggravated. The informant contends that her husband - Namdeo left along with daughter for dropping her to school around 9.00 a.m. and around 10.00 a.m., her brother-inlaw informed about the fact that six persons were assaulting Namdeo in front of Tilekar's shop.

Informant, her brother-in-law and wife of brotherin- law went to the spot. The statement of these three persons corroborate each other, however, it is to be noted from all the statements of all the three witnesses that the alleged act imputing offence under the Atrocities Act appears to be against present appellants and co-accused Ravindra. It is stated that by doing obscene act, they had abused the informant in the name of caste. As regards the abuses in the name of caste is concerned, role of each accused will have to be considered.

The informant, her brother-in-law, brother-in-law's wife - Usha and the other eye witnesses have stated that accused Sahebrao was holding axe and accused Shankar was holding stick and they had assaulted Namdeo as well as accused Shankar appears to have assaulted Usha with the stick. Unfortunately, Namdeo has expired, but the fact that is required to be considered is that the incident is stated to have taken place on 19.08.2022 and Namdeo expired on 24.08.2022. The postmortem reveals eight injuries of following nature:-

1) Bluish contused abrasion of size 6cm x 4cm was present over right side of upper arm.

2) Lacerated wound was present over right hand thumb with dressing.

3) Multiple sutured wounds was present over right side of leg with discharging fluid.

4) Bluish contused lacerated wounds of size 4cm x 3cm to 2cm x 1cm was present over left side of leg.

5) Bluish/Blackish contusion of size 6cm x 4 cm was present over left side of arm with fracture of underlying bone.

6) Bluish contusion of size 12 cm x 4 cm was present over left side of lumber region.

7) Multiple bluish contusion was present over back of trunk.

8) Contusion was present over left side of parietal region of scalp with effusion of blood. The probable cause of death as aforesaid appears to be combined effect of septicaemia with cerebral damage due to blunt trauma to head with polytrauma. Whose weapon caused head injury to Namdeo cannot be ascertained, as there is no such specific statement either in the FIR or in statements of the witnesses under Section 161 of the Code of Criminal Procedure. Taking into consideration the septicaemia, which would have developed later to the bruises, it will have to be considered by the trial Court, as to whether there was intention and knowledge to kill Namdeo.

11. The investigation is over and charge-sheet is filed. The role attributed to the present appellants is holding of iron rod and stick. The discovery of iron rod as well as stick appears to be from coaccused Yogesh Gawand on 21.08.2022. Keeping the question open as to whether the said discovery would be admissible against the present accused or not, the only fact is then required to be considered that accused Yogesh appears to be the brother of appellant No.2 and the discovery panchanama states that the scythe was also discovered by Yogesh and it is then stated that it was used by appellant No.2 Ganesh, but the FIR speaks something else. The present appellant is said to have discovered his motorcycle and his clothes. The CA reports are yet awaited. At the cost of repetition, it will have to be stated that even from the statements of certain witnesses under Section 164 of the Code of Criminal Procedure it cannot be gathered whose weapon has caused which injury to Namdeo.

12. As regards, the obscene act and abuses given in the name of caste are concerned no doubt it is attributed to the present appellants, but taking that offence in segregation will not justify the further custody of the accused. Another fact will have to be considered here is that the litigation is going on since last many years and at any earlier point of time, it has not been pointed out that the situation was so worst i.e. resulting in such attacks. Therefore, taking into consideration all these aspects, the appellant ought to have been

released on bail by the learned Special Judge. No doubt, the offence charged against the appellants are serious in nature, but for the aforesaid reasons, they need not be asked to remain in jail as it will be long way to stand their trial."

[Emphasis supplied]

25. The prior litigation between the parties, which has been treated as one of the grounds for granting bail by the High Court can work both ways. This litigation could, very well, have fuelled the respondents-accused with the motive to launch the assault. As per the FIR, there was a concerted attack by the six accused persons who, not only abused and insulted the complainant and her deceased husband referring to their caste but also launched an all-out attack causing multiple injuries to the deceased by iron rods and sticks. When the appellant tried to intervene and save her husband, she too was beaten and subjected to caste-based insults and suffered injuries at the hands of the assailants.

26. The FIR was registered applying the offences under Sections 143, 147, 148 & 149 of IPC amongst others. There is clear allegation in the FIR that the accused persons formed an unlawful assembly, the common object whereof was to belabor and kill the deceased Namdev.

27. In this backdrop, clearly, the approach adopted by the High Court at the stage of considering bail recording that the prosecution was required to indicate the individual role of the accused in the incident, and that failure to do so, entitled the respondents-accused to bail, is erroneous on the face of record. In a case where the offence is committed by an unlawful assembly, each member of the assembly is equally responsible for the acts committed in furtherance of the unlawful object. The common object of the assembly being to assault the deceased Namdev on account of the pending civil litigation, each member of the unlawful assembly was thus equally liable and responsible for the offending acts. We may note that the looking to the large number of injuries, caused to the deceased (referred to infra), even the plea of over implication was not tenable.

28. As per the post mortem report, the following injuries were noticed on the body of the deceased Namdev:

"1) Bluish contused abrasion of size 6cm x 4cm was present over right side of upper arm.

2) Lacerated wound was present over right hand thumb with dressing.

3) Multiple sutured wounds was present over right side of leg with discharging fluid.

4) Bluish contused lacerated wounds of size 4cm x 3cm to 2cm x 1cm was present over left side of leg.

5) Bluish/Blackish contusion of size 6cm x 4 cm was present over left side of arm with fracture of underlying bone.

6) Bluish contusion of size 12 cm x 4 cm was present over left side of lumber region.

7) Multiple bluish contusion was present over back of trunk.

8) Contusion was present over left side of parietal region of scalp with effusion of blood."

29. A careful perusal of injury Nos. 3 and 7 would clearly indicate that multiple injuries were noticed by the autopsy surgeon. In that backdrop, the observation of the High Court that the accused were six in number and they inflicted only eight injuries and that therefore it could not be ascertained whose weapon caused the head injury, is absolutely irrelevant and could not have been a ground to grant bail.

30. At the cost of repetition, it may be mentioned that the provisions of rioting, unlawful assembly having been invoked, the prosecution was under no obligation to identify and fix the individual acts of the accused. So far as the observation made by the High Court regarding the time gap between the date of the incident and the date of death of the deceased Namdev is concerned, the said aspect would have to be gone into by the trial Court at the time of appreciating the medical evidence.

31. It needs to be noted that even the High Court itself has observed that the trial Court would have to consider whether there was any intention and knowledge to kill deceased Namdev. Once the High Court itself noted the multiple injuries on the body of the deceased with injury No. 8 causing deep rooted cerebral damage by blunt trauma, there was absolutely no justifiable reason to grant bail to the accused respondents.

V. CONCLUSION

32. As an upshot of the above discussion, the impugned order does not stand scrutiny and is hereby set aside. The bail granted to the respondents-accused by the High Court is cancelled. The respondents-accused shall surrender before the trial Court within a period of four weeks from today, failing which the trial Court shall take appropriate steps to secure their custody during the pendency of the trial. The trial Court is directed to conclude the trial within a period of one year from today.

33. We make it clear that the observations made above are only restricted to the consideration of this appeal for cancellation of bail and shall have no bearing on the outcome of the trial and the trial Court shall proceed with the case uninfluenced by any of the observations made in this order. We further grant liberty to the accused to renew their prayer for bail once the evidence of the eye-witnesses and the medical jurist is recorded by the trial Court.

34. With these observations, the appeal is allowed.

35. Pending application(s), if any, shall stand disposed of.

.....J. (Vikram Nath)

.....J. (Sandeep Mehta)

New Delhi;

February 23, 2026.

1 Hereinafter, referred to as 'complainant/appellant'

2 Hereinafter, referred to as the "High Court".

3 Hereinafter, referred to as the "I.P.C.".

4 Hereinafter, referred to as the "SC/ST Act".

5 (2025) 4 SCC 172

6 (2024) 10 SCC 768

7 2025 INSC 877

IN THE SUPREME COURT OF INDIA

Sitaram Kuchhbedia
Vs.
Vimal Rana and Ors.

[Criminal Appeal No(s). 1837-38 of 2011]

[Criminal Appeal No(s). 1835-36 of 2011]

Head Note – Once it is established that an unlawful assembly existed and the accused intended to commit murder in furtherance of the common object of such assembly, the individual attribution of the fatal injury fades into insignificance. It is trite law that Section 149 IPC embodies the principle of vicarious liability and renders every member of an unlawful assembly guilty of the offence committed in prosecution of the common object.

Conduct of each person forming the unlawful assembly, coupled with participation in prosecution of the common object, is sufficient to fasten vicarious liability on every member of the assembly for the offence committed by any member of that assembly.

JUDGMENT

Mehta, J.

1. Heard.

2. These appeals arise out of the common judgment and order dated 19th July, 2010, rendered by the Division Bench of the High Court of Madhya Pradesh at Jabalpur1 in Criminal Appeal Nos. 745 and 774 of 2006, whereby the High Court partly allowed the appeals preferred by the accused, namely, Roop Singh, Mukesh Gujar s/o Phool Singh, Pintu @ Jitendra Kumar, Ajju @ Ajay Singh, Baddu @ Badda, Vimal Rana, Dhanraj, Kehari Singh, Parath Singh, Meharban Singh, Phool Singh, Durjan Gujar, Paggal @ Bal Kishan, Bhagwan Gujar, Prakash Gujar, Mukesh Gujar s/o Rustom Gujar, Gudda @ Meharban, Malkhan Singh, Pappu @ Pushpendra Gujar.

3. The accused persons were put to trial before the learned Special Judge (Atrocities), Narsinghpur,2 in Special Case No. 51 of 2004. Upon conclusion of the trial, vide judgment and order dated 7th April, 2006, the accused were convicted for the offences punishable under Section 148 of the Indian Penal Code3 and Sections 323, 325, and 302 read with Section 149 IPC, and were sentenced in the terms set out below: -

Sections	Sentence	Penalty/Fine	Sentence in default of payment fine
Section 148 IPC	Two Years RI	Rs.1,000/-	Two months RI
Section 323 r/w 149 IPC	One Year RI	Rs.500/-	One month RI
Section 325 r/w 149 IPC	Two Years RI	Rs.1,000/-	Two months RI
Section 302 r/w 149 IPC	Rigorous Imprisonment for Life.	Rs.2,000/-	Four months RI

4. In appeal, the High Court, vide the impugned judgment, toned down the conviction recorded for the offence punishable under Section 302 read with Section 149 IPC and altered the same to that punishable under Section 304 Part II read with Section 149 IPC, holding that the case would fall within the ambit of culpable homicide not amounting to murder. The convictions and sentences recorded by the trial Court for the offences punishable under Sections 148, 323 read with 149 IPC, and 325 read with 149 IPC were, however, maintained.

5. Consequent upon the toning down of the offence from one punishable under Section 302 IPC, the sentence of life imprisonment imposed by the trial Court was set aside and the accused persons were sentenced to undergo rigorous imprisonment for a period of six years along with fine of Rs.5,000/- each, and in default whereof, to further undergo rigorous imprisonment for one year for the offence punishable under Section 304 Part II read with Section 149 IPC.

Factual Background

6. Succinctly stated, the facts germane for adjudication of the present appeals are set out hereinbelow.

7. A Dehati Nalishi (Exh.P/2) was lodged by the informant Late Shri Sitaram Kuchhbedia (PW-1)4, on 11th July, 2003 at about 9:00 p.m. at the Government Hospital, Gadarwada, to Shri B.K. Pathak (PW-11), SHO, Police Station Paloha Bada.

8. It was inter alia alleged in the Dehati Nalishi (Exh.P/8), that at about 08:00 p.m. on the same day, while he was at Gadarwada, the informant-appellant received information that his brother Bhaggu @ Bhag Chand, who had gone to Bhatera Ghat for bathing in the river Narmada and was returning in a Jeep, had been assaulted by persons belonging to the Gujar community of village Khairi.

Upon receiving this information, the informant-appellant immediately proceeded towards the place of occurrence in his Sumo vehicle along with Kanchan (driver), Sanju Chouksey, and Ganesh Yadav. On the way, near the agricultural field of Ekant Jain, he noticed a mini bus belonging to Banti Dube, in which the Bhaggu @ Bhag Chand was being taken to Gadarwada. Gudda Maharaj and Guddu Patel, were also present in the vehicle and both were injured. The informant-appellant boarded the bus and accompanied his brother.

9. It is alleged that Bhaggu @ Bhag Chand was conscious at that time. On being asked about the occurrence, he stated that at about 7:15 p.m., while returning from Bhatera Ghat, he found that the road was obstructed by placing tube-well pipes across the passage. When he stopped the mini bus, he was surrounded and assaulted by numerous persons. Bhaggu @ Bhag Chand further stated that earlier in the day, at about 02:00 p.m., he had intervened when the sons of one of the accused, namely, Vimal Rana were beating Sharan Dubey, and on that account, the accused persons had assaulted him (Bhaggu) with lathis.

Additionally, Purshottam Sahu (PW-4), Kulhad Baba (PW-2), Ashok Kori (PW-3), Guddu Patel, and Gudda Maharaj (PW-5) were also assaulted in the same incident and sustained injuries. The informant-appellant accompanied his injured brother Bhaggu @ Bhag Chand to the Government Hospital, Gadarwada. While Bhaggu @ Bhag Chand5 was undergoing treatment, he succumbed to the injuries. The prosecution's case is that the deceased-Bhaggu died as a result of the injuries sustained in the assault.

10. On the basis of the aforesaid Dehati Nalishi (Exh.P/2), a formal First Information Report (Exh.P/34), being Crime No. 28 of 2003, came to be registered for the offences punishable under Sections 147, 148, 149, 307, 302 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act6. After conducting the inquest proceedings, the body of the deceased- Bhaggu was forwarded for post-mortem examination, and a Merg intimation (Exh.P/35) was also prepared. The injured persons were referred to the Government Hospital, Gadarwada, for medico-legal examination, radiological investigation and treatment.

11. As per the post-mortem report (Exh.P/8), the following ante-mortem injuries were found on the body of the deceased-Bhaggu:-

1. Contusion 2.5 x 3 cm over the right subscapular region.

2. Multiple superficial abrasions 9 cm x 2 cm to 1/4 cm x 1/4 cm on the right shoulder and right side of the back.

3. Contusion 14 cm x 3 cm over the right lumbar region.

4. Contusion 4 x 2 cm x 2 cm on right upper back.

5. Lacerated wound 1 x 1 cm x bone deep, left arm with fracture of the humerus bone lower end.

6. Contusion 11 x 4 cm over left thigh.

7. Contusion 6 x 4 cm over left thigh.

8. Contusion 8 x 4 cm on left thigh lower end, contusion 3 x 2 cm over left calf.

9. Contusion 23 x 4 cm left mid back.

10. Contusion 18 x 4 cm over the upper shoulder.

11. Contusion 11 x 3 cm over left shoulder.

12. Contusion 5 x 4 cm over left upper arm.

13. Sup. Friction abrasion 6 x 3 cm left upper back.

14. Sup. Friction abrasion 6 x 4 cm left elbow.

15. Sup. Friction abrasion 7 x 3 left forearm.

16. Lacerated wound 1 x 1/2 x 1/4 cm over left-hand dorsum.

17. Multiple Sup. Friction abrasion 4 x 1 cn-1 to 1/8 cm x 1/8 cm over the left abdomen and chest.

18. Sup. Friction abrasion 7 x 2 cm over the left shin.

19. Sup. Friction abrasion 4 x 2 cm over the left medial calf.

20. Lacerated 1 cm x 1/2 x 1/2 cm over shin.

21. Lacerated wound 8 x 1/2 x 1/2 cm over the right shin below injury no.20.

22. Contusion 12 x 3 cm over the right post calf.

23. Multiple Sup. Abrasion 4 cm x 1/2 cm x 1/8 cm x 1/8 cm over the right knee.

24. Lacerated wound 5 x 2 cm x bone deep over left parietal scalp.

25. Lacerated wound 4 cm x 2 cm x bone deep, left lower parietal scalp, lateral to injury no. 24.

26. Lacerated wound 3 cm x 1 cm x bone deep, left temporal region, obliquely placed.

27. Lacerated wound 2 cm x 1/2 cm x bone deep over left

28. Lacerated 1 x 1/2 cm x 1/4 cm over left eye brow.

29. Lacerated wound 1/2 x 1/2 cm over forehead.

12. The medical jurist Dr. N.K. Bajpai noted his opinion for the cause of death as below:

"A fresh linear fracture measuring 7 cm in length was found over the left parietal bone, obliquely placed, accompanied by extradural and subarachnoid haemorrhage. There was congestion of the underlying fronto-parietal region, corresponding to Injury No.24."

13. During the course of investigation, the Investigating Officer prepared the spot map and panchnama of the place of occurrence. A damaged grey-coloured Marshal Jeep bearing registration No. MP-49-D-0235 was seized from the spot, blood stains being noticed on its front portion. Blood-stained and control soil, broken glass pieces, blood-stained seat covers, and other articles were recovered from the vehicle and the surrounding area. Certain personal and religious articles found inside the vehicle, along with a blood-stained stone, were also seized. Blood was scraped from the vehicle door, and a sealed packet containing the clothes of the deceased- Bhaggu @ Bhag Chand, was taken into possession. The seized articles were sent for forensic examination.

14. Further, documentary proof relating to the caste of Bhaggu @ Bhag Chand was collected. A list containing the names of the accused persons was also obtained from the informant-appellant (Exh.P/1).

15. Upon completion of the preliminary investigation, the accused persons were taken into custody. On the basis of the disclosures made by the accused persons, namely Bhalu @ Hari Shanker, Munnalal @ Devi Singh, Phool Singh, Prakash Gurjar, Ajju @ Ajay, Pintu @ Jitendra, Mukesh Gurjar, Roop Singh (Panda), Vimal Rana, Dhanraj Singh, Sultan @ Sulkhan, Gudda @ Meharban, Pappu @ Pushpendra and Kehar Singh, under Section 27 of the Indian Evidence Act, 18727, lathis were recovered from the places disclosed by them.

Pursuant to the disclosure statement given by accused Baddu @ Badda, a bent stick was recovered from the place disclosed by him. All the seized articles

were forwarded to the Forensic Science Laboratory, Sagar, for examination through the Superintendent of Police. Thereafter, the statements of the witnesses were recorded. The previous criminal records of some of the accused, namely, Parath Singh @ Paras Singh, Gudda @ Meharban Gurjar, and Meharban, were also collected.

16. Upon completion of investigation, the police filed a report under Section 173(2) of the Criminal Procedure Code, 19738 before the competent court. The case was committed to the Sessions Court for trial which framed charges against the chargesheeted accused, namely, Roop Singh, Bhalu @ Hari Shankar, Mukesh Gujar, Pintu @ Jitendra Kumar, Ajju @ Ajay Singh, Baddu @ Badda, Vimal Rana, Dhanraj, Munna Lal, Kehari Singh, Parath Singh, Meharban Singh, Phool Singh, Durjan Gujar, Paggal @ Bal Kishan, Bhagwan Gujar, Prakash Gujar, Mukesh Gujar, Gudda @ Meharban, Malkhan Singh, Pappu @ Pushpendra Gujar, Sulkhan @ Sultan, for the offences punishable under Sections 148, 294, and 506-B IPC, Sections 323 and 325 read with Section 149 IPC, Section 302 read with Section 149 IPC, and Section 3(2)(v) of the SC/ST Act.

17. The accused persons abjured their guilt and claimed trial.

18. In order to bring home the charges, the prosecution examined 13 witnesses and exhibited 97 documents.

19. In their statements under Section 313 CrPC, the accused denied the prosecution allegations in toto and asserted that they had been falsely implicated on account of political rivalry and caste factionalism. Accused Parath Singh, Malkhan Singh, Ajju @ Ajay Singh, Mukesh Gujar, Kehari Singh, and Durjan specifically set up a plea of alibi, contending that they were not present at the place of occurrence at the relevant time.

20. In defence, the accused examined Sarman (DW- 1), Beni Ram (DW-2), Daya Shankar (DW-3), and M.A. Qureshi (DW-4). It is essential to note here that the Medical Officer, namely, Dr. N.K. Bajpai, who conducted the post-mortem examination upon the body of the deceased (Bhaggu), was available before the trial Court for deposition on 5th February, 2005. On that day, the counsel representing the accused admitted the post-mortem report, which was accordingly marked as Exh.P/8. In view of such admission, the Public Prosecutor chose to give up the witness-Dr. N.K. Bajpai instead of examining him on oath. Accordingly, the trial Court discharged the medical jurist.

21. The trial Court, upon hearing the rival submissions and appreciation of the medical and ocular evidence, recorded a finding that the deceased-Bhaggu met a homicidal death, the postmortem report (Exh.P/8) disclosing as many as 29

injuries, including a fatal head injury. The injuries sustained by Kulhad Baba @ Shahfaz Khan (PW-2), Purshottam Sahu (PW-4) and Deen Dayal (PW-9) were held to be grievous, whereas those suffered by Ashok Kori (PW-3), Guddu @ Arvind, and Gudda alias Sandeep (PW-5) were found to be simple in nature.

22. Placing implicit reliance on the testimony of the injured eye-witnesses, namely Kulhad Baba @ Shahfaz Khan (PW-2), Ashok Kori (PW-3), Dabbu @ Purshottam Sahu (PW-4), Gudda alias Sandeep (PW- 5) and the independent witness Deen Dayal (PW-9), and finding their version to be duly corroborated by the medical evidence, the trial Court held their presence at the scene of occurrence to be natural and trustworthy.

23. The trial Court further discarded the objections regarding the delay in recording statements under Section 161 CrPC and non-examination of certain witnesses, holding that the testimony of the injured witnesses inspired confidence.

24. The Dehati Nalishi (Exh.P/2) and the list of accused persons (Exh.P/1) were approached with circumspection, the trial Court expressing doubt regarding their truthfulness and genuineness. Nevertheless, the Court found that the direct ocular testimony of the injured witnesses independently and convincingly established the participation of the accused in the assault. The defence of alibi taken by some of the accused was disbelieved as the documentary evidence produced in support thereof was found to be unreliable.

25. Consequently, the trial Court vide judgment dated 7th April, 2006 held that the accused persons9, namely, Roop Singh, Mukesh Gujar s/o Phool Singh, Pintu @ Jitendra Kumar, Ajju @ Ajay Singh, Baddu @ Badda, Vimal Rana, Dhanraj, Kehari Singh, Parath Singh, Meharban Singh, Phool Singh, Durjan Gujar, Paggal @ Bal Kishan, Bhagwan Gujar, Prakash Gujar, Mukesh Gujar s/o Rustom Gujar, Gudda @ Meharban, Malkhan Singh, Pappu @ Pushpendra Gujar, had formed an unlawful assembly armed with lathis, and in prosecution of the common object, concertedly assaulted the deceased-Bhaggu and the injured persons by blunt weapons. The necessary ingredients of Sections 148, 323/149, 325/149, and 302/149 IPC were thus held proved against the convicted accused-respondents beyond all manner of doubt. However, the charges under the SC/ST Act and offences under Sections 294 and 506 IPC were not found proved.

26. The trial Court extended the benefit of doubt to some of the accused persons, namely, Bhalu @ Hari Shankar, Sulkhan @ Sultan, and Munna Lal, and consequently acquitted them.

27. In appeal, preferred by the accused-respondents, the High Court, upon re-appreciation of the evidence, observed that though the deceased- Bhaggu had sustained numerous injuries and several prosecution witnesses had also suffered injuries, the medical evidence indicated that the death of Bhag Chand was attributable to a single head injury. It was held that the death was not the cumulative result of all the injuries sustained by the deceased. Proceeding on this premise, the High Court held that the common object of the unlawful assembly could not be inferred to be the commission of murder.

28. The High Court further reasoned that the fatal injury appeared to be the individual act of one assailant, and since the prosecution had not led evidence to establish the identity of the accused who caused that injury, it would be unsafe to sustain the conviction of all the accused-respondents under Section 302 read with Section 149 IPC. The High Court thus opined that the requirements of a common object to commit murder were not proved beyond a reasonable doubt.

29. The High Court found that though the intention to cause death could not be attributed to the accused-respondents, nonetheless, taking note of the fact that all the accused were armed with lathis and had participated in the assault, they could be attributed with the knowledge that their acts, committed in furtherance of the common object of the unlawful assembly, were likely to cause death. On this reasoning, the conviction was altered from Section 302 read with Section 149 IPC to Section 304 Part II read with Section 149 IPC, while the conviction and sentences for the remaining offences were maintained.

30. In view of the modification of the conviction, the punishment of rigorous imprisonment for life awarded by the trial Court was set aside, and instead, the accused-respondents were sentenced to undergo rigorous imprisonment for six years and to pay a fine of Rs.5,000/- each for the offence punishable under Section 304 Part II read with Section 149 IPC. In the event of default in payment of fine, they were further required to undergo rigorous imprisonment for a period of one year.

31. The said judgment now forms the subject matter of challenge in the present appeals by special leave preferred by the de facto complainant and the State. The accused-respondents have, of course, accepted the findings of the High Court.

Submissions on behalf of the appellants

32. Learned counsel appearing for the appellants fervently and vehemently contended that the High Court committed serious error in interfering with the finding of conviction recorded by the trial Court, which, after a careful

appreciation of the entire material on record and placing reliance on the testimony of five injured eye-witnesses along with the medical and other corroborative evidence, had rightly convicted the accused-respondents for the offence of murder punishable under Section 302 read with Section 149 IPC. It was submitted that the alteration and toning down of the conviction by the High Court from Section 302 r/w 149 IPC to one under Section 304 Part II r/w 149 IPC, coupled with the reduction of sentence to six years' rigorous imprisonment, is perverse and legally unsustainable.

33. It was urged that the assault was neither casual nor accidental, but deliberate and premeditated. Learned counsel drew the Court's attention to the statement attributed to the deceased-Bhaggu that earlier on the same day, at about 2:00 PM, he had intervened when the sons of Vimal Rana were assaulting Sharan Dubey. It was urged that this intervention furnished the immediate motive to the accused-respondents for the subsequent attack and lent support to the assertion that the assault was not a chance occurrence, but a retaliatory act carried out with deliberation.

Further, attention was drawn to the medical evidence to show that a total of 63 injuries were caused to the victims, out of which 29 injuries were inflicted on the deceased alone, including five serious injuries on the skull area. Reliance was placed upon recent decisions of this Court in Chunni Bai v. State of Chhattisgarh10 and Mahadeo Sahni and Ors. v. State of Bihar11 to contend that where multiple grievous injuries are inflicted on the victim/s by members of an unlawful assembly, the common object to cause death can legitimately be inferred.

34. It was submitted that the facts/evidence and corroborative material available on record unerringly indicate that the offence committed by the accused would fall within the ambit of Section 302 IPC, and not under Section 304 Part II IPC. Learned counsel urged that the manner of assault and the nature of injuries sustained demonstrate both the intention and the knowledge attributable to the accused that their acts were imminently dangerous and bound to cause death. It was contended that such deliberate conduct could not, in law, be ignored so as to tone down the offence to one of culpable homicide not amounting to murder, and that the alteration of the conviction to Section 304 Part II IPC resulted in an unwarranted dilution of criminal liability.

35. It was further contended that once vicarious liability under Section 149 IPC had been invoked, the question as to the individual act of the accused who inflicted the fatal blow to the deceased became inconsequential. Learned counsel submitted that Section 149 IPC fastens vicarious liability upon each member of the unlawful assembly for acts committed in prosecution of the common object. It was urged that the post mortem report (Exh.P/8) was

admitted by the accused-respondents and the same conclusively establishes the existence of multiple injuries all over the body of the deceased, with five on the vital part, i.e., head.

Emphasis was laid on the fact that the deceased had sustained multiple injuries, and the ocular testimony disclosed the concerted participation of all the accused in the assault, a position which, according to counsel, found acceptance with the trial Court and was affirmed by the High Court. It was thus urged that the consequence of the fatal injury caused to deceased-Bhaggu would have to be fastened collectively to all the accused-respondents, irrespective of the identity of the individual who inflicted the fatal injury.

36. It was, thus, prayed that the appeal be allowed and the impugned judgment be set aside while restoring that of the trial Court.

Submissions on behalf of the accused-respondents

37. Per contra, learned counsel appearing on behalf of the accused-respondents supported the impugned judgment and urged that, as per the post-mortem report (Exh.P/8), the deceased-Bhaggu had sustained 29 injuries, of which 28 were simple in nature, and only one injury resulted in fracture of the parietal bone. The prosecution had failed to establish the identity of the accused who inflicted the said fatal injury.

38. Learned counsel further submitted that the weapons allegedly used in the incident were sticks (lathis), which were not, per se, deadly weapons. It was urged that the prosecution witnesses had made omnibus allegations and had not attributed any specific overt act to individual accused.

39. It was further submitted that there was no intention on the part of the accused-respondents to cause the death of Bhag Chand, and the common object of the assembly was merely to chastise him, a circumstance, it was submitted, manifested from the fact that most of the injuries were aimed on non-vital parts of the body. Emphasis was laid on the fact that, save for the injury on head, the remaining injuries did not contribute to the death of Bhaggu @ Bhag Chand. On these premises, it was contended that, at the highest, the offence could not have travelled beyond Section 304 Part II, if not Section 325 read with Section 149 IPC, as was rightly held by the High Court.

40. Learned counsel further pointed out that the doctor who conducted the post-mortem examination was not examined during the trial. It was urged that in the absence of the author of the post-mortem report (Exh.P/8) entering the witness box, the prosecution version regarding the precise cause of death and the effect of the injuries lacked proper medical substantiation and corroboration.

41. Learned counsel, therefore, prayed that the appeal be dismissed, submitting that the High Court had rightly toned down the conviction of the accused-respondents to one under Section 304 Part II read with Section 149 IPC, which does not warrant any interference in these appeals.

Discussion and Analysis

42. We have given our anxious consideration to the submissions advanced at the Bar and have carefully perused the judgments passed by the High Court, as well as the trial Court, and the material available on record.

43. It is pertinent to note that the accused-respondents have not assailed the judgment of the High Court by filing any appeal thereagainst seeking further interference with the findings recorded therein holding them guilty for the offences. Thus, the applicability of Section 149 IPC so as to hold the accused-respondents to be members of the unlawful assembly is no longer in question as the said findings have attained finality.

44. In this backdrop, the controversy which survives for consideration before this Court lies within a narrow compass, that is, whether the case as set up by the prosecution would attract the offence of murder punishable under Section 302 IPC, or whether the same would fall within the ambit of culpable homicide not amounting to murder punishable under Section 304 Part II IPC. At this juncture, it becomes apposite to advert to the distinction between culpable homicide amounting to murder and culpable homicide not amounting to murder.

The question as to which acts would constitute murder and which would fall within the category of culpable homicide not amounting to murder has long posed a complex and nuanced challenge before the courts. The classification between the two offences, though subtle, is of considerable legal significance and often determinative of criminal liability. The discussion undertaken by this Court in Daya Nand v. State of Haryana12, would be instructive for the present purpose. The relevant extracts are reproduced below:-

"10. The crucial question is as to which was the, appropriate provision to be applied. In the scheme of the I PC culpable homicide is genus and murder1 its specie. All 'murder' is 'culpable homicide' but not vice- versa. 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 the generic offence, the IPC practically recognizes three degrees of culpable homicide. The first is, what may be called, 'culpable homicide of the first degree'.

This is the gravest 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.

