

MARCH 2026



NISHANT PRAKASH
LAW CLASSES

"Gurukul for CLAT & AILET"

Legal Tathya

Your Monthly Guide to Legal Reasoning and Legal Current Affairs

NPLC's TOP 10 GLORY 2025&26

A salute to our five toppers who turned pressure into purpose – their journey fuels the ambition of every student aiming for the top.

AIR

2

CLAT 2025



Daiwik Agarwala

AIR

2

AILET 2025



Chaitanya Ghosh

AIR

4

CLAT 2026



Arshnoor Singh

AIR

4

AILET 2026



Siddhant Rohit

AIR

4

CLAT 2025



Aditya Gautam
Ankhad



REAL MENTORSHIP. REAL RESULTS.



NPLC's TOP PERFORMERS 2026



AIR 04, CLAT



Arshnoor Singh



AIR 04, AILET



Siddhant Rohit



AIR 22, AILET



Aryan Gupta



AIR 30, CLAT



AIR 43, AILET



AIR 69, AILET



AIR 74, AILET



AIR 77, AILET



AIR 86, AILET



YE POSTER NAHI, PROOF HAI!



NPLC's TOP PERFORMERS 2025



AIR 02, AILET



Chaitanya Ghosh



AIR 02, CLAT



Daiwik Agarwala



AIR 04, CLAT



Aditya Ankhad



AIR 6, AILET



Dhruv Kamath



AIR 10, AILET



Vidisha Singh



AIR 24, AILET



Samyuktha Kovilakath



AIR 30, AILET



Goohika Joshi



AIR 51, AILET



Aditya Mehta



AIR 78, AILET



Yutika Kumar

YE POSTER NAHI, PROOF HAI!

N^{PO} NISHANT PRAKASH LAW CLASSES

"Gurukul for CLAT & AILET"

Founded in 2011, Nishant Prakash Law Classes (NPLC) has earned the reputation of being the 'Gurukul for CLAT'—a space where commitment, discipline, and mentorship come together to build India's finest legal minds. Often referred to as the 'Super 30 of CLAT', NPLC is not just a coaching institute—it's a movement for serious law aspirants.

What makes NPLC truly unique is its strictly limited intake—only 90 students offline and 30 online each year. With batch sizes of just 25, every student is thoughtfully selected to ensure they are not just coached, but personally mentored. This one-of-its-kind model helps create a tightly-knit academic environment where no student is left behind, and every performance is tracked, sharpened, and elevated.

Since its inception, NPLC has consistently delivered extraordinary results, with a CLAT success rate of over 90% every year, and most recently, rank 4 in both CLAT & AILET 2026. In 2025, 5 of the top 10 ranks in CLAT & AILET were from NPLC. We do not offer test series, correspondence courses, or shortcut-based programs—only full-time classroom learning, because we believe greatness is built with time, discipline, and relentless hard work.

At NPLC, students are not identified by roll numbers but by their potential—and we make it our mission to ensure they live up to it.

What sets us apart?



91% Success Rate



Online & Offline Classes



Personalized Mentorship



Detailed Study Materials
& Tests



1:15 Mentor - Student
Ratio



Only 90 intakes per year
Offline + 30 Students Online

N
NAVIGATE.
P
PREPARE.
L
LEAD.
C
CONQUER.

Nishant Prakash



Nishant Prakash, founder and chief mentor at NPLC, is a nationally recognized legal educator and policy advisor. An alumnus of one of India's premier National Law Schools, Nishant left a thriving corporate law career to dedicate himself fully to teaching and mentoring the next generation of legal leaders. For over 13 years, he has built an unparalleled reputation as a transformational teacher, guiding students with precision, compassion, and personal accountability.

He has been associated with some of the country's top-tier law firms, including Luthra & Luthra, and holds expertise in Intellectual Property, Insurance, and Trade Law, with over 30 national and international publications to his credit.

A firm believer in long-term academic mentorship, Nishant combines academic rigour with real-world legal insights to prepare students for top law schools and successful careers. His work consistently bridges the gap between textbook learning and practical application, equipping students with a clear understanding of how law operates in the real world.

Know your Mentor |



What sets Nishant apart is not just his knowledge, but his unwavering dedication to each student's growth. Every batch under his guidance is not just taught, but molded. He pushes students beyond their limits—while offering the support, discipline, and insight they need to thrive in competitive legal exams and beyond.

For parents looking for a mentor who truly takes ownership, and for students seeking more than just lectures—Nishant Prakash is the mentor who stays with you, every step of the way.

INDEX

SUPREME COURT - LANDMARK JUDGEMENTS

	Pg.
1. Parity-Based Relief	01
2. Court's Permission Necessary for Further Investigation	06
3. Trial Courts Must Record Free Legal Aid Offer Before Witness Examination	11
4. Properties Acquired by Karta Presumed to be Joint Family Property	16
5. Arrest under Section 35(6) BNSS	21
6. Quasi-Judicial Authorities Lack Review Power	26
7. Grant of Bail Should Not Be Subject to Deposit of Money	31
8. Inclusion of Gratuity — Central Government Employees	36
9. Anticipatory Bail Cannot Be Restricted till Filing of Chargesheet Ordinarily	41
10. Principle of Parity	46
11. Disclosure Statements Made Outside Police Custody Not Admissible	51
12. Insurer Not Liable for Employer's Delay Penalty	56
13. Non-Traceability in Public Records Alone Does Not Render a Document Forged	61
14. Limitation Period Starts from Date When Offender's Identity is Known	66
15. Forgery Allegation Renders Dispute Non-Arbitrable	71

HIGH COURT - LANDMARK JUDGEMENTS

	Pg.
16. Simultaneous Recovery & Arrest Warrants Illegal	76
17. Freezing Non-Accused Bank Accounts Violates Articles 19(1)(g) & 21	80
18. 24-Week Abortion Right for Unmarried Women	85
19. Inclusion of Habeas Corpus in Child Custody Disputes	90
20. False Promise to Marry Alone Doesn't Constitute Rape	95

ANSWERS & EXPLANATIONS

100-166



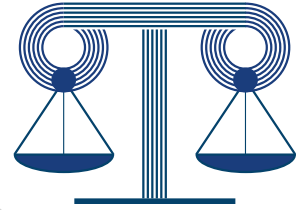
NISHANT PRAKASH
LAW CLASSES

"Gurukul for CLAT & AILET"



SUPREME COURT

Landmark Judgements



1 Parity-Based Relief

Background

- An FIR was registered in 2019 against multiple accused persons, including the respondent-accused, who was subsequently declared an absconder after evading investigation and trial for nearly six years.
- The respondent-accused's earlier anticipatory bail applications had already been rejected prior to the present proceedings.
- During the period of his abscondance, the co-accused persons stood trial before the court, and the trial court ultimately acquitted them.
- After the acquittal of the co-accused, the respondent-accused approached the Madhya Pradesh High Court (Indore Bench) seeking anticipatory bail, invoking the principle of parity on the ground that his co-accused had been acquitted.
- The respondent-accused had also allegedly threatened the injured victim and eyewitness Shailendra alias Pintu — who had opposed his bail application — with death, resulting in registration of a separate FIR No. 272/2019 dated 10.05.2019 against him for making such threats.
- The Madhya Pradesh High Court granted anticipatory bail primarily on two grounds: absence of cogent evidence and acquittal of co-accused