11. The academic distinction between 'murder' and 'culpable homicide not amounting to murder' has always vexed the Courts. 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. The following comparative table will be helpful in appreciating the points of distinction between the two offences:

Section 299	Section 300
A person commits culpable homicide if the act by which the death is caused is done-	Subject to certain exceptions culpable homicide is murder if the act by which the death is caused is done-
Intention	
(a) with the intention of causing death; or	(1) with the intention of causing death; or
(b) with the intention of causing such bodily injury.	(2) with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or (3) With the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or
Knowledge	
(c) with the knowledge that the act is likely to cause death.	(4) with the knowledge that the act is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death, and without any excuse for incurring the risk of causing death or such injury as is mentioned above.

12. Clause (b) of Section 299 corresponds with clauses (2) and (3) of Section 300.The distinguishing feature of the mens rea requisite under Clause (2) is the knowledge possessed by the offender regarding the particular victim being in such a peculiar condition or state of health that the internal harm caused to him

is likely to be fatal, notwithstanding the fact that such harm would not in the ordinary way of nature be sufficient to cause death of a person in normal health or condition. It is noteworthy that the 'intention to cause death' is not an essential] requirement of Clause (2). Only the intention of causing the bodily injury coupled with the offender's knowledge of the likelihood of such injury causing the death of the particular victim, is sufficient to bring the killing within the ambit of this clause. This aspect of Clause (2) is borne out by illustration (b) appended to Section 300.

13. Clause (b) of Section 299 does not postulate any such knowledge on the part of the offender. Instances of cases falling under Clause (2) of Section 300 can be where the assailant causes death by a fist blow intentionally given knowing that the victim is suffering from an enlarged liver, or enlarged spleen or diseased heart and such blow is likely to cause death of that particular person as a result of the rapture of the liver, or spleen or the failure of the heart, as the case may be. If the assailant had no such knowledge about the disease or special frailty of the victim, nor an intention to cause death or bodily injury sufficient in the ordinary course of nature to cause death, the offence will not be murder, even if the injury which caused the death, was intentionally given.

In Clause (3) of Section 300, instead of the words 'likely to cause death' occurring in the corresponding Clause (b) of Section 299, the words "sufficient in the ordinary course of nature to cause death" have been used. Obviously, the distinction lies between a bodily injury likely to cause death and a bodily injury sufficient in the ordinary course of nature to cause death. The distinction is fine but real and if overlooked, may result in miscarriage of justice. The difference between Clause (b) of Section 299 and Clause (3) of Section 300 is one of the degree of probability of death resulting from the intended bodily injury.

To put it more broadly, it is the degree of probability of death which determines whether a culpable homicide is of the gravest, medium or the lowest degree. The word 'likely' in Clause (b) of Section 299 conveys the sense of probable as distinguished from a mere possibility. The words "bodily injury sufficient in the ordinary course of nature to cause death" mean that death will be the "most probable" result of the injury, having regard to the ordinary course of nature.

14. For cases to fall within Clause (3), it is not necessary that the offender intended to cause death, so long as the death ensues from the intentional bodily injury or injuries sufficient to cause death in the ordinary course of nature. Rajwant v. State of Kerala, AIR 1966 SC 1874 is an apt illustration of this point.

15. In Virsa Singh v. State of Punjab, 1958 SCR 1495 : 1958 CLJ 818, Vivian Bose, J. speaking for the Court, explained the meaning and scope of Clause (3). It was observed that the prosecution must prove the following facts before it can bring a case under Section 300, "thirdly". First, it must establish quite objectively, that a bodily injury is present; secondly the nature of the injury must be proved.

These are purely objective investigations. Thirdly, it must be proved that there was an intention to inflict that particular injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended. Once these three elements are proved to be present, the enquiry proceeds further, and fourthly it must be proved that the injury of the type just described made up of the three elements set out above was sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.

16. The ingredients of clause "Thirdly" of Section 300, IPC were brought out by the illustrious Judge in his terse language as follows: To put it shortly, the prosecution must prove the following facts before it can bring a case under Section 300, "thirdly". First, it must establish, quite objectively, that a bodily injury is present. Secondly, the nature of the injury must be proved.

These are purely objective investigations. Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say that it was not accidental or unintentional, or that some other kind of injury was intended. Once these three elements are proved to be present, the enquiry proceeds further and Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.

17. The learned Judge explained the third ingredient in the following words (at page 468): The question is not whether the prisoner intended to inflict a serious injury or a trivial one but whether he intended to inflict the injury that is proved to be present. If he can show that he did not, or if the totality of the circumstances justify such an inference, then of course, the intent that the section requires is not proved. But if there is nothing beyond the injury and the fact that the appellant inflicted it, the only possible inference is that he intended to inflict it.

Whether he knew of its seriousness or intended serious consequences, is neither here or there. The question, so far as the intention is concerned, is not whether he intended to kill, or to inflict an injury of a particular degree of seriousness but whether he intended to inflict the injury in question and once

the existence of the injury is proved the intention to cause it will be presumed unless the evidence or the circumstances warrant an opposite conclusion.

18. These observations of Vivian Bose, J. have become locus classicus. The test laid down by Virsa Singh's case (supra) for the applicability of clause "Thirdly" is now ingrained in our legal system and has become part of the rule of law. Under clause thirdly of Section 300 IPC, culpable homicide is murder, if both the following conditions are satisfied : i.e.

(a) that the act which causes death is done with the intention of causing death or is done with the intention of causing a bodily injury; and

(b) that the injury intended to be inflicted is sufficient in the ordinary course of nature to cause death. It must be proved that there was an intention to inflict that particular bodily injury which, in the ordinary course of nature, was sufficient to cause death, viz., that the injury found to be present was the injury that was intended to be inflicted.

19. Thus, according to the rule laid down in Virsa Singh's case, even if the intention of accused was limited to the infliction of a bodily injury sufficient to cause death in the ordinary course of nature, and did not extend to the intention of causing death, the offence would not be murder. Illustration (c) appended to Section 300 clearly brings out this point.

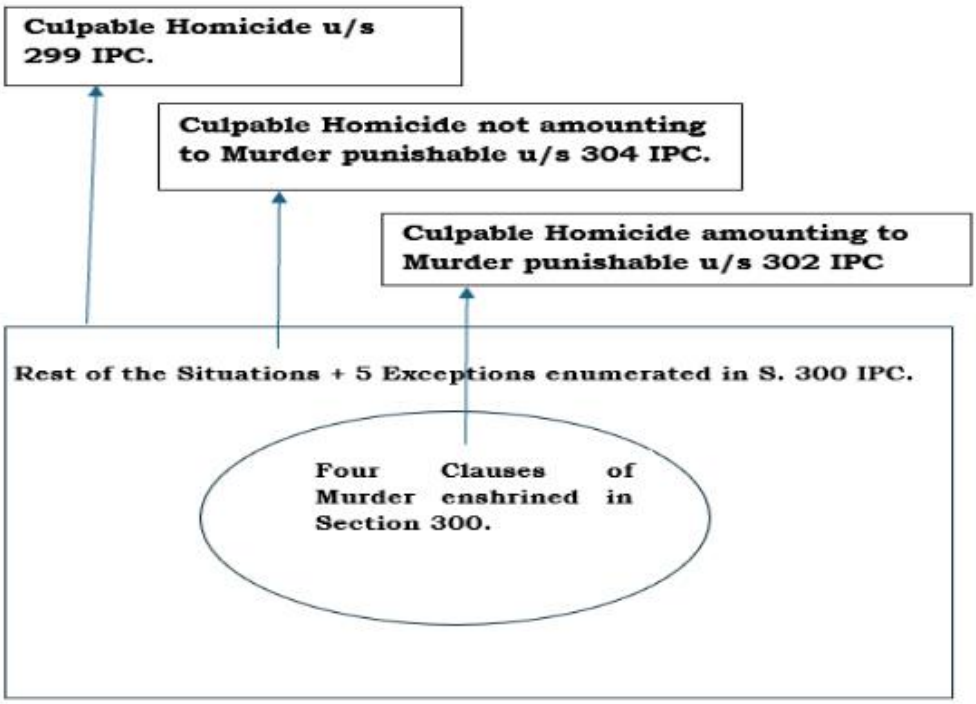
20. Clause (c) of Section 299 and Clause (4) of Section 300 both require knowledge of the probability of the act causing death. It is not necessary for the purpose of this case to dilate much on the distinction between these corresponding clauses. It will be sufficient to say that Clause (4) of Section 300 would be applicable where the knowledge of the offender as to the probability of death of a person or persons in general as distinguished from a particular person or persons - being caused from his imminently dangerous act, approximates to a practical certainty. Such knowledge on the part of the offender must be of the highest degree of probability; the act having been committed by the offender without any excuse for incurring the risk of causing death or such injury as aforesaid.

21. The above are only broad guidelines and not cast-iron imperatives. In most cases, their observance will facilitate the task of the Court. But sometimes the facts are so intertwined and the second and the third stages so telescoped into each other that it may not be convenient to give a separate treatment to the matters involved in the second and third stages.

22. The position was illuminatingly highlighted by this Court in State of Andhra Pradesh v. Rayavarapu Punnayya, (1976) 4 SCC 382 : 1977 CLJ 1 Abdul Waheed Khan @ Waheed v. State of Andhra Pradesh, 2002 SCC

OnLine SC 792 : 2002 Supp (1) SCR 703; Augustine Saldanha v. State of Karnataka, 2003 SCC OnLine SC 9052003 CLJ 4458, Thangiya v. State of T.N., (1977) 4 SCC 600 (2): 2005 CLJ 684 and in Rajinder v. State of Haryana, 2005 SCC OnLine SC 227:-2006 CLJ 2926."

45. To appreciate the conceptual as well as practical distinction between these two offences in a clearer perspective, it may be useful to bear in mind the overlapping yet distinct contours of Sections 299 and 300 IPC. The relationship between the two provisions, often described as one of genus and species, may be illustratively understood in the manner indicated below:-



46. From the above conspectus, it emerges that when a Court is confronted with the question whether the offence disclosed by the proved facts is "murder" or "culpable homicide not amounting to murder," it would be appropriate to approach the issue in a structured manner comprising three stages.

47. At the first stage, the Court must determine whether the accused has committed an act which has caused the death of another, that is to say, whether the case involves a homicide. If such causal connection between the act of the accused and the death is established, the enquiry then proceeds to the second stage, that is to say, whether the act so committed amounts to "culpable homicide" within the meaning of Section 299 IPC.

48. If the answer to this question is prima facie in the affirmative, the Court must then enter upon the third stage of enquiry, viz., whether the facts proved by the prosecution bring the case within the ambit of any of the four clauses of Section 300 IPC, which define murder. If the case does not fall within any of

the four clauses of Section 300, the offence would be culpable homicide not amounting to murder, punishable under either Part I or Part II of Section 304 IPC, depending upon whether the case attracts the second or the third clause of Section 299 IPC.

49. Even if the case falls within the four clauses of Section 300 IPC, the Court must further examine whether any of the Exceptions to Section 300 IPC are attracted. If the case is covered by any such Exception, the offence would fall back to Section 299, that is, culpable homicide not amounting to murder.

50. We shall now examine the present case in the light of the aforesaid principles.

51. Upon a comprehensive appraisal of the evidence on record, both the Courts below have concurrently recorded a finding that the death of Bhaggu @ Bhag Chand was homicidal in nature. The post-mortem report (Exh.P/8) revealed as many as 29 injuries on the body of the deceased-Bhaggu, including a significant injury on the head, i.e., injury No.24. The dimensions and impact of the injury are recorded in the post-mortem report (Exh.P/8) as below: -

"A fresh linear fracture measuring 7 cm in length over the left parietal bone, obliquely placed, accompanied by extradural and subarachnoid haemorrhage, having congestion of the underlying fronto-parietal region, corresponding to Injury No.24."

52. At the cost of repetition, it may be noted that the post mortem report (Exh. P/8) was admitted by the accused-respondents and hence the observations and findings noted therein stand proved beyond the pale of doubt.

53. The medical opinion as expressed in the post mortem report (Exh. P/8) attributed the cause of death to coma resulting from the head injury which caused extensive damage to the skull bones and the brain tissue. The ocular testimony of the injured eye35 witnesses was found consistent and reliable, establishing that the deceased-Bhaggu was assaulted by the accused-respondents with lathis. The High Court, while differing with the trial Court on the nature of the offence, did not disturb the finding that there existed a direct causal connection between the injuries inflicted by the accused-respondents and the death of the deceased-Bhaggu.

In view of these concurrent findings, the first and second stages of the enquiry stand satisfied, namely, that the accused-respondents committed an act which resulted in the death of the deceased-Bhaggu. The proved facts thus satisfy the ingredients of Section 299 IPC and bring the case within the ambit of culpable homicide. The enquiry, therefore, narrows down to whether the case would fall within the four corners of Section 300 IPC so as to constitute murder

punishable under Section 302 IPC, or whether it would amount to culpable homicide not amounting to murder punishable under Section 304 IPC.

54. Learned counsel for the appellants submitted that the medical evidence discloses a total of 63 injuries caused to the victims, of which 29 injuries were inflicted upon the deceased-Bhaggu alone, including five injuries on the skull/head region. It was urged that the multiplicity and nature of the injuries, with repetitive blows on the vital body part, i.e., head, clearly demonstrate a concerted and brutal assault, the cumulative effect of which unmistakably brings the case within the ambit of murder. It was further contended that the assault was neither casual nor sudden, but deliberate.

Emphasis was laid on the circumstance that earlier on the same day, at about 2:00 p.m., the deceased-Bhaggu had intervened in an altercation involving the sons of Vimal Rana, which furnished the immediate motive for the subsequent attack. According to the appellants, the occurrence was thus retaliatory and premeditated, with blows of lathis being repeatedly landed on the head of the deceased. Without a doubt, the admitted facts of the case would not attract any of the Exceptions to Section 300 IPC. No such finding was, as a matter of fact, recorded by the High Court.

55. As against this, learned counsel for the accused-respondents submitted that the common object of the assembly was merely to chastise the deceased. The injuries were predominantly inflicted on non-vital parts of the body and, therefore, the requisite mens rea to attract Clause (3) of Section 300 IPC could not be attributed to the accused. Though the deceased sustained multiple injuries, only one injury, resulting in fracture of the parietal bone, proved fatal, and the prosecution had failed to establish which particular accused had inflicted the said injury.

It was further urged that the doctor Shri N.K. Bajpai, who conducted the post-mortem examination was not examined, and the post-mortem opinion does not indicate that the death was the cumulative effect of all the injuries. According to the defence, the use of lathis and the placement of injuries predominantly on non-vital parts negates the existence of intention to cause death. Consequently, according to the accused-respondents, the offence would, at best, extend only to culpable homicide not amounting to murder, punishable under Part II of Section 304 IPC. On this reasoning, the accused-respondents sought to sustain the view taken by the High Court that the accused-respondents did not have the intention to cause death in furtherance of the common object.

56. Having considered the rival submissions advanced by the parties, the pivotal question which arises for determination is whether the accused-respondents possessed the intention to cause the death of Bhaggu @ Bhag

Chand, or intended to inflict such bodily injury as was sufficient in the ordinary course of nature to cause death, thereby attracting Clause (3) of Section 300 IPC, an issue on which the High Court took a view adverse to the prosecution.

57. The Court is conscious of the fact that the determination of intention, being a state of mind, is seldom susceptible to a rigid or mechanical formula. It must necessarily be gathered from the cumulative effect of the circumstances proved on record, including the nature of the weapon used, the part of the body targeted, the manner of assault, the number of injuries, and the circumstances surrounding the occurrence. In this context, reference may profitably be made to the decision of this Court in Pulicherla Nagaraju v. State of A.P.13, wherein the factors relevant for discerning intention were elucidated. The relevant extract is reproduced hereinbelow:-

"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. Be that as it may."

[Emphasis supplied]

58. Applying the principles laid down in the aforesaid decision to the facts of the present case, we are of the considered opinion that the High Court erred in interfering with the conviction recorded under Section 302 IPC by altering it to one under Section 304 Part II IPC. The evidence on record, particularly the consistent testimony of the injured eye-witnesses, establishes that the vehicle in which the deceased-Bhaggu, and the other injured witnesses were travelling was waylaid after the passage was deliberately obstructed by the accused-respondents by placing tube-well pipes across the road. The deceased-Bhaggu was thereafter subjected to a concerted assault by the accused-respondents, who were armed with lathis. There is nothing on record to suggest that the weapons were picked up casually at the spot; rather, the accused were lying in wait, prepared to launch the assault on the unsuspecting victims.

59. The sequence of events assumes greater significance in view of the circumstance that earlier on the same day, the deceased-Bhaggu had intervened in an altercation involving one of the accused-respondents with one Sharan Dubey belonging to the Brahmin community, thereby furnishing an immediate motive for retaliation. The deliberate obstruction of the road by placing tubewell pipes, the prior presence of the accused-respondents in form of an unlawful assembly armed with lathis, and the repeated blows inflicted upon the deceased-Bhaggu, including multiple injuries on the head region and so also to the other injured persons, cumulatively demonstrate that the assault was neither sudden nor an isolated act aimed at chastisement, but was rather a concerted intentional attack.

It is also on record that the deceased belonged to a Scheduled Caste community, whereas the accused-respondents belonged to the Gujar community. Significantly, in their statements recorded under Section 313 CrPC, the accused-respondents themselves adverted to the existence of caste and political factions between the parties, asserting that they had been falsely implicated on account of such factionalism. Though the charge under the SC/ST Act was not ultimately sustained, the admitted background of inter se caste factionalism provides contextual motive for the occurrence and lends further support to the inference that the assault was retaliatory rather than erupting spontaneously or from a sudden quarrel.

Equally, there is no material on record to indicate that the assault was the outcome of any grave and sudden provocation so as to attract any of the Exceptions to Section 300 IPC. These attendant circumstances, when viewed cumulatively, assume considerable importance in determining whether the proved facts bring the case within the ambit of Section 300 IPC while ruling out the exceptions.

60. Even though the weapons of offence were lathis, which in the abstract may not always be characterised as a deadly weapon, their lethality depends upon the manner of use, the part of the body targeted, and the force employed. The present case is not one of a solitary blow delivered in the heat of the moment. The accused-respondents, acting in concert and in furtherance of their common object, inflicted as many as 63 injuries in total, of which 29 injuries were sustained by the deceased-Bhaggu alone, as reflected in the post-mortem report (Exh.P/8).

61. A close scrutiny of the post-mortem report (Exh.P/8) reveals multiple contusions and abrasions over various parts of the body, but more significantly, four bone-deep lacerated wounds over the left parietal and temporal regions, along with associated grievous injuries to the brain. Injury Nos. 24 to 27, to be specific, were bone-deep wounds on the head, a vital part of the body. The medical opinion attributes the cause of death to coma resulting from antemortem head injury. The situs, depth, and multiplicity of the head injuries clearly establish that multiple blows were directed at a vital region with considerable force. The finding recorded in the impugned judgment that only one scalp injury was caused to deceased-Bhaggu is perverse and recorded in ignorance of the medical evidence available on record.

62. When repeated blows are inflicted on the parietal and temporal regions with lathis, resulting in bone-deep lacerations causing fractures and brain damage and culminating in coma, it cannot be said that the assailants lacked the intention to inflict such bodily injury as was sufficient in the ordinary course of nature to cause death. The nature, location, and magnitude of the

injuries leave little scope for treating the death to be the result of a solitary blow.

63. Further, the absence of oral testimony of the doctor who conducted the post-mortem does not detract from the evidentiary value of the post-mortem report (Exh.P/8), particularly when the accused-respondents themselves have admitted the same. The injuries noted in the post-mortem report (Exh.P/8) are corroborated in material particulars by the consistent ocular evidence.

Further, there is nothing to suggest that any supervening circumstance, such as infection, gangrene, or other factor, contributed to the fatal outcome. In these circumstances, the only reasonable inference that can be drawn is that the intention and common object of the unlawful assembly formed by the accused-respondents was to inflict such bodily injuries to deceased-Bhaggu as were sufficient in the ordinary course of nature to cause death. The case, therefore, squarely falls within Clause (3) of Section 300 IPC.

64. As regards the submission advanced on behalf of the accused-respondents that the doctor who conducted the post-mortem examination was not examined and that, consequently, the post-mortem report (Exh.P/8) remained uncorroborated, thereby weakening the prosecution's case. As we have noted above, the medical jurist Dr. N.K. Bajpai was present before the trial Court on 5th February, 2005. However, the defence chose to admit the post-mortem report, which was accordingly marked as Exh.P/8, and consequently, the doctor was given up and not examined. In such circumstances, the absence of oral testimony of the doctor does not create any material infirmity in the prosecution's case. In this regard, we may gainfully refer to the judgment of this Court in Akhtar v. State of Uttaranchal14, wherein it was held as under:-

"21. It has been argued that non-examination of the medical officers concerned is fatal for the prosecution. However, there is no denial of the fact that the defence admitted the genuineness of the injury reports and the post-mortem examination reports before the trial court. So the genuineness and authenticity of the documents stands proved and shall be treated as valid evidence under Section 294 CrPC. It is settled position of law that if the genuineness of any document filed by a party is not disputed by the opposite party it can be read as substantive evidence under sub-section (3) of Section 294 CrPC. Accordingly, the post-mortem report, if its genuineness is not disputed by the opposite party, the said post-mortem report can be read as substantive evidence to prove the correctness of its contents without the doctor concerned being examined."

65. The finding regarding the existence of an unlawful assembly has been consistently recorded by both the trial Court and the High Court, and the same is not in dispute. The High Court itself observed that there was no probability

of innocent bystanders being falsely implicated, as the mini-bus in which the deceased-Bhaggu along with other injured, was travelling, was stopped by placing pipes across the road, and the assailants emerged from the bushes.

The injured witnesses, Guddu @ Arvind, Gudda @ Sandeep (PW-5), Deen Dayal (PW-9), Kulhad Baba @ Shahfaz Khan (PW-2), Dabbu @ Purshottam Sahu (PW-4) and Ashok Kori (PW-3), collectively suffered numerous injuries, bringing the total number of injuries in the occurrence to 63. All injuries were caused by hard and blunt objects. The concerted nature of the attack and the prior preparation by obstructing the road, unmistakably establish that the accused-respondents had formed an unlawful assembly and acted in prosecution of the common object of such assembly, i.e., to assault the victims.

66. Once it is established that an unlawful assembly existed and the accused-respondents intended to commit murder of deceased-Bhaggu in furtherance of the common object of such assembly, the individual attribution of the fatal injury fades into insignificance. It is trite law that Section 149 IPC embodies the principle of vicarious liability and renders every member of an unlawful assembly guilty of the offence committed in prosecution of the common object.

67. The object of the provision is to ensure that criminal liability cannot be evaded on the plea that specific role of the particular accused could not be discerned from the evidence. Conduct of each person forming the unlawful assembly, coupled with participation in prosecution of the common object, is sufficient to fasten vicarious liability on every member of the assembly for the offence committed by any member of that assembly. In such circumstances, it is immaterial as to which accused delivered the fatal injury, once the offence is shown to have been committed in furtherance of the common object of the unlawful assembly. For this purpose, reference may be made to the decision of this Court in Nitya Nand v. State of U.P.15, wherein the scope and ambit of Section 149 IPC was elaborated in the following terms:-

"43. This brings us to the pivotal section which is Section 149 IPC. Section 149 IPC says that every member of an unlawful assembly shall be guilty of the offence committed in prosecution of the common object. Section 149 IPC is quite categorical. It says that if an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of committing of that offence, is a member of the said assembly; is guilty of that offence. Thus, if it is a case of murder under Section 302 IPC, each member of the unlawful assembly would be guilty of committing the offence under Section 302IPC.

44. In Krishnappa v. State of Karnataka, (2012) 11 SCC 237 : (2013) 1 SCC (Cri) 621] , this Court while examining Section 149IPC held as follows: (SCC p. 243, paras 20-21)

"20. It is now well-settled law that the provisions of Section 149IPC will be attracted whenever any offence committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or when the members of that assembly knew that offence is likely to be committed in prosecution of that object, so that every person, who, at the time of committing of that offence is a member, will be also vicariously held liable and guilty of that offence.

Section 149 IPC creates a constructive or vicarious liability of the members of the unlawful assembly for the unlawful acts committed pursuant to the common object by any other member of that assembly. This principle ropes in every member of the assembly to be guilty of an offence where that offence is committed by any member of that assembly in prosecution of common object of that assembly, or such members or assembly knew that offence is likely to be committed in prosecution of that object.

21. The factum of causing injury or not causing injury would not be relevant, where the accused is sought to be roped in with the aid of Section 149 IPC. The relevant question to be examined by the court is whether the accused was a member of an unlawful assembly and not whether he actually took active part in the crime or not."

45. Thus, this Court in Krishnappa case [Krishnappa v. State of Karnataka, (2012) 11 SCC 237 : (2013) 1 SCC (Cri) 621] held that Section 149IPC creates a constructive or vicarious liability of the members of the unlawful assembly for the unlawful acts committed pursuant to the common object by any other member of that assembly. By application of this principle, every member of an unlawful assembly is roped in to be held guilty of the offence committed by any member of that assembly in prosecution of the common object of that assembly. The factum of causing injury or not causing injury would not be relevant when an accused is roped in with the aid of Section 149 IPC. The question which is relevant and which is required to be answered by the court is whether the accused was a member of an unlawful assembly and not whether he actually took part in the crime or not.

46. As a matter of fact, this Court in Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel [Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743 : (2018) 3 SCC (Cri) 340] has reiterated the position that Section 149IPC does not create a separate offence but only declares vicarious

liability of all members of the unlawful assembly for acts done in common object. This Court has held: (SCC pp. 752-53 & 756, paras 20, 22 & 34)

"20. In cases where a large number of accused constituting an "unlawful assembly" are alleged to have attacked and killed one or more persons, it is not necessary that each of the accused should inflict fatal injuries or any injury at all. Invocation of Section 149 is essential in such cases for punishing the members of such unlawful assemblies on the ground of vicarious liability even though they are not accused of having inflicted fatal injuries in appropriate cases if the evidence on record justifies.

The mere presence of an accused in such an "unlawful assembly" is sufficient to render him vicariously liable under Section 149IPC for causing the death of the victim of the attack provided that the accused are told that they have to face a charge rendering them vicariously liable under Section 149IPC for the offence punishable under Section 302IPC. Failure to appropriately invoke and apply Section 149 enables large number of offenders to get away with the crime.

22. When a large number of people gather together (assemble) and commit an offence, it is possible that only some of the members of the assembly commit the crucial act which renders the transaction an offence and the remaining members do not take part in that "crucial act" - for example in a case of murder, the infliction of the fatal injury. It is in those situations, the legislature thought it fit as a matter of legislative policy to press into service the concept of vicarious liability for the crime. [Ramu Gope v. State of Bihar, 1968 SCC OnLine SC 74, para 5 : AIR 1969 SC 689, p. 692, para 5:

"5. When a concerted attack is made on the victim by a large number of persons it is often difficult to determine the actual part played by each offender. But on that account for an offence committed by a member of the unlawful assembly in the prosecution of the common object or for an offence which was known to be likely to be committed in prosecution of the common object, persons proved to be members cannot escape the consequences arising from the doing of that act which amounts to an offence."]

Section 149IPC is one such provision. It is a provision conceived in the larger public interest to maintain the tranquillity of the society and prevent wrongdoers (who actively collaborate or assist the commission of offences) claiming impunity on the ground that their activity as members of the unlawful assembly is limited.

34. For mulcting liability on the members of an unlawful assembly under Section 149, it is not necessary that every member of the unlawful assembly

should commit the offence in prosecution of the common object of the assembly. Mere knowledge of the likelihood of commission of such an offence by the members of the assembly is sufficient. For example, if five or more members carrying AK 47 rifles collectively attack a victim and cause his death by gunshot injuries, the fact that one or two of the members of the assembly did not in fact fire their weapons does not mean that they did not have the knowledge of the fact that the offence of murder is likely to be committed."

[Emphasis supplied]

68. The reasoning assigned by the High Court for toning down the offence from that punishable under Section 302 IPC read with Section 149 IPC to Section 304 Part II IPC read with Section 149 IPC is extracted below: -

"30. We have carefully considered the evidence adduced by the prosecution witnesses and the defence witnesses. It is true that the deceased suffered number of injuries and prosecution witnesses also suffered injuries; some of which were grievous in nature also, but it has to be noted that it was only one injury on the head of deceased, which resulted into his death. The death of deceased was not the result of the cumulative effect of all the injuries.

Therefore, in our opinion, the common object of the unlawful assembly could not be held to be of committing murder of the deceased. It must be held to be the individual act of one assailant, which resulted into death of deceased. Since there is nothing on record to indicate that who caused the fatal injury to deceased, it would be unsafe to convict all the appellants under Section 302/149 of the Indian Penal Code, but since all the appellants were armed with Lathies, they were liable to be convicted under Section 304- II of the Indian Penal Code.

31. For the foregoing reasons, we acquit appellants for the offence punishable under Section 302 read with Section 149 of the Indian Penal Code and instead convict them for the offence punishable under Section 304-II read with Section 149 of the Indian Penal Code. The conviction and sentence of the appellants under Sections 148, 323/149 and 325/149 of the Indian Penal Code are affirmed. For the offence under Section 304-II read with Section 149 of the Indian Penal Code, the appellants are sentenced to undergo rigorous imprisonment for a period of six years with a fine of Rs.5000/- each and in default, they shall suffer sentence of one year rigorous imprisonment."

69. A bare perusal of the aforesaid findings makes it evident that the reasoning of the High Court is self-contradictory. While affirming the invocation of Section 149 IPC, it went on to record that the prosecution could not prove the identity of the assailant who caused the fatal injury to the deceased- Bhaggu.

This approach runs contrary to the very principle of vicarious liability embodied in Section 149 IPC. The conclusion so drawn by the High Court is perverse without any justifiable foundation, and hence, the same cannot be sustained.

70. As an upshot of the above discussion, we are of the considered opinion that the High Court committed an error apparent in facts and in law in altering the conviction of the accused-respondents from Section 302 read with 149 IPC to one under Section 304 Part II read with 149 IPC. The impugned judgment to that extent suffers from perversity and illegality and hence cannot be sustained.

71. Accordingly, the appeals are allowed. The judgment and order dated 19th July, 2010, passed by the High Court is set aside, and the conviction of the accused-respondents and sentence of life imprisonment as awarded by the trial Court are restored.

72. The accused-respondents shall surrender within a period of eight weeks, failing which the concerned trial Court shall take necessary steps to secure their custody and commit them to prison for serving the remaining sentence in terms of the judgment of the trial Court.

73. Pending application(s), if any, shall stand disposed of.

.....J. (Sanjay Karol)

.....J. (Sandeep Mehta)

New Delhi;

February 23, 2026.

1 Hereinafter, referred to as the "High Court".

2 Hereinafter, referred to as the "trial Court".

3 For short, 'IPC'.

4 Hereinafter, referred to as the "informant-appellant". The informant-appellant has since expired and stands substituted through his legal heir Shri Dhanraj Gangapri (vide Interlocutory Application No.185690 of 2025).

5 Hereinafter, referred to as the "deceased-Bhaggu".

6 For short, 'SC/ST Act'

7 Hereinafter, referred to as the "Evidence Act, 1872".

8 For short, 'CrPC'.

9 Hereinafter, referred to as the "accused-respondents".

10 2025 SCC OnLine SC 955

11 (2002) 6 SCC 656.

12 (2008) 15 SCC 717: AIR 2008 SC 1823.

13 (2006) 11 SCC 444.

14 (2009) 13 SCC 722.

15 (2024) 9 SCC 314.

IN THE SUPREME COURT OF INDIA

Tulasareddi @ Mudakappa and Anr.
Vs.
State of Karnataka and Ors.,
[Criminal Appeal Nos. 2120-2121 of 2024]

Veerupakshagouda
Vs.
State of Karnataka
[Criminal Appeal Nos. 2542-2543 of 2024]

Head Note – Issued comprehensive directions to ensure the effective utilisation and expansion of Open Correctional Institutions (OCIs) across the country, holding that they must function as meaningful institutions of reform and rehabilitation.

Establishment Of OCIs in States qnd Union Territories

The Court directed the States of Goa, Haryana, Jharkhand, Manipur, Mizoram, Nagaland and Telangana, which presently do not have any functional OCIs, to assess the feasibility and necessity of establishing such institutions and to develop a protocol for their establishment.

As regards Union Territories lacking OCI facilities, namely Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Lakshadweep and Puducherry, the Court directed the Union of India or the elected government of the concerned Union Territory to examine the feasibility of establishing OCIs. Alternatively, they may evolve a mechanism for transferring eligible prisoners to appropriate and proximate facilities in neighbouring States.

Non-Discrimination Against Women Prisoners

The Court directed all States and Union Territories to restructure existing OCIs and open barracks within three months to allocate adequate capacity for women. Where women are already legally permitted to be housed in OCIs and open barracks, the Court directed States and Union Territories create within one month a protocol for identification and timely transfer of eligible women and for filling existing vacancies for women.

Where integration is not feasible, authorities must create dedicated OCI facilities within closed prisons. The Court held that security concerns cannot generally justify denial of access and directed authorities to frame gender-

sensitive mechanisms consistent with Articles 14, 15 and 21. It also directed the States and UTs to review and amend rules that exclude women.

Rationalization of Eligibility Criteria

The Court directed the States and Union Territories to revisit eligibility criteria for transfer from closed prisons and base them on the nature of offence, demonstrated reformative potential, institutional conduct and readiness for social integration. Individualised and reasoned assessments must be carried so that OCIs do not function merely as labour camps, the Court said. It directed the states and UTs to adopt best practices from Maharashtra and Rajasthan for effective rehabilitative outcomes including models of community based employment, family integration and diversified vocational training.

Disciplinary Mechanisms and Grievance Redressal

The Court held that disciplinary mechanisms within OCIs shall be reform-oriented and proportionate. Diversion to closed prisons shall not be employed as a default punitive response except when strictly warranted, the Court directed. Further, the Court ordered all States and UTs to establish institutional grievance redressal mechanisms enabling inmates to raise concerns regarding work conditions, wages, healthcare, discipline or access to facilities, and ensure timely and fair disposal of such grievances.

Monitoring Compliance

The Court ordered all States and Union Territories to constitute monitoring committees headed by the Executive Chairman of the State Legal Services Authority to oversee implementation. It also directed High Courts to register suo motu writ petitions as continuing mandamus to monitor compliance, noting that its May 8, 2018 directions in In Re: Inhuman Conditions in 1382 Prisons did not yield meaningful results.

Uniformity in norms across the country

To bring uniformity, the Court constituted a high-powered committee for formulation of common minimum standards for governance and management of OCIs, harmonisation of correctional practices with constitutional principles and international best practices, identification of systemic gaps in existing frameworks, recommendation of standard eligibility assessment protocols, ensuring inclusive and non-discriminatory access including for women and transgender prisoners, suggesting capacity-building measures for prison officials, recommending mechanisms for periodic monitoring and data

collection, and strengthening inter-agency coordination between prison departments, legal services authorities and other agencies.

The Court directed States and Union Territories to make necessary amendments of existing rules, regulations or administrative frameworks governing OCIs to give full effect to the aforementioned directions.

The Court also directed States and Union Territories to establish new OCIs and create open and semi-open barracks within closed prisons wherever feasible, noting Rajasthan's data that the State spends about ₹3,000 per month on a prisoner in a closed jail compared to around ₹50 in an OCI.

JUDGMENT

Mehta, J.

For clarity of exposition and to facilitate structured consideration of the issues arising in the present matter, this judgment has been organised under the following heads:-

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"No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens but its lowest ones."

- Nelson Mandela

I. PROLOGUE

1. The strength of a constitutional democracy is tested not merely by the liberties it guarantees in abstraction, but by the manner in which it treats those who stand at its margins, including persons deprived of their liberty with due process of law. Prisons, though instruments of lawful confinement, are not spaces where constitutional values can cease to operate.

The guarantee of life and personal dignity under Article 21 of the Constitution of India extends beyond the prison gates and obliges the State to ensure that incarceration does not degenerate into inhumanity. Overcrowded prisons, bereft of humane living conditions and rehabilitative avenues, strike at the very core of this constitutional promise and call for sustained institutional response rather than sporadic remedial measures. It is within this constitutional conscience that the present proceedings have emerged.

2. This Court, as far back as in the year 2018, by its order dated 8th May, 2018 passed in In Re: Inhuman Conditions in 1382 Prisons, had directed all States and Union Territories to take immediate steps to align their respective prison rules with the Model Uniform Rules for the Administration of Open Correctional Institutions, and to duly adopt, notify and implement the said rules, along with undertaking appropriate measures for the effective implementation and strengthening of the framework regarding Open Correctional Institutions within their respective jurisdictions. The said proceedings continue to engage the attention of this Court and form part of an ongoing judicial endeavour to address the systemic infirmities afflicting prison administration in the country, particularly the persistent problem of overcrowding.

3. The figures emerging from the National Crime Records Bureau Report titled "Prison Statistics India, 2023", paints a deeply concerning picture. On a cumulative basis, prisons across the country are operating at an occupancy level of 120.8%, with several States including Madhya Pradesh, Maharashtra, Meghalaya, Uttar Pradesh and Uttarakhand as well as the National Capital Territory of Delhi, reporting occupancy levels exceeding 150%. Such chronic overcrowding is not merely an index of administrative strain, but has profound implications for human dignity, prison safety, access to healthcare, prospects of

rehabilitation and adherence to the constitutional guarantees. For ready reference, the relevant table extracted from the said report is reproduced hereinbelow:-

Table – 1.2

Capacity, Inmate Population and Occupancy Rate of Jails as on 31st December, 2023

Sl. No.	State/UT	Available Capacity				Inmate Population				Occupancy Rate$ (in %)			
		M	F	Tr.	Total	M	F	Tr.	Total	M	F	Tr.	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1	ANDHRA PRADESH	7901	930	0	8831	7460	420	9	7889	94.4	45.2	-	89.3
2	ARUNACHAL PRADESH	359	24	0	383	349	11	0	360	97.2	45.8	-	94.0
3	ASSAM	9341	779	0	10120	10247	405	0	10652	109.7	52.0	-	105.3
4	BIHAR	46919	2100	0	49019	51045	2029	2	53076	108.8	96.6	-	108.3
5	CHHATTISGARH	13524	859	0	14383	17642	777	2	18421	130.4	90.5	-	128.1
6	GOA	574	50	0	624	533	35	0	568	92.9	70.0	-	91.0
7	GUJARAT	12896	1169	0	14065	16710	549	6	17265	129.6	47.0	-	122.8
8	HARYANA	20144	1883	18	22045	25027	805	1	25833	124.2	42.8	5.6	117.2
9	HIMACHAL PRADESH	2365	195	0	2560	2717	99	0	2816	114.9	50.8	-	110.0
10	JHARKHAND	16725	946	0	17671	18054	808	0	18862	107.9	85.4	-	106.7
11	KARNATAKA	13059	1168	10	14237	14725	511	0	15236	112.8	43.8	0.0	107.0
12	KERALA	7362	443	18	7823	9690	229	1	9920	131.6	51.7	5.6	126.8
13	MADHYA PRADESH	27915	1956	4	29875	43736	1803	4	45543	156.7	92.2	100.0	152.4
14	MAHARASHTRA	24818	1437	26	26281	39076	1703	26	40805	157.5	118.5	100.0	155.3
15	MANIPUR	965	195	0	1160	504	31	0	535	52.2	15.9	-	46.1
16	MEGHALAYA	625	55	0	680	1260	23	0	1283	201.6	41.8	-	188.7
17	MIZORAM	1130	256	0	1386	1676	281	0	1957	148.3	109.8	-	141.2
18	NAGALAND	1290	200	0	1490	563	28	0	591	43.6	14.0	-	39.7
19	ODISHA	22530	2116	20	24666	17572	594	4	18170	78.0	28.1	20.0	73.7
20	PUNJAB	24373	2170	0	26543	30018	1502	9	31529	123.2	69.2	-	118.8
21	RAJASTHAN	21618	1670	0	23288	22146	590	1	22737	102.4	35.3	-	97.6
22	SIKKIM	234	26	0	260	315	3	0	318	134.6	11.5	-	122.3
23	TAMIL NADU	21740	2602	0	24342	18847	889	2	19738	86.7	34.2	-	81.1
24	TELANGANA	7284	752	1	8037	5497	355	1	5853	75.5	47.2	100.0	72.8
25	TRIPURA	2169	179	0	2348	1246	83	0	1329	57.4	46.4	-	56.6
26	UTTAR PRADESH	62481	3369	16	65866	94916	3926	7	98849	151.9	116.5	43.8	150.1
27	UTTARAKHAND	3603	158	0	3761	6616	268	1	6885	183.6	169.6	-	183.1
28	WEST BENGAL	19556	1920	0	21476	23958	1791	25	25774	122.5	93.3	-	120.0
	TOTAL (STATES)	**393500**	**29607**	**113**	**423220**	**482145**	**20548**	**101**	**502794**	**122.5**	**69.4**	**89.4**	**118.8**
29	A & N ISLANDS	279	40	0	319	369	4	0	373	132.3	10.0	-	116.9
30	CHANDIGARH	1000	120	0	1120	1027	42	0	1069	102.7	35.0	-	95.4
31	DNH & DAMAN DIU	160	10	0	170	144	1	0	145	90.0	10.0	-	85.3
32	DELHI	9346	680	0	10026	19357	713	7	20077	207.1	104.9	-	200.2
33	JAMMU & KASHMIR	3457	172	0	3629	5215	185	0	5400	150.9	107.6	-	148.8
34	LADAKH	150	5	0	155	46	0	0	46	30.7	0.0	-	29.7
35	LAKSHADWEEP	64	0	0	64	3	0	0	3	4.7	-	-	4.7
36	PUDUCHERRY	371	45	0	416	409	17	0	426	110.2	37.8	-	102.4
	TOTAL (UTs)	**14827**	**1072**	**0**	**15899**	**26570**	**962**	**7**	**27539**	**179.2**	**89.7**	**-**	**173.2**
	TOTAL (ALL-INDIA)	**408327**	**30679**	**113**	**439119**	**508715**	**21510**	**108**	**530333**	**124.6**	**70.1**	**95.6**	**120.8**

$ Occupancy Rate = (Inmate Population / Total Capacity) x 100

Occupancy Rate <100 shows space available for inmates in prisons. Occupancy Rate >100 shows overcrowding in prisons.

- As per data provided by States/UTs.

4. While dealing with the issue of overcrowding in In Re: Inhuman Conditions in 1382 Prisons, this Court had already taken note of the fact that Open Correctional Institutions constitute one of the most effective, humane and sustainable responses to congestion in closed prisons, while simultaneously advancing the objectives of reformative and rehabilitative penology. The

present proceedings reaffirm that assessment. The statistics placed before this Court by the learned amicus curiae, based on data furnished from the Study titled "The Open Prisons of Rajasthan" published by Rajasthan State Legal Services Authority, indicate that the per-prisoner monthly expenditure in an Open Correctional Institution is approximately Rs.500/-, as compared to Rs.7,094/- per month in a closed prison.

After reserving the judgment in the present proceedings, this Court requisitioned updated fiscal data from the State of Rajasthan, which further affirmed the earlier position and revealed that the per-prisoner per-day expenditure in closed prisons is approximately Rs.333.12/-, whereas in open prisons it is approximately Rs.49.60/-, thereby demonstrating a substantial and sustained cost differential in favour of Open Correctional Institutions. These figures highlight not merely the rehabilitative efficacy of Open Correctional Institutions, but also their marked fiscal prudence and administrative sustainability, reinforcing their status as a rational and constitutionally aligned component of the criminal justice and prison administration framework.

5. Despite repeated judicial exhortations, the availability of model frameworks and the clear constitutional, penological and fiscal advantages of Open Correctional Institutions, this Court is constrained to observe that the response of several States and Union Territories continues to be marked by rank apathy and indifference.

The persistent failure to meaningfully adopt and expand what is widely acknowledged as one of the most effective solutions to overcrowding in prisons and reformative theory of punishment reflects a troubling disconnect between constitutional mandate and executive action. It is in this backdrop that this Court is compelled, once again, to revisit the issue and to lay down structured and enforceable directions, so that Open Correctional Institutions are no longer treated as peripheral experiments, but are firmly embedded as integral components of a humane, reformative and constitutionally compliant correctional system.

II. INTRODUCTION

6. The instant writ petition has drawn the attention of this Court towards conditions of confinement in the existing prison system that invite deeper reflection on the nature and purpose of punishment itself. Beyond the immediate concerns placed before this Court lie fundamental questions about whether systems designed for correction continue to embody the values of correction, reformation and social healing, or whether they have hardened and evolved into structures of exclusion and persecution beyond mere incarceration. The petition, while anchored in specific grievances, thus opens a

wider constitutional inquiry into the State's duty to ensure that confinement of prisoners and more specifically, convicts remain consistent with evolving standards of human dignity and fairness.

7. The issues raised in the present proceedings are neither transitory nor confined to exceptional or isolated circumstances. They engage the enduring obligation of the State to harmonise legitimate penological/sentencing objectives with the constitutional imperatives of dignity, equality, reformation and reintegration into the society. The present case, therefore, requires this Court to not only examine the immediate measures for decongestion in prisons, but also to consider and evaluate structural and systemic approaches that further purposive rehabilitation, enable social reintegration, and secure meaningful access to justice for prisoners, while ensuring accountability and uniformity in prison administration across States and Union Territories. It is in this normative and institutional framework that this Court proceeds to examine the matters that arise for determination.

III. OVERVIEW OF THE WRIT PETITION AND PROCEEDINGS BEFORE THIS COURT

8. The instant writ petition was instituted under Article 32 of the Constitution of India raising serious concerns regarding the persistent problem of overcrowding in prisons across the country. The petition highlighted that excessive prison populations, far exceeding sanctioned capacities, had resulted in inhuman and degrading living conditions for inmates, thereby infringing their fundamental rights under Article 21 of the Constitution.

The petitioner had, inter alia, sought directions for creation of effective and permanent mechanisms to address and alleviate prison overcrowding, including decongestion measures, transfer of inmates, and formulation of structural avenues to ensure humane conditions of detention, particularly in the backdrop of public health emergencies like the COVID-19 pandemic. For the sake of ready reference, the reliefs sought in the writ petition are reproduced hereinbelow:-

"(a) issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that this Hon'ble Court deems just and proper in the facts and circumstances of the present case, directing the Respondents to provide the latest prison-wise information occupancy against the sanctioned capacity;

(b) issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that this Hon'ble Court deems just and proper in the facts and circumstances of the present case to make the High Powered Committee

established by this Hon'ble Court in Re: Contagion of COVID 19 Virus in Prison [Suo Motu Writ Petition (Civil) No.1/2020] permanent one with the power to (i) regularly monitor occupancy against sanctioned capacity in each prison; and (ii) recommend release of prisoners on bail or parole and transfer of prisoners from overcrowded prisons to the prisons having lower number of prisoners vis-a-vis sanctioned capacity in the same State/UT to ensure that no prisoner is subjected to torture or to cruel, inhuman or degrading treatment or punishment because of overcrowding and unhygienic conditions and prisoners enjoy the right to be treated with humanity and with respect for the inherent dignity of the human person;

(c) issue a writ, order or direction in the nature of mandamus or any other writ, order or direction that this Hon'ble Court deems just and proper in the facts and circumstances of the present case, directing the High Powered Committee established by this Hon'ble Court in Re: Contagion of COVID 19 Virus in Prison [Suo Motu Writ Petition (Civil) No.1/2020] to file Quarterly Report(s) before the Chief Justice of their respective High Court, informing/intimating (i) about occupancy against sanctioned capacity in each prisons; and (ii) release of prisoners on bail or parole and transfer of prisoners from overcrowded prisons to the prisons having lower number of prisoners vis-a-vis sanctioned capacity in the same State/UT; and

(d) pass such other and further order(s) that this Hon'ble Court deems fit and proper in the facts and circumstances of the present case and in the interest of justice/equity."

9. The instant writ petition was initially heard along with In Re: Contagion of COVID 19 Virus in Prison1. However, after deeper evaluation, the same came to be de-tagged vide order dated 17th July, 2023. Thereafter, on 9th May, 2024, this Court, while continuing its examination of the issues arising in the present matter, observed that one of the viable and sustainable measures for addressing the problem of overcrowding in prisons would be the establishment of open prisons/camps, which would simultaneously subserve the objective of rehabilitation and reintegration of prisoners into the society.

In order to facilitate a comprehensive and balanced adjudication of the issues involved, this Court appointed Mr. K. Parameshwar as amicus curiae, in addition to Mr. Vijay Hansaria, learned Senior Advocate, who was already assisting the Court. This Court also requested Ms. Rashmi Nandakumar, learned counsel appearing for the National Legal Services Authority (NALSA), to assist the Court in these proceedings. The relevant extract of the aforesaid order is reproduced hereinbelow:-

"3. One of the solutions for overcrowding of the prisons can be establishing open prisons/camps.

4. The said system is efficiently working in the State of Rajasthan.

5. Apart from addressing the issue of congestion in prisons, it also addresses the issue of rehabilitation of prisoners.

6. We, therefore, request Shri K. Parameshwar, who has worked on the said issue, to assist this Court as an Amicus Curiae, in addition to Mr. Vijay Hansaria, Senior Advocate, who is already assisting us in this matter. We also request Ms. Rashmi Nandakumar, learned counsel, who appears for the NALSA, to assist us in this matter."

[Emphasis supplied]

10. When the matter came up for hearing before this Court on 17th May, 2024, Mr. K. Parameshwar, learned amicus curiae, informed the Court that the Union of India has engrafted a model draft manual referring to such facilities as "Open Correctional Institutions"2, and that despite their existence under varying nomenclature in several States, these institutions are not being utilised to their optimum capacity. It was submitted that strengthening the OCIs would not only alleviate overcrowding in prisons but will also further the rehabilitation of prisoners and address social inequities faced by them.

11. Considering the seminal importance of the issue, this Court requested the learned amicus curiae and Ms. Rashmi Nandakumar, learned counsel appearing for NALSA, to jointly prepare and circulate a questionnaire to all the States to ascertain the status and functioning of such institutions. The States of Rajasthan, Maharashtra, Kerala and West Bengal were directed to share their best practices and regulatory frameworks with NALSA.

The Ministry of Home Affairs was directed to place a status report on record regarding developments subsequent to the formulation of the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023. This Court further directed that there shall be no reduction in the area of open-air camps/institutions/prisons, wherever they are functioning. The relevant extract of the aforesaid order is reproduced hereinbelow:-

"1. Vide order dated 9th May 2024 we had flagged the issue with regard to the open-air camps/institutions/prisons, etc.

2. Shri K. Parameshwar, learned Amicus Curiae submits that a model draft manual has been prepared by the Union of India wherein the nomenclature 'Open Correctional Institutions' is used for such facilities.

3. The data put on record wherein such Open Correctional Institutions are shown to be functioning in different names, would further show that the said institutions are not being utilized to their optimum capacity.

4. The learned Amicus Curiae submits that strengthening of the Open Correctional Institutions, apart from addressing the present issue of overcrowding of prisons, would also help in the rehabilitation of prisoners and do away with caste discrimination faced by them.

5. Taking into consideration the importance of the matter, we request Shri K. Parameshwar, the learned Amicus Curiae and Ms. Rashmi Nandakumar, learned counsel appearing for the NALSA, to jointly prepare and circulate a questionnaire to obtain information from all the States in respect of the status and functioning of the Open Correctional Institutions.

6. We direct four States i.e. Rajasthan, Maharashtra, Kerala and West Bengal, where such facilities are functioning most robustly, to share their best practices, applicable rules, guidelines and experience on setting up expansion and management of the Open Correctional Institutions with the NALSA.

7. The Registry shall communicate this order to the Chief Secretary of the States of Rajasthan, Maharashtra, Kerala and West Bengal for compliance.

8. We further direct the Ministry of Home Affairs to present a status report on recent developments in respect of the Open Correctional Institutions after coming of the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023.

9. We are also informed that there is a proposal to reduce the area at Sanganer Open Air Camp at Jaipur. We thus direct that there shall be no attempt of reduction in area of open-air camps/institutions/prisons, wherever they are functioning."

[Emphasis supplied]

12. Subsequently, in order to ensure structured and effective adjudication of the issues arising in the present proceedings, this Court considered it appropriate to segregate the adjudication into two distinct heads, namely: (i) the issue pertaining to Open Correctional Institutions (OCIs), and (ii) the issue concerning the provision of legal aid to prisoners. Insofar as the second issue is concerned, this Court delivered its judgment on 23rd October, 2024, wherein wide-ranging and substantive directions were issued to strengthen and institutionalise the framework for providing legal aid to prisoners.

With respect to the first issue relating to OCIs, this Court, in the interest of justice and to enable full compliance with its earlier directions, granted further time to the States and Union Territories which had not complied with the order dated 17th May, 2024 to furnish the information sought in the questionnaire circulated by the learned amicus curiae. Accordingly, opportunities were afforded on two occasions, i.e., vide orders dated 15th July, 2024 and 20th August, 2024, to such States and Union Territories to place the requisite data and responses on record. It was further clarified that in the event of any State Government or Union Territory failing to respond in terms of the orders passed by this Court, this Court will be constrained to direct the personal presence of the Chief Secretary of the State or Union Territory concerned. The relevant extracts of the aforesaid orders are reproduced hereinbelow: -

"Order dated 15th July, 2024

5. Mr. K. Parameshwar, learned Amicus Curiae submits that some of the States/Union Territories are yet to file their respective response in pursuance to the directions issued by this Court on 17th May, 2024.

6. We, therefore, direct the Registrar (Judicial) to forward a copy of the order dated 17th May, 2024 along with the present order asking the Chief Secretaries of States of Andhra Pradesh, Arunachal Pradesh, Gujarat, Haryana, Jammu & Kashmir, Jharkhand, Maharashtra, Manipur, Nagaland, Tamil Nadu, Telangana, Uttar Pradesh and the Administrators of Andaman & Nicobar, Dadra & Nagar Haveli, Daman & Diu, Delhi, Lakshadweep, Puducherry and Ladakh to file their responses in pursuance to the order dated 17th May, 2024 passed by this Court.

7. The responses by the concerned States/Union Territories shall be filed within a period of three weeks from today.

Order dated 20th August, 2024

1. In order dated 15th July, 2024, this Court had directed to the Chief Secretary of the various States/Union Territories to submit their response to the order dated 17th May, 2024.

2. Shri K. Parameshwar, learned senior counsel (A.C.) states that the States/Union Territories of Gujarat, Haryana, Jammu & Kashmir, Maharashtra, Manipur, Nagaland, Telangana, Uttar Pradesh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Puducherry and Ladakh, have not yet filed their response.

3. It is further stated that the NCT of Delhi, Himachal Pradesh, Madhya Pradesh and Punjab have not submitted qualitative/quantitative charts, despite the questionnaire indicating that these states have Open Correctional Institutes.

4. It is further stated that the affidavits filed by the State of Andhra Pradesh and Tamil Nadu also do not contain all the requisite specific information.

5. We, therefore, direct that all the States/Union Territories, which have not yet filed their response, to file complete response within a period of four weeks from today.

6. The States/Union Territories, which have not given complete information, shall also give complete information within a period of four weeks from today.

7. The registry is directed to ensure that the order is communicated to the Chief Secretaries of all the States/Union Territories concerned.

8. We further clarify that if any of the State Governments or Union Territories do not respond in terms of the orders passed by this Court, we will be compelled to direct the presence of the Chief Secretary of the States/Union Territories concerned before this Court.

9. We direct the aforementioned States and Union Territories to fill and submit both of the following within four weeks from today, so that complete information may be ascertained and analysed:

(i) Qualitative questionnaire accessible at https://forms.gle/feCudANsXDBL3o3J8; and

(ii) Quantitative OCI Chart accessible at https://docs.google.com/document/d/11jMrb 7YCurpLOtdqemyYswQA9tZhwTuNrhaOYhzkV Mo/edit?usp=sharing"

[Emphasis supplied]

13. It is relevant to note that despite repeated opportunities being given to the States and Union Territories, States of Telangana, Haryana and Madhya Pradesh have not placed on record the requisite information as sought for by the learned amicus curiae.

IV. SUMMARY OF WRITTEN SUBMISSIONS AND CONVENIENCE COMPILATIONS FILED BY THE AMICUS CURIAE PURSUANT TO THIS COURT'S ORDER DATED 17th MAY, 2024

A. Affidavit of Union of India

14. Learned amicus curiae, in the written submissions has adverted to the affidavit dated 9th July, 2024 filed by the Union of India, wherein it was stated that the Model Prison Manual, 2016 with a specific chapter devoted to OCIs and the Model Prisons and Correctional Services Act, 2023, has been circulated to all the States and Union Territories for guidance on prison administration.

In the said affidavit, it has been further submitted that since "prisons and persons detained therein" is a subject falling under the State List in the Seventh Schedule to the Constitution of India, it is for the respective States and Union Territories to take appropriate policy decisions and administrative action for the establishment, expansion and effective functioning of OCIs. Thus, the Union of India has emphasised that while normative guidance has been provided at the central level, the primary responsibility of implementation rests with the States and Union Territories.

B. Best Practices in the Management and Governance of OCIs

15. Pursuant to the directions issued by this Court vide order dated 17th May, 2024, the States of Rajasthan, Maharashtra, Kerala and West Bengal were asked to share their best practices, applicable rules, guidelines and experiential inputs in relation to the establishment, expansion and management of OCIs. In compliance therewith, the States of Maharashtra, Rajasthan and Kerala have placed on record their respective submissions, detailing the operational frameworks and rehabilitative models adopted in their jurisdictions.

The material placed by these States reflects varied but instructive approaches towards governance of OCIs, with emphasis on graded eligibility criteria for transfer from closed prisons, opportunities for family integration, avenues for meaningful work and remuneration, educational and vocational training, internal self-governance mechanisms, parole and remission benefits, and wider access to healthcare and legal aid.

16. From the submissions of the State of Maharashtra, it emerges that prisoners are selected for transfer to open prisons on the basis of seniority, conduct and physical and mental ability to work, subject to the completion of a stipulated portion of sentence awarded to them. Inmates are permitted to reside with their families, cultivate land, prepare their own meals and earn wages at rates significantly higher than those in closed prisons. The State has also provided for agricultural and allied vocational training, employment with government and private entities, enhanced remission, parole and furlough, periodic visits to native places, and financial assistance upon release, all of which are stated to contribute to improved mental health, rehabilitation and reintegration into the society.

17. The State of Rajasthan has highlighted its well-established open-air camp system, where inmates, including women, are permitted to reside with their families, pursue livelihoods outside the camp during the day, and participate in internal self-governance through mechanisms such as the OCI Sarpanch System, Prisoner Panchayat and Works and Discipline Committee. Provisions for education and Anganwadi facilities for children, cooperative societies for daily needs, and significantly lower staff requirements and reduced expenditure as compared to closed prisons have also been emphasised.

18. The State of Kerala has placed on record a model of OCIs characterised by structured eligibility based on good conduct and health, equal wages, enhanced parole, extensive opportunities for higher education, diversified vocational training aligned with contemporary skills, spiritual and recreational activities, weekly legal aid visits, and the availability of on-site hospital facilities, thereby reflecting a comprehensive rehabilitative framework.

C. BPR&D Report: Shortcomings and Recommendations

19. This Court has also been apprised of a detailed empirical study conducted by Dr. Murali Karnam, Professor of Human Rights and Director, Access to Justice Programme, NALSAR University of Law, titled "A Study of the Functioning and Impact of Open Prisons on Rehabilitation of Prisoners", which was submitted to the Bureau of Police Research and Development (BPR&D), Ministry of Home Affairs, Government of India. The study, covering the States of Rajasthan, Kerala, Madhya Pradesh, Himachal Pradesh, West Bengal, Assam and Maharashtra, notes that OCIs constitute only about six per cent of the total prisons across the country. The BPR&D Report, inter alia, highlights the following shortcomings in the governance and functioning of OCIs:-

(i) OCIs are severely under-utilised across States due to stringent rules and criteria for transfer from closed prisons to OCIs. There is no uniformity in the eligibility criteria for transfer from closed prisons, with some States prescribing unduly long periods of incarceration before an inmate becomes eligible for transfer to an OCI;

(ii) In several States, either no OCI facilities exist for women, or women prisoners are not eligible for transfer to such institutions;

(iii) Most OCIs function predominantly as agricultural camps, with work largely confined to farming and allied activities, and in some cases, the OCIs are perceived as hard labour camps, thereby diluting their rehabilitative character; and

(iv) Educational facilities are often absent, and vocational training remains inadequately diversified and ill-equipped to meet contemporary requirements

or to meaningfully empower the prisoners for employability and self-reliance upon release.

20. The learned amicus curiae has further drawn the attention of this Court to the recommendations contained in the BPR&D Report, which articulate, inter alia, the following normative best practices for governance of OCIs:-

- facilitating early transfer of young prisoners to promote reformation, rehabilitation and reintegration into the society;
- limiting prolonged confinement in closed prisons to exceptional cases;
- shifting from agriculture-centric camps to OCIs located in or near urban and industrial centres;
- aligning education and vocational training with market-relevant survival skills;
- basing eligibility for transfer on reformative character and potential rather than rigid and fixed number of years of incarceration and the gravity of their offences;
- enabling inmates to reside with their families as a bridge to social reintegration; and
- ensuring the availability of well-equipped healthcare facilities within OCIs to avoid traumatic reversion to closed prisons for medical care.

D. Methodology adopted by the amicus curiae regarding data collection in terms of order dated 17th May, 2024

21. It has been further stated that pursuant to the directions issued by this Court vide order dated 17th May, 2024, the learned amicus curiae, in consultation with Ms. Rashmi Nandakumar, learned counsel appearing for NALSA, prepared a comprehensive questionnaire for being circulated to all the States and Union Territories. The questionnaire was structured in two parts, namely, one pertaining to quantitative metrics and the other to qualitative aspects, with the view of obtaining holistic and evidence-based understanding of the status, capacity, utilisation, and functioning of OCIs including open barracks functioning within closed prisons.

22. The detailed chart and questionnaire so prepared were circulated through the State Legal Services Authorities for onward transmission to the Director General, Prisons and Correctional Services in each State and Union Territory. The quantitative component sought specific information regarding the number of OCIs in each State and Union Territory, their sanctioned capacity, present occupancy, distribution of male and female prisoners, and the number of children, if any, residing therein, the responses to which were collated State-wise and compiled into a consolidated chart.3

23. The qualitative component comprised an exhaustive set of 55 questions, segregated under the heads of General functioning, Applicable Rules, Infrastructure and Management, Security Measures, Rehabilitation, Work and Pay, Security Measures, Rehabilitative Measures, and Punishments.4 It is stated that the questions were designed with precision and granularity to elicit focused information on operational models, eligibility and transfer criteria, applicable statutory frameworks, healthcare and living facilities, work allocation and remuneration practices, security protocols, access to education and vocational training, rehabilitative measures for prisoners and their families, and the nature of disciplinary mechanisms in place, including reversion to closed prisons. The methodology adopted was thus aimed at ensuring that the data placed before this Court was not merely descriptive, but capable of facilitating a meaningful comparative and normative assessment of the functioning of OCIs across the country. The responses to the qualitative questionnaire are collated into a comprehensive chart.5

E. Quantitative Findings

24. The quantitative data received from the States and Union Territories reflects the overall capacity, occupancy and utilisation of OCIs and open barracks across the country. The data reveals significant inter- State disparities and a pervasive trend of underutilisation, along with a pronounced gender imbalance, with women prisoners being either excluded or grossly under-represented in most States. The major quantitative findings are set out hereinbelow:-

OCIs:

(i) The quantitative data received from the States and Union Territories reveals that, wherever OCIs are functional, they remain significantly under-utilised. Occupancy rates range from as low as 6% in the open and semi-open prison in the NCT of Delhi; 15% in Himachal Pradesh and Uttarakhand; 20% in Assam; 27% in Uttar Pradesh; 32% in Odisha; 33% in Andhra Pradesh; 36% in Tamil Nadu; 44% in Gujarat; 51% in Punjab, to comparatively higher levels of 63% in Karnataka; 70% in Maharashtra; 79% in West Bengal; 81% in Kerala; and 92% in Rajasthan.

(ii) An exception to the trend of under-utilisation is found in the State of Bihar, where, though four OCIs exist, only one facility at Buxar is functional, and the same is overcrowded, with an occupancy of about 136%.

(iii) The State of Madhya Pradesh did not furnish quantitative data in response to the questionnaire. However, official data available on the website of the Madhya Pradesh Prison Department as of August, 2024 indicates that the State

has eight OCIs with a total capacity of 138 inmates, of which 130 are currently housed, reflecting an occupancy rate of approximately 94%.

(iv) Quantitative information was also not received from the States of Telangana and Haryana.

(v) The following States have reported a complete absence of OCI facilities: Arunachal Pradesh, Chhattisgarh, Goa, Jharkhand, Manipur, Mizoram, Nagaland and Sikkim. All Union Territories presently lack OCI facilities, except the NCT of Delhi.

Open Barracks in Closed Prisons:

(vi) With respect to open barracks functioning within closed prisons, under-utilisation is again evident in the State of Tamil Nadu, with an occupancy of only about 20%. Other States reporting open barracks reflect comparatively higher occupancy, i.e., 47% in Himachal Pradesh, and 88% in Bihar, yet these facilities too remain short of full utilisation.

(vii) In the State of Assam, open barracks are reported in four districts. While the facility at Jorhat is fully occupied, the remaining three districts are overcrowded, resulting in an overall occupancy of approximately 137%. By way of illustration, in Dhubri, 504 inmates are housed against a sanctioned capacity of only 221. Similarly, open barracks in the State of Maharashtra are also operating beyond capacity, with an occupancy rate of about 171%, whereas comparable facilities in several other States continue to remain under-utilised.

Access of Women Prisoners to OCIs:

(viii) The data overwhelmingly indicates that the representation of women in OCIs is substantially lower than that of men, reflecting either the absence of facilities for women or their exclusion from eligibility for transfer.

(ix) The States of Assam, Gujarat, Madhya Pradesh, Odisha, Punjab, Telangana, Uttarakhand, Uttar Pradesh and West Bengal have expressly stated that women prisoners are not eligible for transfer to OCIs.

(x) In the women's OCI at Thiruvananthapuram, Kerala, the occupancy is only about 30%, whereas the two OCIs accommodating men in the said State, report occupancies of about 82% and 86%, thereby highlighting the disparate under-utilisation of facilities meant for women.

(xi) The State of Himachal Pradesh has stated that in the absence of open barracks for women, women prisoners continue to be housed only in closed prisons.

(xii) In the NCT of Delhi, Karnataka and Tamil Nadu, although women are stated to be eligible for transfer to OCIs, the quantitative data reveals that no women have in fact been transferred.

(xiii) The status of women prisoners in Haryana and Telangana remains unclear owing to non-submission of quantitative data.

F. Qualitative Findings

25. The responses of the States and Union Territories regarding qualitative aspects provide insight into the manner in which OCIs are administered and experienced in practice. They highlight variations in eligibility norms, living conditions, work, wages, healthcare, education, family integration and disciplinary regimes, and collectively reflect both the rehabilitative promise of OCIs and the systemic constraints that presently limit their transformative potential. The major qualitative findings arising from the responses are set out hereinbelow:-

(i) Age and Period of Incarceration Prior to Transfer: The data reveals that prisoners are required to spend anywhere between four to twelve years in closed prisons before being considered for transfer to OCIs, with the period extending up to twenty-one years in Gujarat. The average age of OCI inmates varies widely, though it predominantly falls between thirtyfive to fifty years.

(ii) Engagement with Society and Nature of Work: There is significant variation in operational models of the OCIs in different States and Union Territories. While some States, such as West Bengal, permit OCI members to seek employment in the general community with minimal supervision and to live with their families; States like Assam, Haryana, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, and Uttar Pradesh also allow members of OCIs to leave the OCI premises for work, and return at a designated time. On the other hand, States of Andhra Pradesh, Gujarat, Karnataka, Kerala, Odisha, Telangana, Tamil Nadu, and Uttarakhand restrict inmates to work within the OCI premises, largely in agriculture or allied activities.

(iii) Family Life and Social Integration: Some States6 do not allow family members to visit members of OCIs. States of Andhra Pradesh, Gujarat, Himachal Pradesh, Karnataka, Odisha, Telangana, Uttar Pradesh and Uttarakhand, and NCT of Delhi prohibit marriage or cohabitation during their tenure in OCI and in most States, families and children are not allowed to reside with OCI members. Exception to the above are States of Assam,

Haryana, Madhya Pradesh, Rajasthan, Uttar Pradesh and West Bengal which allow the families and children to reside with OCI members within the facility.

(iv) Wages: Wide disparities exist in wages paid to OCI members, ranging from as low as Rs.40- 50/- per day in States of Punjab and Uttar Pradesh for unskilled labour to Rs.230/- in Kerala and up to Rs.548/- in Karnataka, indicating the absence of uniform standards and raising concerns of inequity.

(v) Healthcare: OCIs are generally ill-equipped to provide comprehensive healthcare, with many facilities limited to out-patient clinics and lacking basic medical infrastructure, thereby necessitating reversion to closed prisons or external facilities for treatment, which impinges upon the rehabilitative philosphy underlying OCIs.

(vi) Banking Facilities: Except in Maharashtra, Rajasthan and Uttarakhand, most of the responding States have provided banking facilities to OCI members, enabling financial inclusion and better management of earnings.

(vii) Education: Educational opportunities are available to OCI members in most States, except Haryana, Rajasthan and West Bengal. However, access to education for family members and children of OCI inmates remains limited and uneven across States. For family members of OCI members, educational facilities are only provided in Gujarat, Kerala and Madhya Pradesh and for children of OCI members, educational facilities are provided in Assam, Madhya Pradesh, Maharashtra and Rajasthan.

(viii) Vocational Training: While vocational training is provided to OCI members in several States, it remains largely confined to agriculture or traditional trades. A few States offer technical or ITI-type courses. In some States/Union Territory, including NCT of Delhi, Haryana, Rajasthan and Uttarakhand, such training is lacking.

(ix) Disciplinary Measures: Punishments for violations often include reversion to closed prisons, and in several States, i.e., Gujarat, Himachal Pradesh, Karnataka, Odisha, Tamil Nadu, Telangana, and West Bengal, prisoners are not permitted to return to OCIs thereafter.

V. INTERNATIONAL GUIDING PRINCIPLES

26. The international legal and normative framework governing the treatment of prisoners is reflected, inter alia, in the United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015, commonly known as the Nelson Mandela Rules. These Rules consolidate globally accepted principles and best practices in prison administration and emphasise that they are not intended to prescribe a rigid model, but to articulate the essential elements of humane, just

and effective penal systems. The Nelson Mandela Rules underscore that the legitimacy of incarceration in a modern legal order rests not merely on containment, but on the obligation of State/prison authorities to uphold dignity, fairness and humanity in the treatment of persons deprived of liberty.

27. Of particular relevance is Rule 47, which recognises that the purposes of imprisonment, namely, protection of society and reduction of recidivism, can be achieved only if the period of incarceration is utilised to facilitate the reintegration of prisoners into society, so that upon release they may lead law-abiding and self-supporting lives. To this end, the Rules mandate the provision of education, vocational training, meaningful work and other forms of assistance, including social, moral, spiritual, health and sports-based programmes, tailored to the individual needs of prisoners.

Rule 898 further acknowledges that open prisons, which rely not on physical security but on the self-discipline of inmates, provide conditions most conducive to rehabilitation of carefully selected prisoners. These guiding principles lend authoritative international recognition to the concept underlying OCIs, namely that environments characterised by trust, responsibility and opportunity for self-development are central to meaningful rehabilitation and dignified reintegration of the prisoner in the society, and thus provide a normative compass for prison reform in a constitutional democracy.

VI. DOMESTIC LEGAL FRAMEWORK RELEVANT TO THE ISSUES AT HAND

A. Chapter XXIII of the Model Prison Manual, 2016

28. Chapter XXIII of the Model Prison Manual, 2016, titled "Open Institutions", provides the domestic normative framework for the establishment and governance of Open and Semi-Open Institutions and embodies the reformative philosophy underlying modern penology. Paragraph 23.01 declares that such institutions are intended to operationalise the ideology of reformation, correction and rehabilitation by enabling prisoners to live and work in open conditions so as to restore dignity, self-reliance and social responsibility, while paragraph 23.02 exhorts State Governments to frame detailed rules regarding the administration of Open Work Camps, Semi-open Training Institutions, Open Training Institutions and Open Colonies suited to local conditions. The underlying thrust of these provisions is that open institutions are not merely alternative places of confinement, but are structured environments designed to facilitate gradual transition from custody to responsible citizenship.

29. The Chapter prescribes a carefully calibrated framework for selection and transfer of prisoners from closed prisons to OCIs. Paragraphs 23.03 to 23.03.2

provide for exclusion of certain categories of prisoners including but not limited to habitual offenders, dangerous prisoners, prisoners convicted of serious offences, including terrorism and organised crime, as well as escape risks and foreigners, and those suffering from mental illness, and mandate the constitution of a Selection/Classification Committee to undertake individualised assessment based on conduct, physical and mental fitness, progress in work and training, self-discipline and sense of responsibility. Paragraphs 23.04 to 23.13 envisage a graded progression from semi-open institutions to open training institutions, work camps and open colonies after completion of specified portions of sentence.

It further mandates maintenance of minimum standards of accommodation, sanitation, medical care and welfare (para 23.16), meaningful engagement through education, vocational training and character-building programmes (para 23.18), payment of higher wages than in closed prisons (para 23.19), and encouragement of family contact, including periodic stays with family members (paras 23.20 and 23.21). These provisions, read together, reflect a clear statutory commitment within domestic prison jurisprudence to a regime based on trust, responsibility and self-discipline, and furnish the legal foundation for OCIs as instruments of dignity, rehabilitation and social reintegration.

B. Model Prisons and Correctional Services Act, 2023

30. The reformative philosophy underlying OCIs also finds recognition in the Model Prisons and Correctional Services Act, 2023, which seeks to modernise prison administration and reorient it towards correction, rehabilitation and social reintegration. Section 2(21) of the said Act defines an "Open Correctional Institution" to mean "a place for confinement of eligible prisoners on such conditions, as may be prescribed under the rules, for giving them more liberty outside a regular prison for facilitating their rehabilitation after release." This definition underscores that OCIs are conceived not merely as alternative custodial spaces, but as institutions designed to confer graduated liberty upon carefully selected prisoners, with rehabilitation after release as their central objective.

31. Section 50 of the Act further provides the enabling framework for the establishment and governance of such institutions. Sub-section (1) empowers the Government of the State/Union Territory to establish and maintain as many open and semi-open correctional institutions as may be required; sub-section (2) authorises the grant of such facilities or concessions in these institutions as may assist prisoners in their rehabilitation into society; and sub-section (3) contemplates the framing of rules to regulate their management, including

eligibility for transfer, procedure for such transfer, and the manner of dealing with violations of conditions by prisoners.

These provisions, read together, affirm the legislative intent to institutionalise open and semiopen correctional regimes as integral components of a correctional system founded on trust, responsibility and reform, while leaving it to the appropriate Governments to prescribe detailed rules for their effective operationalisation in accordance with local needs and conditions.

32. It is significant to note that both the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023, have been formulated by the Union of India as guiding normative frameworks to promote uniformity, modernisation and reform-oriented standards in prison administration across the country. However, under the constitutional scheme, "prisons and persons detained therein" fall within the legislative and executive domain of the States and Union Territories.

The effective operationalisation of the reformative vision embodied in these model instruments, therefore, rests squarely with the States and Union Territories, which are constitutionally obligated to enact appropriate legislation, frame detailed rules and evolve administrative frameworks for prisons situated within their respective jurisdictions. It is only through such translation of model norms into binding statutory regimes and enforceable institutional practices that OCIs can truly evolve and function as instruments of dignity, rehabilitation and social reintegration.

VII. CONSTITUTIONAL FRAMEWORK: RIGHT TO LIFE, DIGNITY OF PRISONERS AND REHABILITATIVE JUSTICE IN PRISONS

33. This Court has, over decades, consistently articulated a jurisprudence that views incarceration not merely as punitive deprivation of liberty, but as an opportunity for reformation, rehabilitation and restoration of human dignity. The constitutional vision of penology evolved by this Court situates prison administration within the broader mandate of Article 21, requiring that conditions of confinement be humane and oriented towards the transformation of the individual into a law-abiding and socially responsible citizen. The present inquiry into OCIs is thus firmly anchored in a long line of decisions wherein this Court has emphasised correctional, rather than retributive goals of imprisonment.

34. A foundational articulation of prisoners' rights was made by this Court in D. Bhuvan Mohan Patnaik v. State of Andhra Pradesh9, wherein it was held that conviction does not denude a person of all fundamental freedoms. The Court clarified that while incarceration necessarily curtails certain liberties

incompatible with confinement, a convict continues to enjoy all other fundamental rights, including the sacrosanct guarantee under Article 21. The judgment rejected the notions of "civil death" upon conviction and reaffirmed that constitutional protections continue to govern both the conditions and the manner of imprisonment. In this context, the three-Judge bench of this Court held:-

"6. Convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess. A compulsion under the authority of law, following upon a conviction, to live in a prison-house entails by its own force the deprivation of fundamental freedoms like the right to move freely throughout the territory of India or the right to "practise" a profession. A man of profession would thus stand stripped of his right to hold consultations while serving out his sentence. But the Constitution guarantees other freedoms like the right to acquire, hold and dispose of property for the exercise of which incarceration can be no impediment, likewise, even a convict is entitled to the precious right guaranteed by Article 21 of the Constitution that he shall not be deprived of his life or personal liberty except according to procedure established by law."

[Emphasis supplied]

35. Building upon this constitutional foundation, this Court in Mohammed Giasuddin v. State of Andhra Pradesh10, expounded the ethical foundations of prison reform, emphasising the need to humanise prison conditions and to infuse the penal system with compassion, self-respect and fraternity. The judgment reflects a jurisprudential shift away from prisons as spaces of suffering towards their conception as institutions of correction, animated by the values of empathy and moral renewal.

It underscored that prison reform is not an act of benevolence, but a constitutional imperative rooted in respect for human dignity. This early articulation laid the normative foundation for viewing prisons as institutions of moral and social regeneration, rather than mere sites of custodial confinement. Relevant extract from the said judgment is reproduced hereinbelow:-

"24. We also think that the appellant has slipped into crime for want of moral fibre. If competent Jail Visitors could organise for him processes which will instil into him a sense of ethics it may help him become a better man. Self-expression and selfrealisation have a curative effect. Therefore, any sports and games, artistic activity and/or meditational course, may also reform. We strongly recommend that the appellant be given such opportunities by the jail authorities as will stimulate his creativity and sensitivity. In this connection we may even refer to proven advantages of kindling creative intelligence and

normalising inner imbalance, reportedly accomplished by Transcendental Meditation (TM) propagated by Maharshi Mahesh Yogi in many countries in the West.

Research projects conducted in various countries bring out that people practising such or like courses change their social behaviour and, reduce their crime-proneness. We do not prescribe anything definite but indicate what the prison doctors may hopefully consider. While it is beyond us to say whether the present facilities inside the Central Prison, Hyderabad, make it feasible for the appellant to enjoy these benefits and thereby improve his inner being, we strongly feel that the humanitarian winds must blow into the prison barricades. More than this is expected in this decade, when jail reforms, from abolition of convict's costume and conscript labour to restoration of basic companionship and atmosphere of self-respect and fraternal touch, are on the urgent agenda of the nation. Our prisons should be correctional houses, not cruel iron aching the soul."

[Emphasis supplied]

36. The reformative vision was further developed and strengthened in Dharambir and Anr. v. State of Uttar Pradesh11, wherein this Court underscored that one of the principal purposes of imprisonment is the decriminalisation of the offender and the restoration of dignity, self-esteem and good citizenship. The Court viewed meaningful work, vocational engagement, fair remuneration and sustained family contact not merely as administrative conveniences, but as instruments of healing and transformation. The emphasis was on replacing inherited harshness with humane processes consistent with the spirit of the Republic, signalling that prisons must reflect constitutional morality as much as any other public institution. Relevant extract from the said judgment is reproduced hereinbelow:-

"2. We, however, notice that the petitioners in this case are in their early twenties. We must naturally give thought to the impact on these two young lives of a life sentence which means languishing in prison for years and years. Such induration of the soul induced by indefinite incarceration hardens the inmates, not softens their responses. Things as they are, long prison terms do not humanise or habilitate but debase and promote recidivism. A host of other vices, which are unmentionable in a judgment, haunt the long careers of incarceration, especially when young persons are forced into cells in the company of callous convicts who live in sex-starved circumstances.

Therefore, the conscience of the court constrains it to issue appropriate directions which are policyoriented, as part of the sentencing process, designed to make the life of the sentence inside jail restorative of his crippled psyche.

One of the principal purposes of punitive deprivation of liberty, constitutionally sanctioned, is decriminalisation of the criminal and restoration of his dignity, self-esteem and good citizenship, so that when the man emerges from the forbidding gates he becomes a socially useful individual. From this angle our prisons have to travel long distances to meet the ends of social justice.

4. We may take advantage of this opportunity to make a general direction to the State Government to draw up a set of rules to reform the pattern of prison life and to transform the present system in itself so that the harsher technologies inherited from imperial times are abandoned in favour of humane processes constitutionally enlivened under the Republic. These days, Prison Commissions are at work in many States and we do hope that the State of Uttar Pradesh will hasten to bring compassion into prisons.

5. We are told that the two prisoners are agriculturists by profession. It is better, therefore, that they are put to use as agriculturists, whether within or without the prison compass. Being young, they should also be trained in any other useful craft, if they have aptitude therefore, so that when eventually they emerge from the prison walls, they may become sensitive citizens and not be an addition to the criminals proliferating in the country. We think that when prisoners are made to work, as these two ought to be under our directions, a small amount by way of wages could be paid and should be paid so that the healing effect on their minds is fully felt.

Moreover, proper utilisation of services of prisoners in some meaningful employment, whether as cultivators or as craftsmen or even in creative labour will be good from the society's angle as it reduces the burden on the Public Exchequer and the tension within. Further, the humanising process will be facilitated by keeping the prisoners in contact with their family. This can be made feasible (a) by allowing members of the family to visit the prisoners, and (b) by the prisoners, under guarded conditions, being permitted, at least once a year, to visit their families."

[Emphasis supplied]

37. The aforesaid principles were given expansive constitutional articulation in Francis Coralie Mullin v. Administrator, Union Territory of Delhi12, where this Court authoritatively declared that fundamental rights do not flee the person as he enters the prison gates. The Court gave expansive intent to Article 21, holding that the right to life includes the right to live with human dignity and the bare necessities of life, and that any form of cruel, inhuman or degrading treatment is constitutionally impermissible. The judgment firmly entrenched prisoners' rights within the heart of constitutional morality and

underscored that even within confinement, the State remains bound by standards of reasonableness, fairness and humanity. Relevant extract from the said judgment is reproduced hereinbelow:-

"5. The question which then arises is whether a person preventively detained in a prison has any rights which he can enforce in a court of law. Once his freedom is curtailed by incarceration in a jail, does he have any fundamental rights at all or does he leave them behind, when he enters the prison gate? The answer to this question is no longer res integra. It has been held by this Court in the two Sunil Batra cases that "fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration". The prisoner or detenu has all the fundamental rights and other legal rights available to a free person, save those which are incapable of enjoyment by reason of incarceration.

8. But the question which arises is whether the right to life is limited only to protection of limb or faculty or does it go further and embrace something more. We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self.

Every act which offends against or impairs human dignity would constitute deprivation pro tanto of this right to live and it would have to be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights. Now obviously, any form of torture or cruel, inhuman or degrading treatment would be offensive to human dignity and constitute an inroad into this right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with procedure prescribed by law, but no law which authorises and no procedure which leads to such torture or cruel, inhuman or degrading treatment can ever stand the test of reasonableness and non-arbitrariness: it would plainly be unconstitutional and void as being violative of Articles 14 and 21.

It would thus be seen that there is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights. This right to live which is comprehended within the broad connotation of the right to life

can concededly be abridged according to procedure established by law and therefore when a person is lawfully imprisoned, this right to live is bound to suffer attenuation to the extent to which it is incapable of enjoyment by reason of incarceration.

The prisoner or detenu obviously cannot move about freely by going outside the prison walls nor can he socialise at his free-will with persons outside the jail. But, as part of the right to live with human dignity and therefore as a necessary component of the right to life, he would be entitled to have interviews with the members of his family and friends and no prison regulation or procedure laid down by prison regulation regulating the right to have interviews with the members of the family and friends can be upheld as constitutionally valid under Articles 14 and 21, unless it is reasonable, fair and just."

[Emphasis supplied]

38. The jurisprudence, thus, evolved culminated in explicit judicial recognition of open prisons as a structural instrument of reform in Rama Murthy v. State of Karnataka13. In this decision, this Court acknowledged that open-air prisons represent "one of the most successful applications of the principle of individualization of penalties with a view to social readjustment". The Court observed that no managerial difficulty could be considered insurmountable when weighed against the societal good of transforming inmates into reformed persons.

The Court went on to exhort that "more and more open prisons be opened", even suggesting their establishment at district headquarters across the country. This judgment stands as a clear judicial imprimatur for establishment of open prisons as a structural response to both rehabilitation and prison management challenges. In a clear articulation of the constitutional vision underlying modern penology, a three-Judge bench of this Court observed:-

"47. Open-air prisons play an important role in the scheme of reformation of a prisoner which has to be one of the desideratum of prison management. They represent one of the most successful applications of the principle of individualization of penalties with a view to social readjustment as stated by B. Chandra in the Preface to his book titled "Open Air Prisons". It has been said so because release of offenders on probation, home leave to prisoners, introduction of wage system, release on parole, educational, moral and vocational training of prisoners are some of the features of the openair prison (camp) system.

Chandra has stated in the concluding portion of Chapter 3 at p. 150 (of 1984 Edn.) that in terms of finances, open institution is far less costly than a closed establishment and the scheme has a further advantage that the Government is able to employ in work, for the benefit of the public at large, the jail population which would have otherwise remained unproductive. According to the author, the monetary returns are positive, and once put into operation, the camps pay for itself.

50. Open-air prisons, however, create their own problem which are basically of management. We are, however, sure that these problems are not such which cannot be sorted out. For the greater good of the society, which consists in seeing that the inmate of a jail comes out, not as a hardened criminal but as a reformed person, no managerial problem is insurmountable. So, let more and more open-air prisons be opened. To start with, this may be done at all the District Headquarters of the country."

[Emphasis supplied]

39. Read together, these decisions establish that this Court has long envisaged prisons as institutions of correction, where dignity, self-respect and social reintegration are not aspirational ideals but constitutional necessities. The emphasis on meaningful work, vocational training, payment of wages, humane living conditions, and maintenance of family ties reflects a coherent judicial philosophy that punishment must be tempered by compassion and directed towards reform. Open and semi-open correctional institutions, premised on trust and selfdiscipline, naturally align with this vision.

40. The jurisprudence emerging from these cases also affirms that prison reform is not a matter of executive grace but a constitutional obligation. This Court has repeatedly reminded the State that the manner in which it treats those behind bars is a measure of its commitment to constitutional morality. The transformation of prisons from sites of suffering to spaces of opportunity is thus integral to the promise of justice under the Constitution.

41. The present consideration of OCIs must, therefore, be viewed as a continuation of this settled line of precedents and principles. The call for expansion, strengthening and humane governance of OCIs is not novel; it flows directly from the doctrinal foundations laid down by this Court, which have consistently championed individualised treatment, graded liberty, and rehabilitation as central to modern penology.

42. The jurisprudence emanating from the aforesaid decisions of this Court, thus, furnishes the constitutional compass for the present inquiry. The consistent emphasis of this Court on dignity, humane treatment, meaningful

engagement and graded liberty situates OCIs at the very heart of the reformative ideal of punishment. It is in the light of these settled principles, and informed by the empirical material and normative frameworks placed before us, that this Court now proceeds to examine the present status of OCIs across the country and to determine the measures necessary to translate the constitutional promise of rehabilitation and social reintegration into effective institutional reality.

VIII. ANALYSIS AND CONSIDERATION

43. The empirical data, written submissions and normative frameworks placed before this Court and analysed supra manifests that OCIs, though conceived as living embodiments of reformative justice, their functioning across the country remains fragmented and uneven. The deficiencies revealed are not merely administrative in nature but touch upon the core constitutional guarantees of dignity, equality and rehabilitation under Articles 14, 15, 21, 22 and 39A of the Constitution of India. The patterns of under-utilisation, restricted access and uneven governance of OCIs, thus, compel this Court to look beyond episodic lapses and to reflect upon whether our penal institutions, in their present form, remain faithful to the constitutional promise that even those who err are not beyond redemption.

44. The issues which, thus, arise for our consideration may be structured under the following heads, and we shall proceed to examine and answer each of them ad seriatim.

A. Under-utilisation of Existing OCI Facilities and Absence of OCIs in Several States and Union Territories

45. The quantitative findings arising from the exercise conducted by the learned amicus curiae in pursuance of the order dated 17th May, 2024 passed by this Court unmistakably demonstrate that wherever OCIs are functional, they remain substantially under-utilised, even as closed prisons continue to suffer from chronic overcrowding. Further, a number of States and most Union Territories continue to lack any OCI facilities altogether. This situation defeats the very purpose of OCIs, which are conceived as institutional bridges between incarceration and reintegration, and as vital mechanisms for translating the reformative ideal of punishment into institutional reality.

46. We find merit in the submission, that all OCI facilities across all States and Union Territories must be filled to their respective capacities, so as to afford greater opportunity to eligible prisoners for rehabilitation and reformation. The judgments of this Court; the Model Prison Manual, 2016; the Model Prisons and Correctional Services Act, 2023; and the Model Uniform Rules for the

Administration of Open Correctional Institutions consistently mandate that such facilities be utilised adequately and progressively to enhance their reformative potential.

47. It is apposite to mention herein that this Court vide order dated 8th May, 201814, in In Re Inhuman Conditions in 1382 Prisons, while adverting to the issue of open prisons, had noted the submission of the learned Additional Solicitor General that the Model Uniform Rules for the Administration of Open Correctional Institutions had been finalised and would be circulated to all State Governments for notification and implementation.

This Court had also taken note of the submission of the learned amicus curiae therein, that despite the existence of open prisons in different parts of the country, their capacities were not being fully utilised. This Court had then expressed its expectation that the States would faithfully and sincerely notify and implement the said Model Rules, utilise the existing capacity of open prisons, augment such capacity wherever necessary, and seriously consider establishing open prisons/OCIs in as many locations as possible. The relevant portion of the said order reads as under:-

"8. It is stated by the learned Additional Solicitor General that steps are being taken to encourage setting up of open prisons. In fact, Model Rules called the Model Uniform Rules for the Administration of Open Correctional Institutions have been framed. As far as the Union of India is concerned, these Rules are final. The learned Additional Solicitor General says that these Model Rules will be circulated to all the State Governments for notification and implementation.

We expect that on receipt of these Model Rules, necessary steps will be taken by the State Governments to notify and implement these Rules faithfully and sincerely. It is submitted by the learned Amicus Curiae that there are already 63 open prisons in different parts of the country, but the existing capacity is not being fully utilised. We expect the State Governments concerned to not only try and utilise the existing capacity of these open prisons and if necessary, increase the existing capacity of these open prisons in due course of time. The State Governments and Union Territory Administrations should also seriously consider the feasibility of establishing open prisons in as many locations as possible."

[Emphasis supplied]

Regrettably, the material placed before us in the present proceedings demonstrates that, notwithstanding the clear exhortation and expectation recorded by this Court as far back as in 2018, the States and Union Territories

have not faithfully complied with the said directions, as underutilisation continues to plague the system and the establishment of OCIs remains sporadic and uneven across the country, revealing a disquieting gap between judicial guidance and institutional compliance.

48. Reformation, rehabilitation and reintegration must lie at the heart of the criminal justice system. The constitutional guarantee of the right to life under Article 21, as interpreted by this Court, encompasses within its ambit the obligation of the State to facilitate rehabilitation and enable prisoners to lead a life of dignity and normalcy. The proper utilisation of existing capacities of OCIs is therefore essential to fulfil these rehabilitative goals. Continued underutilisation, despite availability of infrastructure, reflects a systemic indifference to deploy reformative mechanisms and warrants immediate corrective measures.

B. Exclusion and Under-representation of Women Prisoners from OCIs

49. The material placed before this Court reveals a deeply troubling pattern of exclusion of women prisoners from access to OCIs. The States of Assam, Gujarat, Madhya Pradesh, Odisha, Punjab, Telangana, Uttarakhand, Uttar Pradesh and West Bengal have categorically stated that women are not eligible for transfer to OCIs. Even in States/Union Territory where women are stated to be eligible, such as the NCT of Delhi, Karnataka and Tamil Nadu, the quantitative data shows that no women have, in fact, been transferred to OCIs. In Kerala, while the OCIs accommodating men are occupied at over 80%, the OCI for women at Thiruvananthapuram has an occupancy of merely 30%. In Himachal Pradesh, women continue to be housed only in closed prisons for want of open barracks, and the status in Haryana and Telangana remains unclear due to non-submission of data.

50. This systemic exclusion of women prisoners from having access to the OCIs is plainly contrary to both domestic norms and internationally accepted standards governing prison administration. Chapter XXIII of the Model Prison Manual, 2016, which lays down the framework for OCIs, nowhere excludes women from being eligibile for transfer to OCIs, and on the contrary proceeds on the premise that open institutions are to be guided by principles of reformation, dignity and individualised treatment.

Internationally, Rule 215 of the Nelson Mandela Rules16 mandates that prison rules shall be applied impartially, without discrimination on grounds of sex or any other status, and further requires prison administrations to take account of the individual needs of prisoners, particularly those belonging to vulnerable categories, and to adopt special measures for protecting and promoting their rights. Nondiscrimination under the Rules is thus not a formal guarantee alone,

but a substantive obligation to ensure that vulnerable groups, including women, are not excluded from beneficial regimes such as open prisons.

51. The obligations and best practices governing gender-responsive prison administration are further underscored in the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, 2010 (the Bangkok Rules). Rule 4017 enjoins prison authorities to develop and implement classification methods that address the gender-specific needs and circumstances of women prisoners, so as to ensure appropriate and individualised planning for their early rehabilitation, treatment and reintegration into society.

Rule 4518 goes a step further and mandates that options such as home leave, open prisons, halfway houses and community-based programmes shall be utilised to the maximum possible extent for women prisoners, to ease their transition from custody to liberty, reduce stigma, and re-establish family and social ties at the earliest stage. These norms leave no room for doubt that denial of OCI access to women prisoners is inconsistent with internationally recognised obligations and best practices governing humane and reformative prison administration, and cannot be reconciled with the constitutional vision of equality and dignity that animates our criminal jurisprudence.

52. It is, therefore, no answer for the State to contend that concerns of security, supervision or management justify the exclusion of women prisoners from access to OCIs. While the State is undoubtedly entitled, and indeed duty-bound, to adopt appropriate safeguards to prevent escape, violence, misuse of liberty or safety issues, such concerns cannot be accepted as a perpetual justification for denying women prisoners the very right to reformation and rehabilitation.

The right to reformation, flowing from the guarantee of life and personal dignity under Article 21, inheres in every prisoner, whether convicted or under-trial. To deny women this right on speculative or generalised security grounds is nothing but an attempt to substitute administrative convenience for constitutional obligation. The State must, therefore, evolve gender-sensitive and security-conscious mechanisms that facilitate and enable, rather than frustrate, women's access to OCIs, for constitutional obligations cannot be made contingent upon institutional convenience.

53. The aforesaid constitutional position finds resonance in the jurisprudence of this Court as laid down in Vikram Deo Singh Tomar v. State of Bihar.19 While dealing with inhuman conditions faced by women inmates of a Care Home in Patna, Bihar, this Court underscored that Article 21 guarantees every person a quality of life consistent with human dignity, and that the Constitution

shows particular regard for women as a historically disadvantaged class. The decision reaffirms that the State, in the discharge of its constitutional obligations, is duty-bound to ensure that conditions of confinement do not erode the dignity, self-worth and basic human rights of women, and that custodial institutions must function in a manner that is consistent with substantive equality, humane treatment and the broader constitutional commitment to social justice, observing as follows:-

"2. India is a welfare State governed by a Constitution which holds the pride of place in the hearts of its citizens. It lays special emphasis on the protection and well being of the weaker sections of society and seeks to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. It shows a particular regard for woman and children, and notwithstanding the pervasive ethos of the doctrine of equality it contemplates special provision being made for them by law. This is only to be expected when an enlightened constitutional system takes charge of the political and socio-economic governance of a society, which has for centuries witnessed the relegation of women to a place far below their due.

We live in an age when this Court has demonstrated, while interpreting Article 21 of the Constitution, that every person is entitled to a quality of life consistent with his human personality. The right to live with human dignity is the fundamental right of every Indian citizen. And, so, in the discharge of its responsibilities to the people, the State recognises the need for maintaining establishments for the care of those unfortunates, both women and children, who are the castaways of an imperfect social order and for whom, therefore, of necessity provision must be made for their protection and welfare. Both common humanity and considerations of law and order require the State to do so.

To abide by the constitutional standards recognised by well accepted principle, it is incumbent upon the State when assigning women and children to these establishments, euphemistically described as "Care Homes", to provide at least the minimum conditions ensuring human dignity. What we see before us in the instant case is a crowded hovel, in which a large number of human beings have been thrown together, compelled to subsist in conditions of animal survival, conditions which blatantly deny their basic humanity.

How else shall we describe an establishment where women are detained in miserable conditions, compelling most of them to sleep on broken floors, in damp and dank conditions, with no covering whatever to protect them from the chill wind and near freezing temperatures of the north Indian winter, who are fed a wretched health-denying diet, are denied the basic amenities of convenient toilets and a private bathing place, who, if they complain, are

beaten up, and although attacked by disease and illness are unable to find timely medical relief.

It is clear that the Welfare Department of the State Government of Bihar views its responsibilities in regard to these women with a lightness which ill befits its existence and the public funds appropriated to it. The name of "Care Home" given to these establishments is an ironic misnomer. The primitive conditions in which the inmates are compelled to live shock the conscience."

[Emphasis supplied]

Thus, the exclusion of women from OCIs, or failure to transfer them despite being eligible for transfer from closed prisons to OCIs, amounts to blatant gender discrimination, violative of Articles 14 and 15(1) of the Constitution of India, and also infringes upon their right to live with dignity as guaranteed under Article 21.

54. It must be noted that Article 15(3) of the Constitution of India enjoins the State to make special provisions for women. This mandate necessarily extends to ensuring access for women to OCIs through integration of existing facilities wherever feasible, timely identification and transfer of eligible women prisoners, and creation of dedicated facilities for women wherever integration is not possible, so that they are not excluded from the rehabilitative framework of OCIs.

The experiences of States such as Rajasthan and Bihar, where integrated OCIs house both men and women, demonstrate that concerns of security or management cannot be treated as insurmountable barriers. Denial of access to OCIs deprives women prisoners of equal opportunity for rehabilitation and cannot be sustained in a constitutional order committed to equality, dignity and the transformative promise of justice. Immediate and effective corrective measures are, therefore, imperative in this regard.

C. Strict Eligibility Criteria and Inadequate Rehabilitative Avenues within OCIs

55. The qualitative data reveals that stringent and rigid eligibility criteria continue to operate as substantial barriers to access Open Correctional Institutions. In several States, prisoners are required to spend between four to twelve years in closed prisons before being considered for transfer, with the period extending up to twenty-one years in Gujarat. The average age of OCI inmates predominantly falling between thirty-five to fifty years indicates that access is often delayed to a stage where the reformative and reintegrative potential stands significantly diluted.

56. There is also wide divergence in operational models across States. While some States/Union Territory20 permit OCI members to engage in community-based employment, allowing them to leave the OCI premises during the day for work and return at a designated time, with minimal supervision and to live with their families, other States21 restrict inmates largely to work within the confines of OCI premises, predominantly in agriculture or allied activities.

Experience, reinforced by reformative penology, demonstrates that meaningful engagement with the community, access to diversified forms of employment, and exposure to varied vocational opportunities are far more conducive to genuine rehabilitation. Reformation does not take root in isolation; it matures through measured and responsible interaction with the disciplines, expectations and shared obligations of ordinary social life.

57. Another disturbing feature is that a large number of OCIs continue to function, in substance, as labour camps, with inmates engaged predominantly in repetitive manual or agricultural work, without meaningful avenues for skill development, personal advancement or economic sustenance. Such an approach risks reducing Open Correctional Institutions to functional labour camps, rather than institutions of reformation and reintegration.

Reformation cannot be achieved through toil alone; it must be accompanied by structured opportunities that equip prisoners with skills relevant to contemporary social and economic realities. States and Union Territories are, therefore, under a constitutional obligation to develop and implement skill augmentation, vocational education and apprenticeship programmes for OCI inmates, so that the period spent in open conditions becomes a genuine bridge to employability, self-reliance and dignified reintegration into society, consistent with the reformative ethos of our criminal justice system and the mandate of Article 21 of the Constitution of India.

58. Equally, family life and social integration remain severely constrained in many States. Several States do not permit marriage, cohabitation or residence of family members with OCI inmates, and in most States, families and children are not allowed to reside within OCIs. This erosion of familial ties undermines the rehabilitative purpose of OCIs, as reintegration into society is intrinsically linked with preservation of family bonds.

The problem is compounded by wide disparities in wages, rudimentary healthcare facilities, uneven access to education and vocational training, and rigid disciplinary regimes that mandate reversion to closed prisons for slightest abberations, often without the possibility of return. Collectively, these deficiencies weaken the reformative potential of OCIs and call for urgent

institutional reform to align their functioning with constitutional principles of dignity, equality and rehabilitation.

59. These deficiencies persist despite the existence of a comprehensive normative framework at the national level. The Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023 contain detailed provisions relating to prisoners' healthcare, mental health, education, vocational training, skill development, recreation and social reintegration. These instruments encapsulate contemporary penological thought and give structured expression to the reformative philosophy consistently endorsed by this Court. Yet, the material on record demonstrates that these standards remain largely unimplemented in practice.

60. Regrettably, the material on record also reveals that the spirit and substance of these model frameworks have not been translated into practice in large parts of the country. While the Union of India has formulated these model instruments as guiding frameworks, the constitutional and legislative competence in respect of "prisons and persons detained therein" vests in the States and Union Territories, which bear the primary responsibility for their adoption and effective implementation. Failure to give effect to these frameworks does not merely reflect administrative apathy, but results in a substantive erosion of the constitutional guarantee under Article 21, which mandates that incarceration shall not extinguish the right to live with dignity or the opportunity for reformation.

61. These findings collectively indicate that in many instances OCIs have not fully matured into centres of transformation, but continue to function as marginally relaxed extensions of custodial confinement. There is, therefore, an urgent need to reorient eligibility criteria towards reformative indicators and to substantially strengthen rehabilitative infrastructure within OCIs, so that they operate as constitutionally compliant institutions of correction, dignity and social reintegration.

D. Lack of Uniformity and the Need for Common Minimum Standards for Governance and Management of OCIs across States and Union Territories

62. A thorough analysis of the material available on record reveals stark lack of uniformity among States and Union Territories in eligibility norms, duration of prior incarceration, nature of work, wages, healthcare, education, vocational training, family integration, banking access and disciplinary measures governing OCIs. Such divergence results in arbitrariness and unequal access to reformative opportunities, depending solely upon the State in which a prisoner is confined.

63. While the subject of "prisons and persons detained therein" falls within the legislative domain of the States, prisoners across the country are equally entitled to the constitutional guarantees of dignity, equality and rehabilitation. The Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023 reflect an attempt to promote uniform reformative standards; however, their fragmented and uneven adoption has led to inconsistent outcomes.

64. The wide disparities highlighted in the preceding paras underscore the pressing necessity for the formulation of Common Minimum Standards governing the administration and management of OCIs. Such standards are essential to ensure baseline uniformity in living conditions, access to rehabilitative programmes and procedural safeguards, while still allowing States flexibility in implementation.

65. In the absence of such standards, the reformative promise of OCIs stands diluted and constitutional guarantees remain unevenly realised across the country. The formulation of Common Minimum Standards is, therefore, imperative to ensure that OCIs across the country function as genuine instruments of rehabilitation, dignity and social reintegration, consistent with the constitutional vision and the settled jurisprudence of this Court.

At the same time, we are conscious of the fact that such standards cannot be laid down in a vacuum and must necessarily evolve through a consultative and participatory process involving all relevant stakeholders, so as to balance national uniformity with administrative feasibility. In this backdrop, the issuance of appropriate and necessary directions becomes imperative to facilitate the development, adoption and effective enforcement of such standards.

E. Cost-Effectiveness of OCIs vis-à-vis Closed Prisons and the Imperative for Expansion

66. A crucial dimension of evaluating the viability and sustainability of OCIs lies in assessing their cost-effectiveness in comparison to conventional closed prisons. In this context, the data emerging from the comparative study22 of Jaipur Central Jail (closed prison) and Sanganer Open Camp (open prison) in Rajasthan reveals a stark and compelling case for the economic superiority of OCIs.

The study indicates that while Jaipur Central Jail houses approximately 2,200 prisoners with a working staff strength of 339, Sanganer Open Camp accommodates about 400 prisoners with merely 5 staff members. This translates into a prisoner-staff ratio of 6:1 in closed prisons, as against an

extraordinary 80:1 in open prisons, underscoring the fundamentally different governance models, with open prisons being premised on self-regulation and minimal custodial supervision.

67. From a cost perspective, the disparity is even more pronounced. The total monthly expenditure for the management of Jaipur Central Jail stands at approximately Rs.1.56 crores, whereas Sanganer Open Camp operates at a modest cost of Rs.2 lakhs per month. Consequently, the per capita monthly cost per prisoner is Rs.7,094/- in the closed prison as against merely Rs.500/- in the open prison. On an annual scale, Jaipur Central Jail incurs an expenditure of around Rs.18.72 crores, compared to only Rs.24 lakhs for Sanganer Open Camp, making closed prisons nearly 78 times more expensive than open prisons. Even staff salary expenditure alone in Jaipur Central Jail is about 60 times higher than that of Sanganer Open Camp, reflecting the recurring heavy fiscal burden imposed by traditional models of custodial.

68. A critical factor contributing to this cost efficiency is that prisoners in open prisons are largely self-sustaining. Unlike closed prisons, where the State bears expenses towards food, water, electricity, medical care and other daily necessities, inmates in open prisons earn their livelihood and provide for themselves and often their families. As a result, expenditure heads such as food, utilities, medicines and prisoner wages are virtually immaterial in the budget of open prisons, thereby drastically reducing recurring State expenditure. This model not only reduces fiscal stress but also promotes financial independence, responsibility and social reintegration among prisoners.

69. Additionally, open prisons entail significantly lower infrastructural and capital costs. They do not require large tracts of land, high-security walls, or expensive construction. Minimal housing space, often integrated within agricultural farms or small residential clusters, is sufficient. Several open prisons function within the premises of existing district jails or on adjacent land, eliminating the need for separate high-cost infrastructure. This makes the establishment of new OCIs economically viable even for resource-constrained States.

70. We are further informed that in the State of Rajasthan, certain open prisons operate on a model wherein the State provides only the land, and prisoners housed in such facilities construct their own residential units. This arrangement substantially reduces capital expenditure on infrastructure and further enhances the cost-effectiveness of the open prison model, as it obviates the need for extensive construction, maintenance and security-related outlays ordinarily associated with closed prisons.

The practice also reflects a high degree of inmate self-sufficiency and community-based living, which are characteristic features of open correctional systems. At the same time, this Court considers it necessary to clarify that the responsibility for ensuring the availability of basic and dignified living infrastructure to the prisoners unquestionably rests with the State. While innovative and cost-efficient models may be explored, the provision of minimum housing standards consistent with human dignity under Article 21 cannot be abdicated or transferred entirely onto prisoners.

71. After reserving judgment, this Court considered it necessary to obtain precise and updated fiscal data so as to objectively assess the comparative cost structures of closed prisons and OCIs. Accordingly, the learned amicus curiae was requested to requisition and place on record detailed statistics, particularly from the State of Rajasthan, whose open prison model has repeatedly been cited as illustrative of best practices. Pursuant thereto, a communication dated 10th February, 2026 forwarded by the Directorate General of Prisons, Rajasthan (Year 2024-2025) has been placed on record.

The data reveals that Rajasthan presently operates 105 closed prisons with an average daily population of 22,476 inmates, incurring a total annual expenditure of Rs.2,73,29,52,888/- (Rupees Two Hundred Seventy Three Crores Twenty Nine Lakhs Fifty Two Thousand Eight Hundred and Eighty Eight only) which translates to a per-prisoner per-day expenditure of Rs.333.12/-. In contrast, 52 open prisons house an average daily population of 1,285 inmates, with a total annual expenditure of Rs.2,32,76,112/-, resulting in a per-prisoner per-day expenditure of only Rs.49.60/-. This disparity is striking.

The statistics further demonstrate that expenditure heads which constitute a substantial recurring burden in closed prisons, such as food and cooking, clothing and bedding, medical treatment, utilities and custodial administration, are either drastically reduced or rendered largely redundant in open prisons owing to their self-sustaining and community-oriented structure. These official statistics, requisitioned specifically for the present proceedings, provide concrete empirical support for the proposition that OCIs are not only aligned with constitutional and reformative principles, but also represent a fiscally rational and administratively sustainable correctional model.

72. Viewed holistically, the data establishes that OCIs are not merely a humane and rehabilitative alternative but also a financially rational correctional strategy. The massive cost differentials, coupled with benefits such as reduced overcrowding, lower staffing requirements, and enhanced prisoner selfsufficiency, make a strong constitutional and policy case for the systematic expansion of open correctional infrastructure across the country. Investment in OCIs aligns with the principles of efficient governance, fiscal prudence, and

transformative justice, ensuring that correctional policy advances both economic sustainability and the rehabilitative objectives of the criminal justice system.

IX. OPERATIVE DIRECTIONS

73. In view of the foregoing analysis, and in order to ensure that OCIs across the Country can be made meaningful and effective institutions so as to fulfil the constitutional, reformative and rehabilitative mandate, this Court considers it necessary to issue certain directions. The directions that follow are structured under the respective heads of consideration examined hereinabove, as well as certain ancillary and consequential aspects that are necessary for the effective operationalisation of the reformative framework analysed in detail and represent a concise distillation of the conclusions arrived at in the preceding paras.

They are being issued to give concrete and enforceable effect to the constitutional principles, jurisprudential foundations, empirical findings and statutory obligations already discussed, and to secure timely and uniform implementation of the necessary corrective measures by the Union of India, States and Union Territories, so that OCIs operate as effective instruments of dignity, equality, rehabilitation and social reintegration within the criminal justice system.

A. Under-utilisation of Existing OCI Facilities and Absence of OCIs in Several States and Union Territories

(i) The States of Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Jharkhand, Manipur, Mizoram, Nagaland, Sikkim and Telangana, which presently do not have any functioning OCIs, shall, as a first step, undertake an assessment of the feasibility and necessity for establishing OCIs within their respective jurisdictions. Upon such assessment, the said States shall develop a protocol for the establishment of OCIs and/or open and semi-open barracks.

a. The protocol shall, inter alia, address issues relating to land allocation, extent of land, infrastructure development, construction, staffing, security arrangements and operational modalities. Where the establishment of standalone OCIs is found to be infeasible for valid and recorded reasons, the concerned States shall be duty-bound to create open and/or semi-open barracks within existing closed prisons situated within their territorial jurisdiction, so as to ensure that prisoners are not denied access to reformative correctional facilities.

b. The said protocol shall be placed before the Monitoring Committee constituted in each State under Direction F within a period of three months from the date of this judgment.

(ii) Noting that almost all States as well as NCT of Delhi have reported substantial underutilisation of existing OCI facilities and open barracks within closed prisons, each State as well as NCT of Delhi shall:-

a. Develop a time-bound protocol for filling up existing vacancies in OCIs and open barracks;

b. Submit the said protocol before the Monitoring Committee constituted in each State and Union Territory under Direction F within a period of three months from the date of this judgment; and

c. Ensure that the identified vacancies are filled within a further period of two months thereafter, subject to eligibility and security considerations. The compliance report shall be placed before the Monitoring Committee constituted under Direction F, within one month thereafter.

(iii) In respect of Union Territories lacking OCI facilities, namely Andaman and Nicobar Islands; Chandigarh; Dadra & Nagar Haveli and Daman & Diu; Jammu and Kashmir; Ladakh; Lakshadweep; and Puducherry, the Union of India/the elected Government of the Union Territory (as the case may be), shall: -

a. Examine the feasibility of establishing OCIs within the concerned Union Territory or in the alternative, evolve a mechanism for transferring eligible prisoners to appropriate and proximate OCIs in neighbouring States;

b. In any event, and irrespective of the feasibility of establishing standalone OCIs, the Union of India/the elected Government of the Union Territory (as the case may be), shall be dutybound to create open and/or semi-open barracks within existing closed prisons situated within the jurisdiction of the concerned Union Territory, wherever feasible, so as to provide access of reformative correctional facilities to eligible prisoners; and

c. A status report in this regard shall be submitted before the Monitoring Committee constituted under Direction F within three months.

(iv) The Monitoring Committee constituted under Direction F shall be duty-bound to oversee, facilitate and ensure the faithful, effective and timely implementation of the protocols so framed by the States and Union Territories.

B. Exclusion and Under-representation of Women Prisoners from OCIs

(i) All States and Union Territories shall develop a protocol for restructuring existing OCIs and/or open barracks so as to allocate adequate capacity for women prisoners. The protocol shall be submitted before the Monitoring Committee constituted in each State and Union Territory under Direction F within three months from the date of this judgment.

(ii) In States/Union Territories where OCIs are already integrated and women are legally permitted to be housed in OCIs or open barracks, the concerned States/Union Territory shall submit before the Monitoring Committee constituted in each State and Union Territory under Direction F within one month thereafter, a protocol for identification and timely transfer of eligible women prisoners, and for filling up existing vacancies earmarked for women.

(iii) Wherever integration or cohabitation within existing OCIs is not feasible due to security or other legitimate concerns, the States and Union Territories shall take immediate steps to create suitable and dedicated OCI facilities and open barracks within closed prisons for women, so as to ensure that women prisoners are not denied access to reformative institutions.

(iv) Security concerns shall generally not be made a ground to deny women prisoners access to OCI facilities and open barracks. States/Union Territories are directed to evolve gendersensitive and security-conscious mechanisms to facilitate such access, consistent with Articles 14, 15 and 21 of the Constitution of India.

(v) All States and Union Territories shall, within a period of three months from the date of this judgment, review and amend, as may be necessary, any existing rules, notifications or executive instructions governing OCIs and open barracks that directly or indirectly exclude women prisoners from eligibility for transfer, and shall place a compliance report before the Monitoring Committee constituted under Direction F, within one month thereafter.

(vi) The Monitoring Committee constituted under Direction F shall be duty-bound to oversee, facilitate and ensure the faithful, effective and timely implementation of the protocols so framed by the States and Union Territories.

C. Strict Eligibility Criteria and Inadequate Rehabilitative Avenues within OCIs

(i) All States and Union Territories shall revisit and rationalise eligibility criteria for transfer of prisoners from closed prisons to OCIs, ensuring that such criteria are based primarily on the nature and classification of offences, demonstrated reformative potential, institutional conduct and readiness for social reintegration, rather than rigid or unduly long periods of incarceration in closed prisons. Individualised assessments shall be undertaken through

transparent and reasoned procedure, with recorded justification for acceptance or rejection.

(ii) All States and Union Territories shall ensure that OCIs do not function merely as labour camps or spaces of custodial convenience, but as institutions of structured rehabilitation and transition to liberty. To this end, they shall:-

a. Adopt and adapt best practices from States such as Maharashtra, Kerala, and Rajasthan, where OCIs have demonstrated effective rehabilitative outcomes, including models of community-based employment, family integration and diversified vocational training.

b. Develop, implement and periodically update structured skill augmentation, vocational training, apprenticeship and certification programmes, aligned with contemporary employment opportunities;

c. Facilitate community-based employment and external work opportunities, wherever feasible, with minimal, proportionate and non-intrusive supervision, so as to promote responsibility, trust and social reintegration;

d. Ensure fair, equitable and non-discriminatory wages, linked to the nature of work and prevailing minimum wage norms. They shall guarantee timely access to healthcare, banking facilities, education, digital literacy and meaningful vocational training within the OCIs;

e. Enable access to formal education, distance learning and skill certification, including extensive collaboration with recognised educational institutions, Industrial Training Institutions (ITIs), and industry partners (public/private); and

f. Promote family integration and social support systems, including visitation, home leave and, wherever feasible, cohabitation, consistent with security considerations.

(iii) Disciplinary mechanisms within OCIs shall be reform-oriented and proportionate, and reversion to closed prisons shall not be employed as a default punitive response, except where strictly warranted.

(iv) All States and Union Territories shall put in place institutional grievance redressal mechanisms within OCIs, enabling inmates to raise concerns relating to work conditions, wages, healthcare, discipline or access to facilities, and shall ensure that such grievances are addressed in a timely, fair and transparent manner.

(v) All States and Union Territories shall within three months from the date of this judgment, undertake necessary amendments, modifications or revisions of the existing rules, regulations, executive instructions or administrative frameworks governing OCIs, as may be required, in order to give full effect to the directions issued under this head and shall place a compliance report before the Monitoring Committee constituted under Direction F, within 1 month thereafter.

(vi) All States and Union Territories shall, for the purpose of implementation of Direction C(ii), prepare comprehensive and time-bound action plans, clearly indicating timelines, budgetary allocations, institutional responsibilities and capacity targets. The action plans so prepared shall be placed on record before the Monitoring Committee constituted in each State and Union Territory under Direction F, within a period of three months from the date of this judgment, which in turn shall ensure faithful, effective and timely implementation of the said action plans.

D. Lack of Uniformity and the Need for Common Minimum Standards for Governance and Management of OCIs across States and Union Territories

(i) Recognising the absence of uniformity in governance, eligibility norms, rehabilitative facilities and management of OCIs, and the need for nationally consistent Common Minimum Standards, this Court directs the constitution of a High-Powered Committee for Reform and Governance of Open Correctional Institutions23 with the following composition:-

a. Executive Chairperson: Hon'ble Mr. Justice S. Ravindra Bhat, Judge (Retd.), Supreme Court of India.

b. Member Secretary: Officer/Member of the National Legal Services Authority (NALSA), to be nominated by the Member Secretary, NALSA.

c. Members:

- Home Secretary, Union of India (or his nominee not below the rank of Additional Secretary); and
- Home Secretaries of all States and Union Territories (or their nominees not below the rank of Additional Secretary);
- Deputy Inspector General (Correctional Administration), Research and Correctional Administration Division, Bureau of Police Research and Development (BPR&D);
- Joint Secretary, Ministry of Social Justice and Empowerment;
- Joint Secretary, Ministry of Skill Development and Entrepreneurship; and

- Two Directors General of Prisons and Correctional Services from States, to be identified by the Hon'ble Executive Chairperson on a rotational basis.

(ii) The mandate of the High-Powered Committee shall include:-

a. Formulation of Common Minimum Standards for the governance, administration and management of OCIs, including eligibility criteria, living conditions, wages, healthcare, education, vocational training, family integration and disciplinary safeguards;

b. Harmonisation of correctional practices prevailing across States and Union Territories with constitutional mandate, the jurisprudence of this Court, and internationally accepted best practices;

c. Identification of systemic gaps, inconsistencies and barriers in the existing rules/frameworks governing OCIs across States and Union Territories, and recommending corrective legislative, administrative and policy measures;

d. Recommendation of Standardised Eligibility Assessment Protocols based on the nature and classification of offences, demonstrated reformative potential, institutional conduct and readiness for social reintegration, rather than rigid or unduly long periods of incarceration in closed prisons;

e. Formulation of enforceable guidelines to ensure gender-sensitive, inclusive and nondiscriminatory access to OCIs, including provisions for women prisoners, transgenders and other vulnerable categories;

f. Suggesting institutional arrangements for capacity-building and training of prison officials involved in the management of OCIs;

g. Recommending mechanisms for periodic monitoring, data collection, evaluation and audit of the functioning of OCIs including capacity utilisation, rehabilitative outcomes and compliance with prescribed standards; and

h. Recommending measures to strengthen interagency coordination, including between prison departments, legal services authorities, social welfare departments, and skill development agencies.

(iii) Administrative and Logistical Arrangements for the High-Powered Committee shall be as follows:-

a. The High-Powered Committee shall be provided with all necessary secretarial, technical and administrative support to enable the effective discharge of its mandate. For this purpose, the National Legal Services

Authority (NALSA) shall act as the nodal agency and shall designate a suitable officer, to function as the Registrarcum- Nodal Officer of the High-Powered Committee.

b. The Registrar-cum-Nodal Officer shall be assisted by such staff as may be required, including at least one Personal Assistant, one administrative assistant, one Law Clerk, and supporting staff, to be deputed by NALSA.

c. The High-Powered Committee shall be free to conduct its sittings at New Delhi or at such other place or places as may be deemed appropriate by the Hon'ble Executive Chairperson. The concerned State Government or Union Territory, as the case may be, shall ensure that suitable arrangements for the sittings of the High-Powered Committee are made expeditiously whenever meetings are held outside New Delhi.

d. The Member Secretary, National Legal Services Authority (NALSA), shall arrange for fully furnished and well-equipped office space for the High-Powered Committee at the NALSA Office, B-Block, Ground Floor, Administrative Buildings Complex, Supreme Court of India, New Delhi - 110001, as and when required. The said office shall be provided with adequate infrastructure, including video-conferencing facilities, secure internet connectivity, recordkeeping systems and all necessary logistical support to ensure the efficient and uninterrupted functioning of the High-Powered Committee.

e. The High-Powered Committee shall be at liberty to evolve its own modalities and procedure for the conduct of its meetings and business, including the manner of consultation with stakeholders, calling for data, and seeking expert assistance, consistent with its mandate.

f. The Union of India, through the Ministry of Home Affairs, shall bear all financial and logistical requirements of the High-Powered Committee, including expenditure towards office infrastructure, staff support, travel, accommodation, and operational expenses.

g. The Hon'ble Chairperson of the High-Powered Committee shall be entitled to an honorarium of Rs.10,00,000/- (Rupees Ten Lakh only) per month, along with reimbursement of actual travel and incidental expenses incurred in connection with the discharge of official duties. Any expert, legal assistance or otherwise, engaged by the High-Powered Committee shall also be paid appropriate honorarium, to be determined by the Hon'ble Executive Chairperson.

h. All logistical and administrative arrangements necessary for the functioning of the High- Powered Committee shall be completed within two weeks from the date of the judgment.

(iv) The first meeting of the High-Powered Committee shall be convened within a period of two weeks from the completion of the aforesaid logistical and administrative arrangements.

(v) The High-Powered Committee shall submit a comprehensive report containing its recommendations, along with the draft Common Minimum Standards, before this Court preferably within a period of six months from the date of its first meeting.

E. Expansion of Open Correctional Infrastructure

(i) All States and Union Territories shall, in addition to optimally utilising existing OCIs, take proactive and time-bound steps to expand open correctional infrastructure by (a) establishing new OCIs, and (b) creating open and semi-open barracks within existing closed prisons, wherever feasible.

(ii) Each State and Union Territory through its Prisons and Correctional Services Department shall undertake a comprehensive assessment of its prison infrastructure within a period of three months from the date of this judgment to:-

a. identify locations suitable for the establishment of new OCIs; and

b. identify closed prisons where open or semi-open barracks can be created without compromising safety or security.

(iii) Upon completion of the aforesaid assessment, each State and Union Territory shall prepare separate, time-bound action plans clearly indicating timelines, budgetary provisions and capacity targets for:-

a. the establishment of new OCIs and/or expansion of existing OCIs; and

b. the creation and operationalisation of open and semi-open barracks within closed prisons.

(iv) The action plans prepared in this regard shall clearly indicate timelines, budgetary provisions and capacity targets, and shall be placed before the Monitoring Committee constituted in each State and Union Territory under Direction F, within a period of three months from the date of this judgment, which in turn shall ensure faithful, effective and timely implementation of the said action plans.

F. Compliance and Monitoring

It is evident that the directions issued by this Court vide order dated 8th May, 2018 in In Re: Inhuman Conditions in 1382 Prisons have not, thus far, yielded any meaningful or positive results. In order to ensure that the present judgment does not suffer the same fate, it is imperative to exhort the High Courts to assume an active role in overseeing and ensuring effective implementation of the directions issued herein. With the aforesaid objective in view, we proceed to issue the following directions:-

(i) For ongoing compliance and monitoring, all the High Courts are directed to register a suo motu writ petition, as a continuing mandamus, for the purpose of monitoring compliance with the present judgment within their respective jurisdictions, particularly with respect to the establishment, functioning and expansion of OCIs.

(ii) To facilitate effective implementation at the executive level, every State and Union Territory shall constitute a Monitoring Committee for the Management of OCIs, to be headed by the Executive Chairman of the State Legal Services Authority or his nominee (including a former Judge of the High Court), with the following members:-

a. Home Secretary of the State/Union Territory (or his nominee not below the rank of Additional Secretary); and

b. A senior officer of the Prisons Department not below the rank of Deputy Inspector General, to be nominated by the Home Department of the State or Union Territory.

(iii) Where the Chairperson of the Monitoring Committee is a nominee of the Executive Chairman of the State Legal Services Authority, such nominee shall be entitled to appropriate remuneration and logistical support, as may be determined by the Executive Chairman, State Legal Services Authority in consultation with the State Government.

(iv) The State Monitoring Committees shall be responsible for:-

a. Ensuring compliance with the directions issued by this Court;

b. Overseeing the utilisation, functioning and expansion of OCIs;

c. Facilitating the timely identification and transfer of eligible prisoners from closed prisons to OCIs; and

d. Periodically reviewing progress and addressing systemic impediments in the implementation of the directions issued by this Court.

(v) Each State and Union Territory shall constitute the aforesaid Committee within a period of four weeks from the date of this judgment.

(vi) The State Committees shall submit status reports to the concerned High Court on regular quarterly intervals, detailing the steps taken towards compliance with the directions issued herein, the utilisation and expansion of OCIs, and any difficulties encountered in implementation of the directions issued by this Court. The first such status report shall be placed on record before the concerned High Court on or before 21st August, 2026.

(vii) The High Courts, through their respective Registrar General, shall compile and forward consolidated report to this Court once every year, summarising the compliance status of States and Union Territories, progress achieved, best practices identified, and persistent gaps requiring policy or executive intervention. The first such consolidated annual report shall be placed on record before this Court on or before 31st March, 2027. This multi-tiered monitoring mechanism ensures institutional accountability, continuous judicial oversight, and effective translation of constitutional directives into operational outcomes, thereby preventing stagnation in implementation and reinforcing the transformative objectives of this judgment.

X. CONCLUSION

74. The aforesaid directions are issued to ensure that the constitutional mandate of equality, nondiscrimination and the right to live with dignity, as guaranteed under Articles 14, 15 and 21 of the Constitution of India, is meaningfully realised in the administration of prisons across the country. They seek to give concrete effect to the philosophy that underlies our criminal justice system and to ensure that OCIs function as effective instruments of rehabilitation, reformation and social reintegration, in accordance with the constitutional vision, the settled jurisprudence of this Court, and the domestic and international normative frameworks governing incarceration.

75. Before parting, this Court considers it is apposite to reiterate that the enduring strength of a constitutional democracy lies not in the severity of its punishments, but in its commitment to restore dignity, hope and opportunity even to those who have transgressed the law. Prisoners do not cease to be bearers of constitutional rights upon incarceration, and the State's obligation to treat them with humanity, fairness and compassion stands heightened where liberty is lawfully curtailed. OCIs embody this constitutional promise by

recognising that trust, responsibility and graded liberty are essential for meaningful reform.

76. The effectiveness of the directions issued herein will ultimately depend upon their faithful and timely implementation by the Union of India, States and Union Territories. The constitutional vision of rehabilitation and reintegration cannot be reduced to policy declarations or paper compliances. It must find expression in lived realities within prison walls, through inclusive access, humane conditions, gender-sensitive practices, meaningful rehabilitative avenues and uniform minimum standards. It is, therefore, imperative that all stakeholders act with seriousness, sensitivity and a shared sense of constitutional responsibility, so that the reformative ideal of punishment is not rendered illusory, but stands realised as an enduring and enforceable feature of prison administration in India.

77. The Registry shall forward one copy each of this judgment to the following:-

i. All the High Courts;

ii. All State Governments and Union Territories through their respective Chief Secretaries;

iii. Secretary, Ministry of Home Affairs, Government of India;

iv. Secretary, Ministry of Social Justice and Empowerment, Government of India;

v. Secretary, Ministry of Law and Justice, Government of India;

vi. Secretary, Ministry of Women and Child Development, Government of India;

vii. Director General/Inspector General of Prisons of all States and Union Territories;

viii. National Legal Services Authority (NALSA);

ix. Hon'ble Mr. Justice S. Ravindra Bhat, Judge (Retd.), Supreme Court of India; Executive Chairperson of the High-Powered Committee.

78. This Court places on record its sincere appreciation for the valuable assistance rendered by learned Senior Advocate, Mr. K. Parameshwar (amicus curiae) and learned Senior Advocate, Mr. Vijay Hansaria (amicus curiae) as

well as Ms. Rashmi Nandakumar, learned counsel appearing for the National Legal Services Authority (NALSA).

Their meticulous research, comprehensive written submissions, thoughtful analysis and sustained assistance have significantly aided this Court in the effective adjudication of the complex and multifaceted issues arising in the present proceedings.

79. List on 1st September, 2026 for the consideration of the status report submitted by the High-Powered Committee containing its recommendations and draft Common Minimum Standards.

80. List on 31st March, 2027 for consideration of the consolidated annual reports submitted by the High Courts through their respective Registrars General, in terms of Direction F(vi) above, reflecting the compliance status of the States and Union Territories and the progress made in implementation of the present judgment.

.....J. (Vikram Nath)

.....J. (Sandeep Mehta)

New Delhi;

February 26, 2026.

1 Suo Motu Writ Petition (Civil) No.1/2020

2 Hereinafter, being referred to as "OCIs".

3 Quantitative Chart in Convenience Compilation, Volume IV.

4 List of Questions in Convenience Compilation, Volume II.

5 Qualitative Chart in Convenience Compilation, Volume III.

6 NCT of Delhi and Himachal Pradesh.

7 "**Rule 4:** 1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners."

8 "**Rule 89:** 1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group.

2. These prisons do not need to provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open prisons, by the very fact that they provide no physical security against escape but rely on the selfdiscipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners."

9 (1975) 3 SCC 185.

10 (1977) 3 SCC 287.

11 (1979) 3 SCC 645.

12 (1981) 1 SCC 608.

13 (1997) 2 SCC 642.

14 (2018) 16 SCC 636.

15 "**Rule 2:** 1. The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.

2. In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory."

16 United Nations Standard Minimum Rules for the Treatment of Prisoners.

17 **Rule 40:** Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society.

18 **Rule 45:** Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to reestablish their contact with their families at the earliest possible stage.

19 1988 SCC OnLine SC 450.

20 Assam, Haryana, Himachal Pradesh, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Uttar Pradesh, West Bengal and NCT of Delhi.

21 States of Andhra Pradesh, Gujarat, Karnataka, Kerala, Odisha,

Telangana, Tamil Nadu and Uttarakhand.

22 Study titled "The Open Prisons of Rajasthan" published by Rajasthan State Legal Services Authority.

23 Hereinafter, being referred to as the "High-Powered Committee".

IN THE SUPREME COURT OF INDIA

State of Kerala & Anr.
Vs.
M/s. Panacea Biotec Ltd. & Anr.

A1: The State of Kerala represented by Home Secretary
A2: The Drugs Inspector (Intelligence Branch) Office of Assistant Drugs Controller, Thrissur, Kerala
R1: M/S Panacea Biotec Ltd.
R2: Panacea Biotec Ltd.

[Criminal Appeal No._____ of 2026
@ SLP (Criminal) No. 4524 of 2023]

M/s. Panacea Biotec Ltd. & Anr. Vs. State of Kerala & Anr.

A1: M/s. Panacea Biotec Ltd.
A2: Panacea Biotec Ltd.

R1: State of Kerala through Home Secretary
R2: The Drugs Inspector (Intelligence Branch) Office of Assistant Drugs Controller, Thrissur

[Criminal Appeal No._____ of 2026
@ SLP (Criminal) No._____ of 2026
@ Diary No. 18999 of 2023]

The Drugs Inspector & Anr.
Vs.
Vimal Kumar Khemkha & Anr.

A1: The Drugs Inspector, Office of Assistant Drugs Controller, Kozhikode
A2: State of Kerala

R1: Vimal Kumar Khemkha
R2: Narendra Kumar Kapoor

[Criminal Appeal No._____ of 2026
@ SLP (Criminal) No. 8867 of 2023]

Head Note – The period of limitation in criminal prosecutions begins from the date when the identity of all accused persons becomes known to the competent authority, and not from the date of the first complaint.

JUDGMENT

Ahsanuddin Amanullah, J.

1. The matters are dealt with as follows:

Criminal Appeal No._____ of 2026 @ SLP (Crl.) No. 4524/2023]

1.1 Leave granted.

2. The present appeal assails the Final Judgment and Order dated 14.07.2022 passed in Crl. M.C. No.2802 of 2012 (hereinafter referred to as the 'Impugned Order') passed by a learned Single Judge of the High Court of Kerala at Ernakulam (hereinafter referred to as the 'High Court').

FACTUAL MATRIX:

3. On 21.10.2005, one Mr. Joy Mandi was informed, about an alleged discrepancy in the labelling of the subject drug, alleged to be manufactured and sold by the Respondents, by the Medical Officer, Primary Health Centre, Thrissur, Kerala.

4. On 05.01.2006, Mr. Joy Mandi filed a Complaint with Appellant No.2-Drug Inspector regarding the discrepancy in the labelling of the drug alleged to be manufactured and sold by the Respondents. Admittedly, no bill of purchase of the drug was placed on record in the Complaint Case.

5. On 16.01.2006, Appellant No.2 received the Complaint dated 05.01.2006 filed by Mr. Joy Mandi, whereafter Appellant No.2 commenced an enquiry into the subject-matter of the said Complaint.

6. On 20.01.2009, Appellant No.2 filed a Complaint Case before the learned Chief Judicial Magistrate, Court, Thrissur, Kerala (hereinafter referred to as the 'CJM'), against, inter alia, the Respondents for the alleged commission of offences under Sections 18(a)(i) read with 17(b) and 17(c) of the Drugs & Cosmetics Act, 1940 (hereinafter referred to as the 'Act') read with Rule 96 [of the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the 'Rules')] punishable under Section 27(d) of the Act.

7. The core allegation as per the Complaint Case was that there was an alleged discrepancy in the label on the carton concerned vis-à-vis the label on the top of the vial of the drug manufactured and sold by the Respondents. To be specific, the carton was labelled as 'Easy five, Pentavalent vaccine B. No.:PO124 SBPC, Mfg. date: 14/August/2004, Exp.: 13/August/2006, manufactured by: Panacea Biotech Ltd., A 241 Okhla, Industrial Area-1, New

Delhi - 110020, India. Retail price not to exceed Rs.550/- LT extra, Manufacturing Licence No:1259' (sic)2. But, allegedly, on the seal cap of the vial, it was labelled as 'pentavalent vaccine Easy Five, B.No: P0124 SBPC, Mfg. Date: 14/Aug,2004, Exp. date: 13-Aug 2006' (sic)3. Whereas, on the vial it was labelled as 'Tetravalent Vaccine Easy Four. B.No: TO124SBC, Mfg. date: 29/August/2004, Exp. date: 28/August/2006. Manufactured by Panacea Biotec Ltd., A-241, Okhla, Industrial Area-1, New Delhi-110020, India. Retail price not to exceed Rs.500/- LT extra' (sic)4.

8. The Complaint alleged 'As per the label claim of outer carton, the drug is Easy Five pentavalant vaccine which is a combination of 5 different vaccines including HbSAg 10 mcg. (vaccine for Hepatitis). But as per label claim of inner vial Easy Four tetravalent vaccine which is a combination of four different vaccines, an does not contain HbSAg 10 mcg. (vaccine for Hepatitis) as claimed on the outer carton label.' (sic)5. It was averred that as the contents differed on the outer and inner labels, the drug was not labelled in the prescribed manner as specified in Rule 96 of the Rules; that the outer carton label makes a false claim for the drug and is misleading, and; that the drug is misbranded.

9. Pursuant to the Complaint, vide Order dated 29.01.2009 in the Complaint Case, the CJM summoned, inter alia, the Respondents.

10. On 04.08.2009, the Respondents filed a Petition being Crl. M.C. No.2551/2009 before the High Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code'), seeking to set aside the Summoning Order dated 29.01.2009. Subsequently, vide Order dated 17.06.2011, the High Court directed the CJM to consider whether the delay in filing the Complaint Case could be condoned in terms of Section 473 of the Code.

11. Vide Order dated 10.07.2012, the CJM condoned the delay on the part of Appellant No.2 in filing the Complaint Case under Section 473 of the Code and summoned, inter alia, the Respondents to face the trial.

12. Aggrieved by the Summoning Order dated 10.07.2012, on 21.08.2012, the Respondents filed Crl. M.C. No.2802/2012 before the High Court under Section 482 of the Code to quash the afore-mentioned Order on the grounds that the CJM did not conduct the mandatory statutory enquiry under Section 202 of the Code to ascertain the sufficiency of grounds to proceed against the Respondents.

13. The High Court vide the Impugned Order dated 14.07.2022 quashed the Complaint Case qua the Respondents on the ground that they resided beyond

the territorial jurisdiction of the CJM and yet the CJM failed to conduct the mandatory statutory enquiry under Section 202 of the Code. However, be it noted, the High Court did not interfere with the Order dated 10.07.2012 on the ground of limitation/under Section 473 of the Code.

THE APPELLANTS' SUBMISSIONS:

14. The learned counsel, Mr. H. V. Hameed, for the State argued that the procedure under Section 202 of the Code cannot be treated as a mandatory requirement for a complaint filed by a public servant, as they would stand on a different pedestal. Parallelly, the learned counsel urged that the Complainant cannot be faulted for an omission, if any, on the part of the CJM and the Respondents-accused persons cannot take undue advantage therefrom.

15. Learned counsel proceeded to invite the Court's attention to the gravity of the alleged offences and the material/evidence collected by the Drugs Control Inspector. It was submitted that keeping in view the facts and circumstances of the case, since the offences affect the public at large and violate the rights of various citizens, especially innocent consumers, who would be totally ignorant of the misbranding, the Complaint Case was erroneously quashed by the High Court.

16. Learned counsel placed reliance on Cheminova India Limited v State of Punjab, 2021 SCC OnLine SC 5736, wherein it was held:

'18. The legislature in its wisdom has itself placed the public servant on a different pedestal, as would be evident from a perusal of proviso to Section 200 of the Code of Criminal Procedure. Object of holding an inquiry/investigation before taking cognizance, in cases where the accused resides outside the territorial jurisdiction of such Magistrate, is to ensure that innocents are not harassed unnecessarily.

By virtue of proviso to Section 200 of the Code of Criminal Procedure, the Magistrate, while taking cognizance, need not record statement of such public servant, who has filed the complaint in discharge of his official duty. Further, by virtue of Section 293 of Code of Criminal Procedure, report of the Government Scientific Expert is, per se, admissible in evidence. The Code of Criminal Procedure itself provides for exemption from examination of such witnesses, when the complaint is filed by a public servant.'

17. Learned counsel for the Appellants submitted that the present case is squarely covered by the afore-noted dictum.

18. Touching upon the concept of vicarious liability apropos ascertainment of the culpability of the then Managing Director of the Respondents-companies

(original Respondent No.2), the learned counsel further submitted that the primary allegation is with respect to misbranding and a bare reading of Section 34 of the Act makes it clear that whenever an offence under the Act has been committed by a company, every person who, at the time the offence was committed, was in charge of or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

19. Learned counsel pointed out that even though the High Court in the Impugned Order noted that the Order dated 10.07.2012, passed by the CJM condoning the delay, cannot be said to be perverse, proceeded to quash the Complaint. It was prayed that the appeal be allowed.

THE RESPONDENTS' SUBMISSIONS:

20. Per contra, learned senior counsel Mr. Siddharth Luthra, argued the point of non-compliance of the mandatory provisions of Section 202(1) of the Code and stressed that vide the 2005 Amendment [as made vide Act 25 of 2005 with effect from 23.06.2006] to the Code, the words 'and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction' were inserted before the words 'postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding'. Learned senior counsel submitted that the said Amendment did not carve out any exception in Section 202 of the Code for a case where the Complainant is a public servant.

21. Learned senior counsel vehemently submitted that the CJM ought not to have summoned the Respondents without conducting an enquiry as prescribed under Section 202 of the Code. Ergo, it was advanced that the Impugned Order suffers from no infirmity and the Appellants' challenge thereto is liable to be rejected.

22. In other words, the straight submission canvassed was that compliance of Section 202 of the Code is a sine qua non and merely because the Complainant happens to be a public servant, cannot be used to circumvent the clear statutory mandate.

23. To substantiate the argument, learned senior counsel submitted that the Legislature has expressly provided Exceptions to the provisions of Section 202 of the Code in the Proviso to the said Section 202 itself. In the event, it was

urged, the intent of the Legislature was to carve out an exception for public servants, the Legislature would have done so in the said Proviso.

24. Learned senior counsel opposed the applicability of Cheminova India Limited (supra), relied upon by the Appellants, stating that the allegations in the underlying Complaint Case were not corroborated by the Report of a Government Analyst. Pertinently, Appellant No.2 was, inter alia, relying on the allegations made by Mr. Joy Mandi in his 'complaint' dated 05.01.2006 and the alleged label of the carton of the subject drug to corroborate the allegation of misbranding.

25. Learned senior counsel also contended that Appellant No.2 had failed to adduce the label of the vial of the drug in question or any independent third-party evidence or even a Government Analyst's Report to prima facie prove the allegation of misbranding, which was contrary to the judgment cited, wherein the specific facts and circumstances of that case, were considered by the Court.

It was submitted that in Cheminova India Limited (supra), firstly, the allegations in the Complaint filed by a public servant were corroborated by Report(s) of Government Analyst(s) (which are per se admissible in law), therefore there was no need to examine the Complainant-public servant and/ or the Government Analyst(s) on oath, and; secondly, no prejudice was caused to the Appellants therein at the concerned stage. It was urged that the appeal merited outright dismissal.

ANALYSIS, REASONING AND CONCLUSION:

26. Having considered the rival contentions at the Bar, we find that a case for interference has been made out by the Appellants. For the purposes of adjudication in the case at hand, the Court is confronted with twin questions that arise:

(a) re limitation in taking cognizance as stipulated under Sections 468 and 469 read with Section 473 of the Code, and;

(b) re territorial jurisdiction in terms of Section 202 of the Code.

27. On the initial question, let us take note of the relevant extract from the Complaint dated 20.01.2009 by the State of Kerala, represented by the Drugs Inspector (Intelligence Branch), Office of the Assistant Drugs Controller, Thrissur, Kerala (hereinafter referred to as the 'Drugs Inspector'). The same is culled out and reproduced hereunder:

'The facts of the case are as follows:-

A petition dated, 5/1/2006 was received in the office of the Asst. Drugs Controller, Thrissur from Mr. Joy Mandi Kanakamala, Thrissur Dt regarding improper labeling of a drug namely Easy five vaccine, B.No: PO 124/SBPC Mfg. date: 14/August 2004, Exp. Date: 13 August 2006, manufactured by: Panacea Biotec Ltd., A 241 Okhla Industrial Area-1, New Delhi-110020, India. T.V. Rajathan, the then Drugs Inspector conducted enquiries at the residence of petitioner on 18/1/2006. Petitioner vide letter dated 18/1/2006 informed that 44 the subject drug was purchased from Meenakshi Medical Stores, Thrissur. One vial along with the packing of subject drug maintained in the custody of the petitioner was also handed over to the Drugs Inspector voluntarily and free of cost. After making necessary enquiries the then Drugs Inspector T.V. Rajathan informed the petitioner that Meenakshi Medical Stores, Thrissur has not purchased or sold the subject drug. In response the petitioner vide letter dated 21/1/2006 clarified that the subject drug was purchased from Meenakshi Medical Agencies, Thrissur. On verifying the vial produced by the petitioner it was found that the subject drug was packed in carton labelled as Easy Five. Pentavalent vaccine, B. No: P0124 SBPC, Mfg. Date: 14/August/2004, Exp.: 13/August/2006, manufactured by: Panacea Biotech Ltd., A 241 Okhla, Industrial Area-1, New Delhi - 110020, India. Retail price not to exceed Rs.550/- LT extra,

Manufacturing Licence No:1259.

Each dose 0.5 ml. contains:

Diphtheria Toxoid 20 LF,

Tetanux Toxoid 7.5 LF,

Inactivated W-8, pertussis 12.0U

(12000 X 10 Organisms)

HS.Sag 10 mcg.

H influenzae type b

Oligosaccharides 10 mcg.

Conjugated to CRM 197 Protien

Aluminium content (A1 *3+) 0.25 mg

As Aluminium Phosphate gel

Thiomersal I.P. 0.025 mg,

Water for injection I. P. Q.S.

On the seal cap of the vial it was labelled as pentavalent vaccine Easy Five, B.No: P0124 SBPC, Mfg. Date: 14/Aug,2004, Exp. Date: 13-Aug 2006. But on the vial it was labelled as Tetravalent Vaccine Easy Four. B.No: TO 124SBC, Mfg. date: 29/August/2004, Exp. date: 28/August/2006. Manufactured by Panacea Biotec Ltd., A-241, Okhla, Industrial Area-1, New Delhi-110020, India. Retail Price not to exceed Rs.500/- LT extra.

Manufacturing Licence No: 1259.

Each dose 0.5 ml.contains:

Diphtheria Toxoid 20 LF,

Tetanux Toxoid 7.5 LF,

Inactivated W-B, pertussis 12.0U

(12000 X 10 Organisms)

H influenzae type b

Oligosaccharides 10mcg.

Conjugated to CRM 197 Protien

Aluminium content (A1 *3+) 0.25mg

As Aluminium Phosphate gel

Thiomersal. I. P. 0.025 mg,

Water for injection I.P. Q.S.

As per the label claim of the outer carton, the drug is Easy Five pentavalent vaccine, which is a combination of 5 different vaccines, including HbSAg 10 mcg. (vaccine for Hepatitis). But as per label claim of inner vial Easy Four tetravalent vaccine which is a combination of four different vaccines, an does not contain HbSAg 10 mcg. (vaccine for Hepatitis) as claimed on the outer carton label. The drug is not labelled in the prescribed manner as specified in Rule 96, and the carton accompanying the drug makes a false claim for the drug and is misleading. The drug is misbranded as per Section 17 (b) and 17 (c) of the Act read with Rule 96 of the Drugs and Cosmetics Rules 1945.

On 21/1/2006 Drugs Inspector T.V. Rajathansupreme court of india inspected the premises of A7 M/s. Meenakshi Medical Agencies Thrissur in presence of witnesses. The Subject drug was not available in the premises. Original invoices towards purchase of subject drugs by A7 from A5, Carbon copies of invoices towards sale of subject drugs by A7 and credit notes towards return of subject drug to A5 by A7 were seized under a mahazar and form 16 dated, 21/1/2006. The seized documents were produced before this Honourable court on 23/1/2006 and were taken into safe custody.

AB wide his statement dated, 21/1/2006 has stated that some of the vials of the subject drug were wrongly labelled and that the balance stock of subject drug was returned to supplier due to improper labeling (misbranded). Sales representative of A7 firm C.Rajendran vide his statement dated, 21/1/06 has stated that 2 vials of subject drug were sold to the petitioner (CW2) from A7 firm and balance stock of subject drug was returned to supplier A5 due to improper labelling. He has also stated that 4 vials of subject drug were traced from balance stock with labelling defects. (Misbranded) AB vide his statement dated, 6/4/2006 has submitted his explanation for the discrepancies in the sales records of subject drug.

In the letter he has confirmed that some of the vials of subject drug were found wrongly labelled and returned to supplier A5 and credit note obtained from them. As per the request of Drugs Inspector (Intelligence Branch), Thrissur, the Drugs Inspector (lnetelligence Branch) Ernakulam inspected the premises of A5 firm. On 18/4/2006, Certified copies of original invoices pertaining to purchase of subject drugs by A7 from A5, Certified copies of invoices pertaining to sale of subject drug from A5 to A7, and certified copies of credit notes issued by A5 to A3 were taken along with other connected documents. From the above documents it is proved that A5 has purchased, stocked for sale and sold the subject drug.48

The Drugs Inspector (Intelligence Branch), Ernakulam also inspected the premises of A3 firm on 18/4/06. Certified copies of purchase invoices pertaining to the purchase of the subject drug by A3 from A 1, Certified copies of invoices pertaining to the sale of drugs by A3 to A5, and certified copies of credit notes pertaining to return of subject drug from A3 to A1 were taken. From above documents it is proved that A3 has purchased stocked for sale and sold the subject drug. The Drugs Inspector (Intelligence Branch), Office of the Asst. Drugs Controller, Ernakulam forwarded the certified copies of relevant details taken from A3 and A5.'

(sic)

28. From the aforesaid, it transpires that the initial 'complaint' dated 05.01.2006 was made by one Mr. Joy Mandi and was received by the Drugs Inspector on 16.01.2006, alleging that although he had purchased two ampoules of 'Easy Five Pentavalent Vaccine' for immunization of his child at the Primary Health Centre, as was represented on the outer packaging, but the vial inside had the label 'Tetravalent vaccine Easy Four'.

29. On 21.01.2006, the Drugs Inspector inspected the premises of M/s Meenakshi Medical Agencies, Thrissur, Kerala from where the said drug had been purchased by Mr. Joy Mandi and found that the subject drug was not available and thus, original invoices towards purchase of the subject drugs by A-7 from A-5, carbon copies of invoices towards sale of subject drugs by A7 and credit note towards return of subject drug to A-5 by A-7 were seized. A-8 in his Statement on 21.01.2006 stated that some vials of the subject drugs were wrongly labelled and that the balance stock of the subject drug was returned to the supplier due to improper labelling (Misbranded).

The Sales Representatives of A-7 (firm), Mr. Rajendran, on the same day, made a Statement that two vials of the subject drug were sold to Mr. Joy Mandi/CW-2 from A7 firm, and the balance stock of the subject drug was returned to the Supplier-A5 due to improper labelling. He further stated that four vials of the subject drug were traced from the balance stock with labelling defects (misbranded). A-8 vide Statement recorded on 06.04.2006, submitted his explanation for the discrepancies in the sales record of the subject drug. A-8 affirmed that some of the vials of the subject drugs were found wrongly labelled and returned to the Supplier-A5, and a credit note was obtained from them. Thereafter, as per request, the Drugs Inspector inspected the premises of A-5 (firm).

30. On 18.04.2006, certified copies of original invoices pertaining to the purchase of the subject drug from A-5 by A-7, certified copies of invoices pertaining to the sale of the subject drug from A-5 to A7 and certified copies of the credit note issued by A-5 to A-3 were taken along with other connected documents. On the same day i.e., 18.04.2006, the Drugs Inspector also inspected the premises of A-3 (firm) from where certified copies of purchase invoices pertaining to the subject drug by A-3 (firm) from A-1, certified copies of invoices pertaining to the sale of drugs by A- 3 (firm) to A-5 and certified copies of credit notes pertaining to return of subject drugs from A-3 (firm) to A-1 were taken. The aforesaid certified copies of relevant details/documents obtained from A-3 (firm) to A-5 were then forwarded by the Drugs Inspector.

31. We may end the narration here. The question/objection put forth by the Respondents-accused has to be noticed in terms of Sections 468 and 469 read with Section 473 of the Code, quoted hereunder:

'468. Bar to taking cognizance after lapse of the period of limitation.-

(1) Except as otherwise provided elsewhere in this Cr.P.C, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be-

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation.-

(1) The period of limitation, in relation to an offender, shall commence,-

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

473. Extension of period of limitation in certain cases.-

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the

case that the delay has been properly explained or that it is necessary so to do in the interests of justice.'

32. Section 468 of the Code explains the period of limitation that bars taking cognisance. For now, this Court is restricting its discussions in the light of the relevance of the said provision to the facts of the present case. Thus, stricto sensu, on a plain reading, there is a bar to taking cognisance of the offence [i.e., Section 27(d) of the Act, which provides for 'imprisonment for a term which shall not be less than one year but which may extend to two years and with fine which shall not be less than twenty thousand rupees'] after 3 years, in view of Section 468(2)(c) of the Code.

Section 469 of the Code relates to the commencement of the period of limitation and that it shall commence on the date of the offence or where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier. Section 473 of the Code, however, begins with a non-obstante provision and permits 'any Court' to take cognizance of any offence even after the expiry of the limitation period prescribed, upon satisfaction with regard to the facts and circumstances of the case that the delay has been 'properly explained' or 'it is necessary so to do in the interests of justice.'

33. Taking a cue from the aforesaid, the bar to taking cognizance in the present case would be covered by Section 469(1)(c) of the Code inasmuch as the period of limitation would commence from the 'first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.' Thus, Section 469(1)(c) of the Code clearly contemplates that the identity of the offender may emerge during 'investigation into the offence'. In the present case, though the initial 'complaint' was made by Mr. Joy Mandi on 05.01.2006, but for authentication and verification of the persons allegedly involved, an exercise was undertaken. We are of the considered opinion that the State adopted the correct approach, by virtue of Section 32 of the Act.

34. In the present case, the Complaint was made by a Gazetted Officer of the State of Kerala, who was authorised in this behalf viz. the Drugs Inspector (Intelligence Branch), Office of the Assistant Drugs Controller, Thrissur, Kerala.

35. It is deemed necessary to quote Section 32 of the Act, as it stood at the relevant time i.e., on 20.01.2009, when the Complaint was made to the Court (prior to the amendment thereto which came into effect on 10.08.2009 by Act 26 of 2008), which reads as under:

'32. Cognizance of offences-

(1) No prosecution under this Chapter shall be instituted except by an Inspector or by the person aggrieved or by a recognised consumer association whether such person is a member of that association or not.

(2) No Court inferior to that of a Metropolitan Magistrate or of a Judicial Magistrate of the first class shall try an offence punishable under this Chapter.'

35.1 Only for completeness, we also note Section 32 of the Act as it now stands i.e., after amendment by Act 26 of 2008, effective from 10.08.2009:

'32. Cognizance of offences-

(1) No prosecution under this Chapter shall be instituted except by-

(a) an Inspector or

(b) the person aggrieved; or

(c) a recognised consumer association, whether such person is a member of that association or not.

(2) Save as otherwise provided in this Act, no court inferior to that of a Metropolitan Magistrate or of a Chief Judicial Magistrate shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter.'

36. From the aforesaid, it is clear that the Drugs Inspector, who made the complaint in the present case, satisfied the legal requirements of being a complainant. In other words, the Drugs Inspector was an 'Inspector' within the fold of Section 32 of the Act. On a conjoint reading of the provisions discussed hereinabove, the chain that emerges is that the Competent Authority having received a 'complaint' from a private party, namely Mr. Joy Mandi on 05.01.2006, put in motion a verification/investigation process, which was completed within three months, only whereafter the exact identity of the

accused was established. In our considered view, hence, the time for making a complaint to the Court would start ticking only therefrom.

In this context, we find that for the first time only on 18.04.2006, the identity of all the accused persons was before the Competent Authority. Undoubtedly, the Competent Authority was required to file a proper complaint before the Court, which was, however, ultimately done only on 20.01.2009. Though there is an inordinate delay, between the period from 18.04.2006 to 20.01.2009, in making the complaint, whereafter cognisance was taken and summons issued on 29.01.2009, the said exercise was completed within the 3-year period, as per Section 468(2)(c) read with Section 469(1)(c) of the Code. Therefore, in our view, the limitation bar does not come in the way.

The limitation period would run out, in the present case, only on 17.04.2009, i.e., on completion of three years from the date the identity of the accused became known to the Competent Authority. On this question, we unhesitatingly hold in favour of the Appellants. As such, the Order passed by the High Court in Crl. M. C. No.2551/2009 dated 17.06.2011 was incorrect to the extent that it computed limitation as having started from '21.10.2005', as the provision attracted was not Section 469(1)(b), but Section 469(1)(c) of the Code. Be that as it may, the legality, or otherwise, of the said Order dated 17.06.2011 has become academic today, in view of subsequent developments.

37. Coming to the second question, on the aspect of jurisdiction, on which learned senior counsel for the Respondents laid great emphasis, the same is to be examined from the perspective of Section 202 of the Code:

'202. Postponement of issue of process.-

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,-

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Cr.P.C on an officer in charge of a police station except the power to arrest without warrant.'

38. A plain but relevant reading of Section 202(1) of the Code indicates that a Magistrate, on receipt of a complaint of an offence of which he is authorized to take cognizance, may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding.

39. At this juncture, we turn to Section 200 of the Code, which provides as under:

'200. Examination of complainant.-

A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses-

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.'

40. The present case emanates from a complaint by an officer, made in writing. In terms of Section 200 of the Code, the Magistrate is not required to examine the complainant and the witnesses, if a public servant is acting or purporting to act in discharge of his official duty or a Court has made the complaint. Here, an official complaint was made on authorisation by the State Government. In this factual setting, Section 202 of the Code would necessarily have to be construed harmoniously with Section 200 of the Code when considering postponement of the issue of process.

Euclidean geometry tells us that the shortest distance between two points is a straight line. We, therefore, straightaway come to Cheminova India Limited (supra), relied upon by learned counsel for the Appellants, and valiantly attempted to be distinguished, factually, by learned senior counsel for the Respondents. At the cost of repetition, we re-extract Paragraph 18 thereof:

'18. The legislature in its wisdom has itself placed the public servant on a different pedestal, as would be evident from a perusal of proviso to Section 200 of the Code of Criminal Procedure. Object of holding an inquiry/investigation before taking cognizance, in cases where the accused resides outside the territorial jurisdiction of such Magistrate, is to ensure that innocents are not harassed unnecessarily.

By virtue of proviso to Section 200 of the Code of Criminal Procedure, the Magistrate, while taking cognizance, need not record statement of such public servant, who has filed the complaint in discharge of his official duty. Further, by virtue of Section 293 of Code of Criminal Procedure, report of the Government Scientific Expert is, per se, admissible in evidence. The Code of Criminal Procedure itself provides for exemption from examination of such witnesses, when the complaint is filed by a public servant.'

(emphasis supplied)

40.1 In Cheminova India Limited (supra), a coordinate Bench of this Court recognised that the Legislature had accorded, to public servants discharging their duties in their official capacity(ies), a different footing qua when they were complainant(s), vis-a-vis complaints made in private capacity. As previously noted, Mr. Luthra, learned senior counsel, stressed upon the factual differences between the position in Cheminova India Limited (supra) as compared to the instant matter. Having bestowed thoughtful consideration thereon, we are not inclined to accept his contentions, in view of the clear

enunciation in Cheminova India Limited (supra). The second question also stands answered in the Appellants' favour.

40.2 We may add that we have borne in mind the earlier pronouncement of another Coordinate Bench in Birla Corporation Limited v Adventz Investments and Holdings Limited, (2019) 16 SCC 6107, referred to by the High Court, as also the case-law discussed therein. In Birla Corporation Limited (supra), the complainant was a private person. As such, no aid therefrom can flow to the Respondents' advantage.

41. Furthermore, admittedly the accused who actually sold the medicine to Mr. Joy Mandi was residing within the limits of the local jurisdiction of the Magistrate concerned. The allegation/prosecution story also commences with the purchase of the medicines by Mr. Mandi from such accused seller. We have noted this only to complete the loop.

42. We would, however, necessarily add a few words of caution. Inasmuch as we have held in favour of the Appellants on both points above, we would emphasise that the same have been examined bearing in mind the facts and circumstances herein, to the extent called for.

43. As a sequel to the aforesaid, the Impugned Order is set aside, and the Order taking cognisance and issuing summons dated 10.07.2012 is held to be good in law. However, due to the efflux of time and the fact that in this appeal [arising out SLP (Crl.) No.4524/2023], out of the three respondents, two are juristic entities and the third (i.e., Original Respondent No.2) having passed away, being the Managing Director, shall be substituted by the person(s) in charge of running the affairs of the Respondents-companies, at the relevant point of time. The Court concerned, upon appropriate application filed by the Appellants/Prosecution, shall array the said person(s) as accused and issue fresh summons.

44. In the above terms, this appeal stands allowed.

[Criminal Appeal No._____ of 2026 arising from SLP (Crl.) No._____ of 2026 @ Diary No. 18999/2023]

45. Delay condoned.

46. Leave granted.

47. This appeal is at the instance of the accused assailing the Final Judgment and Order dated 14.07.2022 in Crl. M.C. No.2802/2012 passed by the High Court, on the ground that the High Court ought to have quashed the Summoning Order on the aspect of limitation as well.

48. In view of and for the reasons already stated in the Criminal Appeal arising from SLP (Crl.) No.4524/2023, the instant appeal stands dismissed.

[Criminal Appeal No._____ of 2026 @ SLP (Crl.) No. 8867/2023]

49. Leave granted.

50. This appeal assails the Final Judgment and Order dated 01.07.2021 in Crl. M.C. No.2188/2020 (hereinafter referred to as the 'Impugned Judgment') passed by the High Court of Kerala.

THE FACTUAL SETUP:

51. The Complainant is an Inspector appointed under Section 21 of the Act. On, 13.11.2014, the said Drugs Inspector visited the premises of Community Health Centre, Balussery, Kozhikode, Kerala and drew samples of 10ml Sterile Hypodermic Single-use Syringe Safe-plus manufactured by a company in the name of Veekay Surgicals Pvt. Ltd. One of the portions of the sealed sample and Form 18 were sent to the Government Analyst, Drugs Testing Laboratory, Thiruvananthapuram, Kerala as per Section 23(4)(i) of the Act.

52. On 27.01.2016, Government Analyst, Drugs Testing Laboratory, Thiruvananthapuram in Form 13 declared the above drug as being 'not of standard quality' as it had failed the test of 'Freedom from Extraneous matter and Sterility'. Pursuant to subsequent inquiry, on 03.06.2016, the Managing Director, Kerala Medical Service Corporation Limited, Thiruvananthapuram, vide Letter of even date, forwarded the constitutional details of the afore-mentioned accused company to the Appellants.

53. Consequently, Appellant No.1 initiated prosecution against M/s. Veekay Surgicals Pvt. Ltd., accused No.1 and respondents herein as Accused Nos.2 and 3, who are Directors in accused No.1, alleging offence under Section 18(a)(i) of the Act, punishable under Section 27(d) of the Act, by filing a formal complaint before the Court of the learned Judicial First Class Magistrate-II, Perambra, Kozhikode on 29.06.2016.

54. Aggrieved, the Respondents herein moved the High Court for quashing the proceedings and vide the Impugned Judgment, a learned Single Judge of the High Court quashed the proceedings in C.C. No.433/2016, on the ground of non-compliance with the provisions of Section 202(1) of the Code and insufficient compliance with Section 34 of the Act.

55. Considering the nature of arguments advanced by the learned counsel on behalf of the parties who assisted this Court, as they relate to Section 202(1) of the Code, they are not repeated as they have already been noted/discussed in

the Criminal Appeal arising out of/from SLP (Crl.) No.4524/2023. 56. Our view on the finding recorded by the High Court on Section 34 of the Act is dealt with later.

ANALYSIS, REASONING AND CONCLUSION:

57. Admittedly, the Drugs Inspector visited the premises of the Community Health Centre, Balussery, Kozhikode, Kerala on 13.11.2014 and drew samples of 10ml Sterile Hypodermic Single-use Syringe Safeplus which were subsequently sent to the Government Analyst, Drugs Testing Laboratory. On 27.01.2016, the subject drug was found 'not of standard quality' as it had failed the test of 'Freedom from Extraneous matter and Sterility'.

Formal complaint was made against the accused for offences under Section 18(a)(i), being punishable under Section 27(d), of the Act. Upon being assailed, the High Court quashed the subject complaint, inter alia, on the grounds of non-compliance with the mandatory provisions of Section 202(1) of the Code. Be it noted, the High Court also opined that 'a mere bald statement in the petition that they are the persons who are manufacturing the hypodermic syringes found to be below standard, is not sufficient compliance of Section 34 of the Act.'

58. As the primary challenge in the instant appeal was with regard to Section 202(1) of the Code, the said point has already been answered in the above-mentioned Criminal Appeal arising out of SLP(Crl.) No.4524 of 2023 in favour of the concerned Appellants, to which we add no more.

59. On the aspect of Section 34 of the Act, we are of the opinion that the High Court's view per se was premature. The Respondents-Directors were in the accused-Company's management. Whether or not, they were 'in charge of' and 'responsible to the company for the conduct of the business of the company' are questions of fact. To our mind, bearing in mind a holistic conspectus of the case, these questions are best left to be determined by the Trial Court, at the appropriate stage. Accordingly, the instant appeal also stands allowed by setting aside the Impugned Judgment.

OBSERVATION QUA ALL THE AFORESAID APPEALS:

60. The discussions hereinabove are purely for the purposes of deciding the questions raised in this set of appeals. Nothing therein shall be construed as a final adjudication/findings on the merits of the underlying Complaint Case(s) and will not prejudice any party.

Parties are at liberty to other issues of fact and law at trial at the appropriate stage. Since the date/s for entering appearance have already elapsed in all the matters, the Court(s) concerned shall issue fresh summons to all accused.

Thereafter, the matter shall be proceeded with, strictly in accordance with law. We propose no order as to costs.

.....J. [Ahsanuddin Amanullah]

.....J. [S.V.N. Bhatti]

New Delhi

February 26, 2026

1 (Original) R2 deleted vide Order dated 16.10.2023.

2 As per the True Typed Copy of the Complaint annexed with the Paperbook.

3 Ibid.

4 Ibid.

5 Ibid.

6 Alternatively, (2021) 8 SCC 818.

7 The coram in Birla Corporation Limited (supra) included the learned Judge who authored Cheminova India Limited (supra).

7. Important Allahabad High Court Cases

February 2026

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S.N.	Subject	Case Reference
1.	Income attributed to the wife cannot be said to be sufficient to enable her to maintain the same standard of living to which she was accustomed during her matrimonial life.	Ravinder Singh Bisht Vs. State of U.P. and Anr., decided on 05.02.2026
2.	Police's ignorance of DGP circular is unjustifiable. Declares arrest illegal over non-supply of grounds	Anoop Kumar and Anr. Vs. State of Uttar Pradesh and 3 Ors., decided on 09.02.2026
3.	Quashed the entire criminal proceedings against two persons who were wrongly arrested by UP Police without verifying their involvement in connection with Rape and Fraud cases, respectively.	Mohd. Azeem Idrishi Vs. State of U.P. Thru. Secy. Home Lko. and Anr., decided on 09.02.2026
4.	Refers Advocate for criminal contempt who accused Judge of 'Working under Govt. Pressure'	Kunal Vs. State of U.P., decided on 12.02.2026
5.	Magistrate is bound to consider subsequent 'closure report' even after taking cognizance on initial chargesheet.	Sonu and 5 Ors. Vs. State of U.P. and Anr., decided on 13.02.2026
6.	Right to choose partner is constitutional right. UP Anti-Conversion Law doesn't bar interfaith relationships	Noori and Anr. Vs. State of U.P. and 4 Ors., decided on 23.02.2026
7.	Direction for re-recording of victim's statement can be given only in 'exceptional circumstances' under Sec. 183 BNSS	Kirti Verma Vs. State of U.P., decided on 26.02.2026

Important Allahabad High Court Cases

February 2026

1. Income attributed to the wife cannot be said to be sufficient to enable her to maintain the same standard of living to which she was accustomed during her matrimonial life.

Ravinder Singh Bisht Vs. State of U.P. and Anr.
Criminal Revision No. 1637 of 2025
Date of Decision – 05/02/2026

Hon'ble Allahabad High Court dismissed a criminal revision petition filed by a husband challenging an order passed on the wife's application under Section 125 CrPC, as it noted that there is a substantial disparity in the earning capacity and financial status of the parties.

The bench noted that the income attributed to the wife cannot be said to be sufficient to enable her to maintain the same standard of living to which she was accustomed during her matrimonial life.

The object of Section 125 Cr.P.C. is not merely to prevent destitution, but to ensure that the wife is able to live with dignity, consistent with the status of the husband.

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2. Police's ignorance of DGP circular is unjustifiable. Declares arrest illegal over non-supply of grounds

Anoop Kumar and Anr. Vs. State of Uttar Pradesh and 3 Ors.
Habeas Corpus Writ Petition No. 95 of 2026
Date of Decision – 09.02.2026

A bench of **Justice Siddharth and Justice Jai Krishna Upadhyay** of Allahabad High Court ruled that ignorance of law cannot be a valid excuse for violating the same. Court slammed the claim of the state government that a Station House Officer in Mainpuri had no knowledge about the July 2025 circular of the Director General of Police regarding a new memorandum of arrest.

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3. Quashed the entire criminal proceedings against two persons who were wrongly arrested by UP Police without verifying their involvement in connection with Rape and Fraud cases, respectively.

Mohd. Azeem Idrishi Vs. State of U.P. Thru. Secy. Home Lko. and Anr.
Application U/s 482 No. 8263 of 2025
Date of Decision – 09.02.2026

Allahabad High Court (Lucknow Bench) quashed the entire criminal proceedings against two persons who were wrongly arrested by UP Police without verifying their involvement in connection with Rape and Fraud cases, respectively.

A bench of Justice **Tej Pratap Tiwari** stressed that deprivation of liberty of a person on account of mistaken identity is impermissible in law and strikes at the very root of the guarantee of personal liberty under Article 21 of the Constitution of India.

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4. Refers Advocate for criminal contempt who accused Judge of 'Working under Govt. Pressure'

Kunal Vs. State of U.P.
Criminal Misc. Bail Application No. 5069 of 2026
Date of Decision – 12.02.2026

The **Allahabad High Court** made a separate reference for initiation of criminal contempt proceedings against an advocate who accused the Court in open court of **"*working under the pressure of the Government*"** and lacking the 'courage' to seek an explanation from the police.

A bench of **Justice Santosh Rai** found the conduct of the **advocate (Ashutosh Kumar Mishra)** as "*highly objectionable, scandalous and derogatory*" and noted it prima facie fell within the ambit of 'criminal contempt' as defined under **Section 2(c)** of the **Contempt of Courts Act, 1971**.

The Court noted in its order that soon after the dictation of the aforementioned order, the applicant's advocate (contemnor) began raising his voice in open court. The order records the advocate as having stated:

"Why are you calling for a counter affidavit in this case? You do not have the courage to seek explanation from the concerned Investigating Officer who, till date, has not recorded the statement of the injured. You (Judge) have no authority to pass any order against the Investigating Officer. It appears that you are working under the pressure of the Government."

Taking strong exception to this, Justice Rai observed that the "tone, body language and the manner" of the advocate's statements were designed to lower the authority and dignity of the Court in the eyes of the public.

The single judge noted that the proceedings of the case remained stalled for approximately ten minutes due to this **"misconduct and contemptuous behaviour."**

The Court found that such actions indicated a clear intention to interfere with and obstruct the due course of judicial proceedings and it amounted to scandalising the Court and interfering with the administration of justice.

Thus, concluding that the matter required the initiation of formal contempt proceedings, Justice Rai directed the Registry to place the matter before Chief Justice for appropriate orders.

Furthermore, the Court released the bail case from its roster. It directed that the case be listed as a fresh matter before another Bench, subject to the Chief Justice's approval.

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5. Magistrate is bound to consider subsequent 'closure report' even after taking cognizance on initial chargesheet

Sonu and 5 Ors. Vs. State of U.P. and Anr.
Criminal Appeal No. 10405 of 2024
Date of Decision – 13.02.2026

The **Allahabad High Court** observed that a Magistrate is legally bound to consider and pass an order on the Final Report (closure report) filed by the police, even in those cases where he has already taken cognizance of the offence based on an earlier charge sheet.

A bench of **Justice Anil Kumar-X** added that if the Magistrate proceeds further in the case without considering the Final Report at all, such inaction amounts to a "procedural illegality".

Magistrate is required to apply his mind independently on every supplementary report, without being influenced by his earlier order of taking cognizance upon primary report (initial report/charge sheet).

If a Magistrate, after applying his judicial mind to the supplementary report, arrives at a conclusion contrary to his earlier decision of taking cognizance on the charge sheet (primary report), the recording of such a contrary opinion will not amount to a review or recall of his earlier order.

Magistrates often face a dilemma in such situations, perceiving that once they have taken cognizance on the primary/initial report, they are now functus officio and cannot pass a contrary order due to the bar on review under Section 362 CrPC.

However, the bench dismissed this logic as being "against the canon of law", as it clarified that the prohibition on review applies only when a court has "disposed of a case" by signing a judgment or final order.

Taking cognizance on a primary report does not dispose of the case. Rather, the Magistrate's judicial duty is 'continual', and they must apply their judicial mind to each report submitted by the police.

If a Magistrate arrives at a conclusion contrary to their earlier decision based on a supplementary report, "the recording of such a contrary opinion will not amount to a review or recall of his earlier order" but is merely a response to emergent facts.

Just as the Investigation Officer must continue their investigation until a final logical conclusion is reached, the Magistrate's obligation persists until the police submits their final conclusive report. Consequently, the Magistrate is duty-bound to exercise judicial mind and consider all police reports submitted during the investigation of a single case.

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6. Right to choose partner is constitutional right. UP Anti-Conversion Law doesn't bar interfaith relationships

Noori and Anr. Vs. State of U.P. and 4 Ors.
WRIT C No. 41127 of 2025
Date of Decision – 23.02.2026

While dealing with a bunch of petitions relating to interfaith couples in live-in relationships, the Allahabad High Court has held that the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 does not prohibit inter-religion relationships, be it interfaith live-in relationships or interfaith marriage.

Hon'ble Mr. Justice Vivek Kumar Singh ruled that right to live with a person of his/her choice, irrespective of religion professed by them, is intrinsic to right to life and personal liberty. Interference in a personal relationship, would constitute a serious encroachment into the right to freedom of choice of the two individuals. This Court fails to understand that if the law permits two

persons even of the same sex to live together peacefully then neither any individual nor a family nor even State can have objection to hetrosexual relationship of two major individuals who out of their own free will are living together.

Punishments under Section 3 and 5 of the Act of 2021 for forceful conversion would not be attracted when there is no allegation for conversion from one religion to another "by practice of misrepresentation, force, undue influence, coercion or allurement or by any fraudulent means or by marriage or by relationship in the nature of marriage." Court ruled that no such allegations were made in the cases before the Court.

Even the interfaith marriage, per se, is not prohibited under the Act, 2021. Provision has also been made under the Act, 2021, and according to which, if a person wishes to change/convert his or her religion, he/she is expected to follow the procedure prescribed under Section 8 and 9 of the Act, 2021. But one cannot be forced to convert his or her religion for the purposes of marriage or for living together in a live-in relationship.

A person who has attained the age of majority cannot be denied the right to choose partner as a curb on the rights of adults would be a threat to the concept of unity in diversity.

Article 14 and 15 of the Constitution of India ensure equal treatment of all individual. It does not discriminate against citizens based on religion, race, caste, sex or place of birth. It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen's religious belief. The mere fact that the petitioners are living in an interfaith relationship, would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India. No discrimination can be made on the basis of caste, creed, sex or religion.

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7. Direction for re-recording of victim's statement can be given only in 'exceptional circumstances' under Sec. 183 BNSS

Kirti Verma Vs. State of U.P
Criminal Misc. Writ Petition No. 3822 of 2026
Date of Decision – 26.02.2026

A bench of Justice Rajiv Gupta and Justice Achal Sachdev of Hon'ble Allahabad High Court has recently clarified that the directions for fresh

recording of a statement under Section 183 BNSS before the Magistrate can be given only under exceptional circumstances.

The power is not a routine or an automatic power but is exercised by High Court or Supreme Court to prevent abuse of process, to secure ends of justice or rectify grave procedural irregularities that could lead to miscarriage of justice.

The purpose is to record a reliable, voluntary statement/confession once… There is no statutory mandate for multiple recordings of the same person's statement under Section 183 BNSS. Police statements under Section 180 BNSS (old Section 161 CrPC) can be recorded multiple times if needed during investigation, but magisterial statements under Section 183 BNSS are exceptional and meant to preserve evidence with higher reliability.

In exceptional cases, such as where a prior statement under Section 183 was allegedly coerced, not voluntary, improperly recorded, or where fairness demands re-recording (e.g., new material facts, witness hostility, or serious procedural lapses), the Court may direct a fresh recording as part of HC's extraordinary jurisdiction.

In those cases, re-recording could be directed where the integrity of the original statement is seriously compromised, especially in sensitive cases involving victims (e.g., sexual offences, POCSO), where the statement carries significant weight for corroboration/contradiction at trial.

The direction for re-recording the statement under Section 183 BNSS may be issued if the victim claims that the statement was not read over to him or her, as this raises serious questions about whether the procedural safeguards were followed.

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8. Study Material-G.K.

BUDDHISM

Buddhism arose in the 6th century BCE in the Gangetic plain during a time of second urbanisation and social changes in India. As Buddha's teachings resonated with people discontented with Vedic rituals and caste system, Buddhism quickly spread across northern India. Political and economic support by merchants and artisans fostered Buddhist growth. Further, under the Mauryas, Buddhism expanded both in India and outside. Doctrinal debates within Buddhism led to the emergence of major schools like Theravada and Mahayana.

Buddhism started to decline due to many socio-political factors. Its decline started with the Gupta dynasty, and by the 12th century CE, it almost disappeared in India; however, it continued to thrive in other Asian countries.

Various Sects of Buddhism

After Buddha's death, his followers interpreted his teachings in different ways, leading to doctrinal divisions and the emergence of distinct Buddhist sects.

- The earliest division happened during the **2nd Buddhist Council at Vaishali** around **383 BCE** when the monastic order divided into:
  - The **Sthaviravadins** who adhered strictly to the Vinaya code of monastic discipline and
  - The **Mahasanghikas** advocated more relaxed norms.
- Around the 1st century CE, after the **Fourth Buddhist Council under Kanishka**, Mahayana Buddhism emerged as a departure from Hinayana Buddhism.
  - **Mahayana** followers formed a distinct sect, worshipping **Buddha images as divine beings,** unlike non-theistic Hinayana.
- In the 7th century, **Vajrayana Buddhism** emerged as a tantric branch of Mahayana. As Buddhism spread via trade networks, localised adaptations led to variants like **Tibetan, Chinese and Zen Buddhism.**
- However, core teachings like the **Four Noble Truths, Eightfold Path and Non-Self** remained common across sects. Divisions were based more on differing practices and interpretations rather than principles.

Spread of Buddhism

During the lifetime of the Buddha, Buddhism was accepted by a large section of the people.

For example, the people of Magadha, Kosala, and Kaushambi embraced Buddhism. The republics of Sakyas, Vajjis and Mallas also followed the process. The appeal of Buddhism for a large section of the population was because of the following factors:

Social and Economic changes:

- Many **people were disenchanted with the caste system** and the **rigid social hierarchy** and were seeking a more egalitarian and inclusive spiritual path.

Influence of the Buddha's teachings:

- The Buddha's **teachings were compelling and resonated**; emphasis on **compassion, non-violence**, and the importance of personal responsibility appealed to many.

Conversion of rulers and elites:

- The conversion of rulers and elites played a significant role in the spread of Buddhism.
- For example, according to tradition, Ashoka sent his son **Mahendra** and his daughter **Sanghamitra** to Sri Lanka to preach Buddhism. He also established many monasteries and contributed liberally to the sangha.

Monastic network:

- The establishment of a network of monasteries and the spread of the monastic tradition contributed to the spread.

Accessibility of the Buddha's teachings:

- It was accessible to people from all walks of life, regardless of their caste or social status.

Use of Popular Language:

- The use of Pali to explain the doctrines also helped in the spread of the religion, Unlike Brahmanical religion, which had limited itself to the use of Sanskrit.

Spread of Buddhism Outside India

Spread of Hinayana Buddhism

- Ashoka sent Buddhist missions to different places like Srilanka, Myanmar and Thailand during his reign. This laid the foundations for Theravada Buddhism in Sri Lanka and Southeast Asia.

Spread of Mahayana Buddhism

- The Kushan Emperor, **Kanishka,** patronised Mahayana Buddhism and supported the Fourth Buddhist Council in Kashmir. This helped spread Buddhism to Central Asia.

Buddhism spread to Central Asia and China through merchants and monks travelling along the Silk Route from India.

- Important Buddhist centres developed along the Silk Route like **Kashgar, Khotan, Bamiyan,** etc.
- Chinese monks like **Fa-Hien** and **Hiuen Tsang** travelled to India and brought back texts and ideas of Mahayana Buddhism. This was then propagated in China.
- In China, it interacted with the local Confucian and Daoist traditions.
- Buddhism came to Japan from China and Korea in the 6th century CE. Different schools like Zen and Pure Land developed here using some local traditions.

Spread of Vajrayana Buddhism

- It was developed in India around the 8th century.
- In Tibet, Vajrayana interacted with the Bon religion.
- Monks like **Atisha Dipankara and Padmasambhava** helped spread this Sect in Tibet (mainly) and Southeast Asia.
- Tibetan Buddhism combines Indian Buddhism and local Tibetan beliefs.
- The main feature of the Tibetan Vajrayana is the spiritual head in the form of reincarnated lamas, considered as Bodhisattva of compassion, i.e. Avalokitesvara (Chenrezig).

Buddhism died in India, its birthplace, but somehow managed to be prominent in much of Asia as Hinayana (Southeast Asia), Mahayana (in almost the rest of Asia), and Vajrayana (Tibet).

Factors leading to the Decline of Buddhism

The decline of Buddhism can be attributed to a complex interplay of various historical, social, and cultural factors that varied across different regions and time periods. Here are some of the key factors that have been identified as contributing to the decline of Buddhism in certain areas:

Ideological Decline:

- Buddhism was founded on egalitarian ideals opposed to Brahmanical supremacy and Vedic rituals. However, similar problems of hierarchy, corruption and complex rituals emerged in institutional Buddhism over time.

- For instance, the accumulation of wealth and power within monasteries undermined Buddhism's essence. Monks' involvement in worldly matters contradicted Buddhist principles.
- Multiple divisions into sects and subsects led to a loss of Buddhism's original philosophical core.
- These structural and ideological issues resembled problems in Hinduism, eroding Buddhism's separate religious identity.

Hinduism's Reform and Assimilation:

- On the other hand, Hinduism reformed itself by adopting Buddhist practices like **vegetarianism** and **opposing animal sacrifice**.
- Hindu leaders like **Adi Shankaracharya** established **(mathas)** monasteries on the Buddhist model to revive Hinduism while critiquing Buddhist philosophy.
- Fundamental philosophical similarities between Buddhism and Hinduism on concepts like **karma, dharma and moksha** enabled Buddhism's gradual assimilation into Hinduism from 500 CE onwards.
- Buddha emerging as an avatar of Vishnu in Hindu texts facilitated the assimilation.
- Lower castes found Buddhist egalitarianism attractive, causing the acceleration of the assimilation.

Loss of Royal Patronage:

- Decline of major Buddhism-following dynasties like the **Kushanas** and the shifting of royal patronage towards Brahmanical Hinduism under the **Guptas** accelerated the decline of Buddhism.
- This lack of state support led to the decay of Buddhist sanghas and monasteries.

Lack of Vernacular Literature:

- Unlike early Buddhist scriptures composed in **Pali, l**ater were written in **Sanskrit,** meaning their ideas did not penetrate the vernacular-speaking masses in inland India.
- This restricted Buddhism's expansion beyond urban elite groups.
- **Foreign Invasions:**
- Invasions from the north-west by non-Buddhists like the **Huns and Turks (Khilji)** led to vandalism and persecution of Buddhist monks and devotees.
- These assaults disrupted Buddhist monasteries, pilgrimage sites and institutions like Nalanda.

The destruction of the Mahayana Buddhist sites in northern India by Islamic invaders from 1100 CE sealed Buddhism's demise in the land of its birth.

Despite this decline, Buddhism's impact remains evident through its profound influence on Asia's cultural and spiritual landscape.

9. Study Material-Language

IDIOMS

Phrase	One Word
Printing using a stone or a metal plate with a completely smooth surface	Lithography
Mapping of earth and its formation	Geography
Art related to ornate, good handwriting	Calligraphy
Scientific study of bodily diseases	Pathology
Study of birds	Ornithology
Study of celestial bodies	Astronomy
Study of collection of coins, tokens, paper money etc.	Numismatics
Study of earth and rocks	Geology
Study of election trends	Psephology
Study of flying aero planes	Aviation
Study of handwriting	Graphology
Study of hereditary, genes and variation in living organisms	Genetics
Study of human development	Anthropology
Study of languages	Philology
Study of living things	Biology
Study of religion	Theology
Study of science of insects	Entomology
Study of sound and sound waves	Acoustics
Study of the influence of planets and stars on human events	Astrology
Study of the law of the flow of water and other liquids	Hydraulics
Study of the relation between the organism and their environment	Ecology
Study of various aspects of aging	Gerontology
The science of time order	Chronology
Study of religion	Theology
The science of human development	Anthropology
One with unlimited power	Autocrat
One who walks on ropes	Funambulist
An expert in writing by hand	Chirographer
The doctor who attends to child delivery	Obstetrician
The doctor who attends to corns in the feet and hands	Chiropodist
The doctor who deals with the female reproductive system	Gynecologist
The doctor who specializes in root canal and nerve treatment	Endodontist

The doctor who straightens teeth	Orthodontist
The doctor who treats bone problems	Orthopedician
The doctor who treats eye diseases	Ophthalmologist
The doctor who treats gums	Peridontist
The doctor who treats heart problems	Cardiologist
The doctor who treats skin diseases	Dermatologist
One who is all powerful	Omnipotent
One who is all knowing	Omniscient
One who is present all over	Omnipresent
One who can throw his voice	Ventriloquist
One who talks while sleeping	Somniloquist
One who takes part in dialogue or conversation	Interlocutor
One who walks in sleep	Somnambulist
One who walks at night	Noctambulist
One who is violently against established beliefs and traditions	Iconoclast
One who turns his thoughts inwards	Introvert
One who turns his thoughts outwards	Extrovert
One who is both inwards and outwards at times	Ambivert
One who demands strict conformity to rules	Martinet
One who believes in ruthless self-aggrandizement	Egoist
One who doesn't consume alcohol	Teetotaler
One who exhibits courage or fearlessness	Intrepid
One who easily believes others	Credulous
One who is capable of using both hands	Ambidextrous
One who knows a lot about good food and wine	Connoisseur
One who is beyond reform	Incorrigible
Well known for bad qualities	Notorious
Perfectly, highly skilled reached the zenith of art	Consummate
A shrewish loud-mouthed female	Virago
One who is extravagantly romantic, chivalrous and impractical	Quixotic
One who is a boot licker, flatterer	Sycophant
One who has keen interest in food and drinks	Gourmet
Love for mankind	Philanthropy
Someone who loves collecting books	Bibliophile
One who loves and admires the British	Anglophile
One who loves without seriousness	Philanderer
Fondness towards women	Philogyny
One who loves men	Androphile
One who loves wisdom (hence pursues it)	Philosopher
One who hates men	Misandrist

Madness or obsession with males	Andromania
One who hates women	Misogynist
One who hates mankind	Misanthropist
One who loves his country	Patriot
Excessive love for one's country	Super patriotism
One who hates marriage	Misogamist
One who loves to speak	Loquacious
Strong, deep dislike	Antipathy
Simultaneously affected by similar feelings	Sympathy
Mentally identifying oneself with other person or a thing	Empathy
Something or someone makes you feel deep sadness or pity	Pathetic
Related to marriage	Matrimony
One who believes in the presence of God	Theist
One who doesn't believe in the presence of God	Atheist
One who believes in the theory of only one God	Monotheist
One who believes in many Gods	Polytheist
One who believes that God is union of all forces of the universe	Pantheist
Religious madness	Theomania
Battle among the Gods	Theomachy
Practicing only one marriage (having only one wife)	Monogamy
Practicing two marriages (having two wives)	Bigamy
Practice of several marriages (having many wives)	Polygamy
Self-fertilization especially in plants	Autogamy
Marriage within one's own tribe	Endogamy
Marriage outside one's tribe	Exogamy
Having several husbands	Polyandry
People who have both male and female sexual organs	Hermaphrodite
An inheritance from father	Patrimony
A name framed after father's name	Patronymic
Fatherhood	Paternity
A father-like figure	Patriarch
Government by one person (royal)	Monarchy
Government by two agencies	Diarchy
Government by a few powerful people	Oligarchy
Government by military class	Stratocracy
Government by divine guidance	Theocracy
Government by departments of state	Bureaucracy
Government by nobility	Aristocracy
Government by wealthy	Plutocracy
Government by the people	Democracy

A system of governing a country suggesting a father-child relation	Paternalism
Government by one absolutely	Autocracy
Absence of government	Anarchy
A system ruled or controlled by men	Patriarchy
The rule or control of mother	Matriarchy
Self-rule or control	Autonomy
The killing of one's husband	Mariticide
The killing of parents	Parricide
The killing of a whole race	Genocide
The killing of a new born child	Infanticide
The killing of a king	Regicide
The killing of a human being	Homicide
The killing of oneself	Suicide
The killing of a father	Patricide
The killing of a mother	Matricide
The killing of one's brother	Fratricide
The killing of one's sister	Sororicide
The killing of one's wife	Uxoricide
Morbid compulsion to keep on consuming alcohol	Dipsomania
Morbid compulsion to steal	Kleptomania
Morbid compulsion to steal books	Bibliokleptomania
Morbid compulsion to start a fire	Pyromania
Morbid delusion of power, importance or godliness	Megalomania
Morbid, uncontrollable desire on the part of a woman	Nymphomania
Morbid, uncontrollable desire on the part of a man	Satyromania
Person with one-track mind	Monomania
Compulsion to tell lies	Mythomania
Madness with obsession with something	Mania

10. Current Affairs

FEBRUARY 2026

1. MoSPI has launched PAIMANA portal to monitor Central Sector Infrastructure Projects costing ₹150 crore and above.
2. Indian Railways operationalises the first LNG-Diesel dual-fuel DEMU train at Sabarmati to cut emissions and fuel costs.
3. The Supreme Court ruled menstrual health as a fundamental right under Article 21, mandating free sanitary facilities in all schools.
4. India will host the 2nd India–Arab Foreign Ministers' Meeting on 31 Jan 2026, strengthening political and economic ties.
5. Uttarakhand received recognition at Wings India 2026 for improving aviation infrastructure and regional connectivity.
6. CCSU, Meerut becomes India's first AI-enabled university pilot, integrating AI in learning, teaching, and administration.
7. National Leprosy Day was observed on 30 January 2026 with awareness activities at Dilli Haat, promoting early detection and stigma reduction.
8. Wetlands in Kutch and Etah recognised as Ramsar sites for biodiversity and ecological conservation.
9. The 5th Rüsoma Orange Festival started on 31 Jan 2026 in Nagaland to promote orange farming and rural entrepreneurship.
10. Gujarat launched Mukhyamantri Gramotthan Yojana to provide urban-level facilities in 114 villages.
11. Researchers discovered a new orchid species, Diplocentrum papillosum, in the Western Ghats of Kerala's Idukki district.
12. The 6th National Crop Nutrition Summit will be held in Mumbai on 5–6 February 2026 to discuss sustainable agricultural innovations.
13. Swiss cities led the 2026 Global Cost of Living Rankings, while Indian cities were ranked among the most affordable worldwide.
14. State Bank of India launched "CHAKRA" to provide specialized financing for emerging sunrise sectors like green hydrogen and semiconductors.
15. Carlos Alcaraz defeated Novak Djokovic to win the 2026 Australian Open, becoming the youngest man to achieve a career Grand Slam.
16. The Indian Army and ITBP conducted "Agni Pariksha," a joint firepower training exercise in Arunachal Pradesh to boost coordination.
17. India's Union Budget 2026 increased defense spending by 15.3% to ₹7.84 lakh crore, prioritizing modernization and infrastructure.
18. The Dalai Lama won his first Grammy Award for Best Audiobook and Storytelling Recording for his work Meditations.

19. World Wetlands Day 2026 focused on the role of indigenous wisdom and traditional practices in preserving fragile ecosystems.
20. Rheumatoid Arthritis Awareness Day 2026 was observed on 2 February to promote early diagnosis and emotional support for patients.
21. India reaffirmed its commitment to inclusive, rights-based social development at the UN CSocD, highlighting constitutional guarantees and the vision of Viksit Bharat 2047.
22. The U.S. and India announced a trade deal reducing U.S. tariffs on Indian goods to 18% and expanding bilateral trade cooperation.
23. Devika Sihag won her first BWF Super 300 title at Thailand Masters 2026, marking a breakthrough for Indian women's badminton.
24. The Army and ITBP conducted Exercise Agni Pariksha in Arunachal Pradesh to enhance joint combat readiness in high-altitude border areas.
25. The IAF's Sarang team showcased the indigenous ALH Dhruv at Singapore Airshow 2026, demonstrating precision flying and operational versatility.
26. India launched the 3rd Future Warfare Course to train military leaders in next-generation conflicts involving AI, cyber, and space warfare.
27. Yantra India received Miniratna-I status, giving it financial autonomy and boosting India's self-reliant defence manufacturing push.
28. Scientist Veerabhadran Ramanathan won the Crafoord Prize for pioneering research that reshaped global understanding of climate change.
29. Cochin Airport will deploy India's first hydrogen-powered buses under the Kerala Hydrogen Valley initiative to promote clean transport.
30. A new orchid species discovered in Kerala highlights the rich biodiversity of the Western Ghats and the importance of continued ecological research.
31. IHMCL signed a pact with NFSU to strengthen cyber security in digital highway systems.
32. Indian climber Kabak Yano scaled Mount Aconcagua, advancing her Seven Summits mission.
33. The 6th Badminton Asia Team Championships started in Qingdao with India competing in both events.
34. India and Kyrgyzstan launched the 13th KHANJAR joint Special Forces exercise in Misamari.
35. India and Tanzania expanded defence cooperation at the 4th JDCC meeting in Zanzibar, adding new focus on cyber, AI and air force collaboration.

36. Divakar Jayant assumed charge as Director General of Naval Armament, bringing over 33 years of defence service experience.
37. RBI approved Vinay Tonse as YES Bank's new MD & CEO for a three-year term.
38. Kerala introduced NeophyteID, an AI app for citizen-led tracking of invasive plant species.
39. Moltbook emerged as a global experiment where AI agents interact without human input.
40. Assam sanctioned ₹50 crore to restore Koch dynasty heritage and promote cultural tourism.
41. Amit Shah launched Bharat Taxi, India's first driver-owned cooperative ride-hailing platform promoting zero-commission mobility.
42. PLASTINDIA 2026 opened at Bharat Mandapam, New Delhi, highlighting innovation and sustainable growth in plastics manufacturing.
43. The 25th Bharat Rang Mahotsav begins in Rohtak, Haryana, as part of a 25-day nationwide theatre celebration.
44. Spain banned social media access for children under 16, becoming the first European country to enforce the rule.
45. India joined the BRICS Centre for Industrial Competencies to strengthen Industry 4.0 skills and MSME productivity in partnership with UNIDO.
46. The Milano Cortina 2026 Winter Olympics began in Italy as a multi-city international sporting event.
47. Paradip Port Authority won the top Swachhata Pakhwada Award 2025 for excellence in cleanliness and community participation.
48. Renowned sociologist Andre Beteille passed away in Delhi at the age of 91, leaving a lasting legacy in Indian sociology.
49. AIIA New Delhi observed World Cancer Day 2026 with awareness drives and expert discussions on integrative oncology.
50. PM Modi congratulated Yumnam Khemchand Singh and the new Manipur leadership, expressing confidence in the state's development.
51. Scientists discovered a new flowering plant species, Dicliptera pakhalica, in Telangana's Pakhal Wildlife Sanctuary.
52. The US Congress approved a $200 million defense package for Estonia, Latvia, and Lithuania to strengthen NATO's eastern flank.
53. The United Nations observed World Interfaith Harmony Week from February 1–7 to promote global peace and dialogue between religions.
54. India earned a spot on the UN Honour Roll by paying its annual regular budget dues of $35.18 million within the 30-day deadline.

55. Under the OECD's global framework, India will start sharing cross-border cryptocurrency transaction data to curb tax evasion from 2027.
56. Walmart became the world's first retail company to reach a $1 trillion market value, driven by its digital transformation and e-commerce growth.
57. NCDC launched two fully funded schemes to empower youth entrepreneurs and women's self-help groups within the cooperative sector.
58. Bhutan's Queen Mother, Ashi Dorji Wangmo Wangchuck, received the 'Soldier of Humanity' Award for her contributions to social welfare and culture.
59. Padma Shri awardee and former Navy Commander Hugh Gantzer, a pioneer of Indian travel writing, passed away in Mussoorie at age 95.
60. Karnataka has introduced an automated system to link property registration with revenue records, eliminating manual applications and delays.
61. Delhi Police launched Operation Shastra to curb social media fear-mongering, screening 6,000+ profiles and registering 61 FIRs with 83 arrests. The drive targets online criminal intimidation.
62. The 39th Surajkund Crafts Mela in Haryana highlights Indian heritage under the "Vocal to Global" theme, with UP and Meghalaya as theme states and Egypt as partner nation. It provides a global platform to artisans.
63. China approved limited rare earth export licences to Japan under strict dual-use controls, easing short-term supply pressure but maintaining strategic leverage. Defence-linked materials remain restricted.
64. RBI kept the repo rate unchanged at 5.25% in its final policy review and raised GDP growth forecasts for early 2026–27. The decision signals monetary policy continuity.
65. The US removed the extra 25% tariff on Indian goods from Feb 7, 2026 after India agreed to halt Russian oil imports, restoring earlier trade terms. Compliance will be monitored and tariffs may return if imports resume.
66. RCB won their second WPL title by defeating Delhi Capitals with a record chase of 204 in the final at Vadodara. Smriti Mandhana's 87 led to a historic six-wicket victory.
67. India successfully tested the Agni-III ballistic missile from Odisha, confirming operational readiness of its strategic forces. The nuclear-capable missile has a range of up to 3,500 km.
68. V.O. Chidambaranar Port became India's first port to deploy an advanced anti-drone system with 5 km, 360° coverage to boost

maritime security. The indigenous project will be completed within three months.

69. Zero Tolerance Day on Feb 6 renewed global calls to end FGM, which affects over 230 million women and girls. Agencies warn millions more remain at risk by 2030.
70. Andhra Pradesh is launching Amaravati Quantum Valley to become a global quantum hub through partnerships with IBM, TCS and academic institutions. The project focuses on research and deep-tech innovation.
71. A rare ant species was discovered in Garbhanga Reserve Forest near Guwahati. The finding underscores the conservation value of urban-edge forests.
72. India beat Bangladesh 4–0 to win the SAFF U-19 Women's title. The victory marks a strong comeback and preparation for continental competition.
73. INS Arnala, India's first indigenous ASW shallow water craft, boosts coastal defence and naval self-reliance. It has over 80% indigenous content.
74. NSO launched a beta MCP server to enable AI-ready, real-time access to India's official datasets. The platform supports seamless integration of statistics into modern analytical tools.
75. International Epilepsy Day 2026 promotes awareness and action through the #EpilepsyPledge campaign. It focuses on inclusion and reducing stigma.
76. India ranked second globally outside the US in LEED-certified building space in 2025. The growth reflects a push toward sustainable urban development.
77. A 7.22-metre reticulated python in Indonesia was recognised by Guinness as the longest measured snake. The discovery highlights Sulawesi's biodiversity.
78. Himachal Pradesh launched an AI-based education platform for competitive exam aspirants. The programme ensures equal digital learning access.
79. Uttarakhand began a ₹3,300-crore Sharda river corridor project to boost tourism and infrastructure in Champawat. The plan links heritage with economic growth.
80. ZSI scientists discovered two new marine worm species in polluted coastal zones of West Bengal. The finding highlights hidden biodiversity and ecological resilience.
81. NITI Aayog published 11 reports outlining strategies to achieve Viksit Bharat and Net Zero goals.
82. India and Greece agreed on a five-year defence industrial roadmap and military cooperation plan to strengthen strategic and manufacturing ties.

83. AAI signed an MoU with Bharat Taxi to provide organised, transparent, and reliable last-mile cab services at airports.
84. Elavenil Valarivan and Arjun Babuta clinched mixed air rifle gold as India crossed 50 medals at the Asian Rifle/Pistol Championship.
85. Lovlina Borgohain and Arundhati Choudhary led India to nine gold medals, topping the medal tally at BOXAM Elite International 2026.
86. Nirupama Devi lifted 221kg to set records and win the elite women's 63kg gold at the National Weightlifting Championships, while Bidusmita Bhoi claimed the junior title with three records.
87. Indian teacher Rouble Nagi won the $1 million Global Teacher Prize 2026 in Dubai for transforming neglected walls into learning murals and bringing over one million children into formal education.
88. Scientists developed 'complexiмer', a new material combining the mouldability of glass with the strength of plastic, challenging traditional material science.
89. India introduced iLive Connect, the world's first doctor-guided AI healthcare ecosystem for continuous remote monitoring and early treatment at home.
90. The UN designated February 10 as the International Day of the Arabian Leopard to promote conservation of the critically endangered species.
91. Scientists discovered a new dragonfly species, Lyriothemis keralensis, endemic to Kerala.
92. India improved to 91st rank in the Corruption Perceptions Index 2025, though global corruption levels remain high.
93. A new frog species discovered in Peru's cloud forests may already face extinction due to habitat loss.
94. India has been named Country of the Year at BIOFACH 2026 in Germany, highlighting its rising global leadership in organic agriculture and exports.
95. French President Emmanuel Macron will visit India to strengthen strategic cooperation under the Horizon 2047 roadmap.
96. India and France are negotiating a €300 million deal to procure SCALP cruise missiles after their successful combat use in Operation Sindoor.
97. Thanya Nathan is set to become Kerala's first visually challenged woman judge after topping the civil judge exam list.
98. Manu Bhaker won silver in the 25m pistol event after a shoot-off at the Asian Championship.
99. 17-year-old Aditya Pandya became India's youngest analog astronaut after completing a lunar simulation mission.
100. International Day of Women and Girls in Science is observed on 11 February to promote equal participation of women in STEM and build inclusive futures.

101. National Livestock Mission expanded subsidy and insurance coverage. It promotes rural livestock entrepreneurship.
102. The Centre launched White Revolution 2.0 to boost dairy cooperatives and raise milk procurement by 50% by 2028–29.
103. The US and South Korea launched an expanded Buddy Squadron air drill to strengthen joint defence readiness.
104. NATO launched Arctic Sentry to coordinate Arctic defence exercises amid rising regional competition.
105. A copper artefact in Egypt has been reclassified as an early bow drill, suggesting advanced engineering 2,000 years earlier than believed.
106. IAF will conduct Exercise Vayushakti-26 to showcase combat power and disaster response capability.
107. Two Aravind Eye Care doctors won the 2026 Chang-Crandall Award for global cataract blindness service.
108. NPC will celebrate its 68th Foundation Day on 12 Feb 2026 and observe National Productivity Week focused on MSME cluster growth.
109. Odisha CM unveiled books by Biswabhusan Harichandan on history and culture. The event honoured his public life.
110. Delhi announced Lakhpati Bitiya Yojana to reduce school dropouts among girls. The scheme provides milestone-based financial deposits.
111. India has launched its first national biobank for Lysosomal Storage Disorders, integrating data from 530 patients to boost affordable diagnostics and therapies.
112. Brazilian President Luiz Inácio Lula da Silva will visit India from Feb 18–22 to strengthen trade, defence, and technology cooperation. The trip highlights growing strategic ties.
113. Russia has blocked WhatsApp citing legal non-compliance and is pushing citizens toward a state-backed alternative. The move reflects tighter digital control policies.
114. Saudi Arabia will host the Human Capability Initiative 2026 in Riyadh under Vision 2030, naming the UK as Country of Honor.
115. India and the UK signed a defence pact allowing Indian Air Force instructors to train British fast jet pilots at RAF Valley. The move signals deeper military trust and cooperation.
116. Andrey Gyurov has been appointed interim prime minister by Bulgaria's president to oversee April elections amid political instability. He is expected to ensure a fair and stable transition.
117. Brazilian MMA fighter Pablo Oliveira Costa died at 31 due to an electrocution accident while working in São José. Tributes praised his dedication and fighting spirit.

118. Actor James Van Der Beek, known for Dawson's Creek, has died at 48 after battling cancer. His legacy shaped late-1990s teen television culture.
119. Proclaimed by UNESCO in 2011 and adopted by the UN in 2012, February 13 is celebrated as World Radio Day.
120. Odisha will add QR codes to land records for instant digital verification, ensuring tamper-proof ownership transparency.
121. President Droupadi Murmu launched the Karmayoga campaign of the Brahma Kumaris, stressing ethical and spiritual development. She linked spirituality with balanced national progress.
122. Parliament passed the Industrial Relations Code Amendment Bill 2026 amid debate over labour protections. Minister Mansukh Mandaviya said it clarifies reforms while opposition raised job security concerns.
123. Prime Minister Narendra Modi inaugurated Seva Teerth and Kartavya Bhavan, calling them symbols of service-driven governance. He said the complex reflects India's shift toward a people-centric development model.
124. Punjab National Bank announced PNB Soldierathon 2026 ahead of its 132nd Foundation Day to honour the Armed Forces and promote fitness and national pride. The event will be held on 5 April 2026 and aims to strengthen youth participation and civil-military ties.
125. India launched its BRICS Chairship 2026 with a Sherpas meeting chaired by Sudhakar Dalela in New Delhi. Discussions focused on resilience, innovation, and sustainable cooperation among member nations.
126. Zimbabwe national cricket team defeated Australia national cricket team by 23 runs in the ICC Men's T20 World Cup, creating a major upset. Zimbabwe remained unbeaten and second in Group B standings.
127. The Ministry of Defence signed a ₹2,312 crore deal with Hindustan Aeronautics Limited for Coast Guard aircraft. The project boosts domestic manufacturing and maritime security.
128. Mumbai-based Agneevasthraa signed an MoU with the Indian Army to supply advanced carbon defense materials. The deal strengthens indigenous manufacturing under the Make in India push.
129. Indian Navy assumed command of Combined Task Force 154 under the Combined Maritime Forces, boosting multinational maritime cooperation.
130. The Bangladesh Nationalist Party won Bangladesh's general elections with a two-thirds majority after the post-Sheikh Hasina era polls. A reform referendum was also approved alongside the election.

131. India launched CBDC-based Digital Food Currency pilot in Gujarat to improve transparency and efficiency in PDS.
132. India produced 33.69 million kg of wool in FY24; Rajasthan contributes nearly half of total output.
133. The Philippine eagle, one of the largest raptors, remains critically endangered with under 500 mature individuals.
134. India will host the first International Military Adventure Challenge Cup from February 18–23 in the Eastern Himalayas.
135. Uday Kotak appointed Chairman of GIFT City to boost India's IFSC and global financial presence.
136. Kannada filmmaker Joe Simon passed away at 80, leaving a legacy across 100+ films.
137. JNCASR researchers discover wave-like heat transport in Tl_2AgI_3, challenging traditional phonon theory.
138. PM Modi will inaugurate India AI Impact Expo 2026 from 16–20 February at Bharat Mandapam.
139. Vast partners with NASA for its sixth private astronaut mission to ISS, preparing for Haven-1 station.
140. Unani Day 2026 and National Conference concluded in Mumbai, highlighting innovation and evidence-based practice.
141. AIIMS Delhi successfully conducted India's first tele-robotic ultrasound at Maitri station in Antarctica, 12,000 km away.
142. India will build its first National Cow Culture Museum in Mathura at Pandit Deendayal Upadhyaya Veterinary Science University campus.
143. A second effusive eruption began at Piton de la Fournaise on La Réunion on February 13, with lava flowing down the Grandes Pentes slopes.
144. Magnus Carlsen defeated Fabiano Caruana 2.5–1.5 to win the 2026 FIDE Freestyle Chess World Championship.
145. Johannes Klæbo won his ninth Winter Olympic medal as Norway claimed gold in the men's 4×7.5 km relay.
146. Sadhguru launched the Bhavya Bharat Bhushan Award to honour contributions in science, arts, sports, and social welfare.
147. Assam student Ayesha Karim won the Veergatha 5.0 Super 100 title for artwork honouring Major Sandeep Unnikrishnan's bravery during the 2008 Mumbai attacks.
148. Internet pioneer David J. Farber passed away at the age of 91 in Tokyo.
149. Veteran Odia singer Geeta Patnaik passed away at 73 in Cuttack after suffering a brain stroke.
150. PM Modi will meet French President Macron to launch the India–France Year of Innovation and strengthen AI, defence, and technology cooperation.

151. Delhi CM Rekha Gupta launched India's first AI-enabled comprehensive education model at CM Shri School, Sarojini Nagar.
152. ZSI scientists discovered a new wingless soil-dwelling species, Lepidocampa sikkimensis, in the Eastern Himalayas.
153. NHAI launched 'Bee Corridors' to plant nectar-rich trees along highways, supporting pollinator conservation and ecosystem stability.
154. Telangana CM A. Revanth Reddy inaugurated the 23rd BioAsia summit focused on AI and automation in life sciences.
155. Cricket star Smriti Mandhana won the BBC Indian Sportswoman of the Year 2025 for her role in India's World Cup success.
156. Veteran actress Pravina Deshpande, known for her roles in films like Ready and Ek Villain, passed away at age 60.
157. Union Health Minister J.P. Nadda launched SAHI and BODH initiatives to ensure ethical and safe AI adoption in Indian healthcare.
158. Jaisalmer will host the first Jain Chadar Mahotsav to worship 872-year-old sacred garments of Dada Shri Jindatt Suri Maharaj.
159. Assam approved a 3% job reservation for tea tribes and Adivasis in Class I and II state government positions.
160. Kerala approved India's first graphene policy to establish the state as a global R&D hub for this advanced material.
161. Three New Cheetah Cubs Born at Kuno – Gamini, a South African cheetah, gives birth to three cubs, raising India's cheetah population to 38 under Project Cheetah.
162. Top 5 Richest Indian Cities by GDP 2026 – Mumbai, Delhi, Kolkata, Bengaluru, and Chennai lead India's economic growth, with Mumbai topping at $310B GDP.
163. President Murmu at International Fleet Review 2026 – Witnesses naval display in Visakhapatnam with over 70 countries participating, promoting maritime cooperation and security.
164. Sanae Takaichi Reappointed Japan PM – Japan's first female PM, Sanae Takaichi, secures a two-thirds LDP majority, forming her second Cabinet to advance defence, fiscal, and constitutional agendas.
165. Vervesemi Microelectronics Raises $10M – DLI-backed startup secures Series A funding to scale chip design innovations for EVs, drones, space, and industrial applications.
166. MeitY Launches AI Impact Startup Book – India AI Impact Summit 2026 unveils consolidated repository of AI solutions to scale impactful use cases across sectors.
167. Shivaji Maharaj Jayanti 2026 – Celebrated on 19 February, honouring Chhatrapati Shivaji Maharaj's bravery, leadership, and vision of Swarajya with cultural events nationwide.

168. Demwe Lower Hydel Project EC Extended – Arunachal Pradesh's 1,750 MW project gets 11-year environmental clearance till 2037 amid wildlife and ecological concerns.
169. Losar Festival 2026 in McLeod Ganj – Tibetan New Year celebrated from 18–20 February, marking the Fire Horse Year with prayers, rituals, and Dalai Lama's presence.
170. Mumbai Climate Week 2026 Inaugurated – CM Devendra Fadnavis launches a three-day event focusing on sustainable urban strategies, renewable energy, and actionable climate solutions.
171. Lake Victoria has turned persistently toxic green due to severe eutrophication caused by decades of nutrient pollution. The crisis threatens drinking water, fisheries and livelihoods of nearly 47 million people.
172. Meghalaya made its debut at BIOFACH 2026 in Germany, showcasing its organic ecosystem and export-oriented value chains under the State Organic Mission 2028.
173. India signed a five-year agreement with the World Food Programme to supply up to 200,000 metric tonnes of rice for global hunger relief.
174. The International Paralympic Committee has allowed Russian and Belarusian athletes to compete under national flags at the Milano-Cortina 2026 Winter Paralympics, reversing earlier restrictions.
175. India will soon commission INS Aridhaman, the third Arihant-class SSBN, strengthening its second-strike capability and moving closer to continuous at-sea nuclear deterrence. The submarine will carry K-15 and K-4 SLBMs.
176. A bee swarm attack during an under-13 cricket match in Unnao led to the death of veteran umpire Manik Gupta after multiple stings.
177. The Gaganyaan mission achieved a key milestone as its drogue parachute successfully cleared qualification-level load tests conducted by DRDO in collaboration with ISRO.
178. Larsen & Toubro has partnered with NVIDIA to build sovereign gigawatt-scale AI factory infrastructure in India, expanding major data centre capacity in Chennai and Mumbai.
179. World Day of Social Justice 2026 is observed on 20 February with the theme "Renewed Commitment to Social Development and Social Justice."
180. The Rajkiya Itkhori Mahotsav began in Jharkhand's Chatra district, highlighting the cultural and spiritual heritage of the historic Bhadrakali Temple.
181. The Index of Eight Core Industries rose by 4% in January 2026, driven by growth in Steel, Cement, Fertilizers, Electricity, and Coal. Crude Oil and Natural Gas declined, while Petroleum Refinery Products remained unchanged.

182. Scientists discovered a new tiny crab species, Galathea balasubramaniani, in Lakshadweep coral reefs, first record of galatheid squat lobster there.
183. Palaeontologists have discovered a new dinosaur species, Spinosaurus mirabilis, in Niger's Sahara Desert, revealing semi-aquatic adaptations and a 20-inch crest for display.
184. India captain Harmanpreet Kaur became the most-capped player in women's cricket with her 356th international appearance.
185. The United States won Olympic women's ice hockey gold with a 2–1 overtime victory over Canada at Milan-Cortina 2026.
186. Defence Minister Rajnath Singh inaugurated Exercise MILAN-2026 at Visakhapatnam with 74 nations participating for maritime cooperation.
187. Legendary Bengali author Moni Shankar Mukhopadhyay passed away at 92, leaving a profound impact on literature and cinema.
188. Andhra Pradesh to host India's largest 16 GWh lithium-ion battery Gigafactory at Rambilli, creating around 3,000 jobs.
189. Bihar declared Naxal-free after the last Maoist, Suresh Koda, surrendered, ending armed left-wing extremism in all 23 districts.
190. Kerala Cabinet approved the Nativity Card Bill, allowing official identity documents for natives and diaspora to access state services.
191. Palamu Tiger Reserve launched the 'Vanjeevi Didi' initiative, appointing women from 17 villages as forest ambassadors to lead conservation and anti-poaching efforts.
192. Tennis player Vaishnavi Adkar became the first Indian woman since 2009 to reach a W100 final at the ITF Bengaluru, jumping over 200 places in the WTA rankings.
193. IndiGo has appointed Capt. Rohit Rikhye as the new Head of its Operations Control Centre following major operational disruptions and regulatory penalties in late 2025.
194. At the 79th BAFTA Awards, 'One Battle After Another' won six trophies including Best Film, while Paul Thomas Anderson secured his first Best Director win.
195. The 475-year-old Vasai Cathedral in Maharashtra has won the 2025 UNESCO Asia-Pacific Award of Merit for its exceptional community-led restoration.
196. The Manipuri film 'Boong' made history by winning the Best Children's & Family Film award at the 2026 BAFTA Awards in London.
197. The UAE has introduced advanced gene therapy programs to treat the genetic causes of autism and rare neurodegenerative brain disorders in children.

198. World Peace and Understanding Day was observed on February 23, 2026, marking the 121st anniversary of the first Rotary International meeting.
199. Gujarat signed a ₹25,000 crore MoU with L&T Vyoma to establish a 250 MW green AI-ready data center at the Dholera Special Investment Region.
200. The Karnataka government is considering a ban or restriction on mobile phone usage for children under 16 to tackle digital addiction and mental health concerns.
201. Goa will host the 4th World Ocean Science Congress 2026, focusing on ocean health, climate resilience, and the blue economy.
202. India has launched "Prahaar," its first comprehensive counter-terrorism policy addressing cross-border, cyber, and emerging technology threats.
203. The statue of Edwin Lutyens at Rashtrapati Bhavan will be replaced with that of C. Rajagopalachari.
204. The Ministry of Ayush will organise the National Arogya Fair 2026 in Shegaon, Maharashtra, providing free consultations, check-ups, and medicines under traditional healthcare systems.
205. Switzerland will host the AI Summit 2027 in Geneva, providing a neutral hub for global AI discussions and cooperation.
206. Netherlands will swear in 38-year-old Rob Jetten as its youngest and first openly gay prime minister.
207. PhonePe introduces AI-powered natural language search for voice- and text-based transactions, enhancing convenience and personalization.
208. India will observe Central Excise Day 2026 on 24 February to honour the enactment of the Central Excise Act, 1944.
209. The NGT has directed Uttar Pradesh to restore Suav's classification from a drain to a river, amend records, and monitor floodplains and water quality.
210. Punjab has launched the 'Meri Rasoi' scheme to provide free food kits to nearly 40 lakh economically weaker families.
211. The Government of Delhi will implement the Rah-Veer scheme rewarding citizens ₹25,000 for helping accident victims within the golden hour.
212. Scientists from ICAR-Directorate of Floricultural Research discovered a new blossom midge species infesting jasmine crops in India.
213. Fishing Cat was identified as having a major stronghold in Kaziranga National Park with 57 individuals recorded in the first scientific assessment.
214. Narendra Modi will address the Knesset plenum during his Israel visit in February 2026.

215. The Indian Navy commissioned INS Anjadip at Chennai Port to strengthen coastal defence capabilities.
216. The 7th edition of Exercise 'DHARMA GUARDIAN' between India and Japan began in Uttarakhand to enhance joint military interoperability.
217. Sachin Tendulkar was appointed as the United Nations Global Champion for Road Safety to promote safer driving practices.
218. Bhupendra Patel released the biography of A. C. Bhaktivedanta Swami Prabhupada in Gandhinagar highlighting his global spiritual legacy.
219. The Union Cabinet approved renaming Kerala as 'Keralam' under the constitutional process of Article 3.
220. Chhatrapati Shivaji Maharaj International Airport won Asia-Pacific's Best Airport for Departures Award in the over 40 million passengers category.
221. NBEMS set a Guinness World Record for the highest-viewed live AI in Healthcare lesson on YouTube.
222. Nitin Gadkari launched the upgraded RAJMARG PRAVESH portal to streamline highway NOC approvals.
223. An awareness programme on the NAMASTE scheme will be held in Pilibhit to promote safety and dignity of sanitation workers.
224. The Lascaux Cave, discovered in 1940 near Montignac, France, contains over 2,000 Upper Palaeolithic paintings dating back around 17,000 years.
225. Tomas Martin Etcheverry won his maiden ATP title at the Rio Open, rising to World No. 33.
226. The Indian Air Force conducted 'Kalari Leap' joint maritime exercise in the Lakshadweep region to strengthen island defence.
227. OpenAI appointed Arvind KC as Chief People Officer to strengthen its global AI talent strategy.
228. Steel industry veteran Jatinder Mehra passed away after over six decades of contribution to the sector.
229. Veteran CPI leader R. Nallakannu passed away in Chennai at the age of 101.
230. The North East Spring Festival 2026 will begin in Dimapur, promoting cultural exchange and national integration.
231. India ranked 60th among 84 nations in youth mental well-being in the 2025 report by Sapien Labs.
232. The Ministry of Health and Family Welfare will launch a free nationwide HPV vaccination drive using Gardasil for 14-year-old girls.
233. A new flowering plant, Impatiens nagorum, has been discovered in Fakim Wildlife Sanctuary and documented by researchers from Nagaland University and the Botanical Survey of India.

234. India and Germany strengthened climate cooperation with a €20 million grant under the International Climate Initiative announced by Jochen Flasbarth.
235. The United Arab Emirates ranked joint second in the Global Residence Programme Index 2026 by Henley & Partners.
236. The World Bank Group reported that women's economic rights laws are only half-enforced globally in its Women, Business and the Law report.
237. Park Chan-wook has been appointed Jury President of the 79th Cannes Film Festival.
238. Korean hip-hop pioneer Seo Jae-min, known as Artisan Beats, passed away at 47.
239. A national conference on ancient Indian texts and science began at IIT (ISM) Dhanbad with support from Indian Council of Philosophical Research.
240. V. Somanna launched a coffee table book on the Karnataka Bharat Gaurav Train at Rail Bhawan under Indian Railways.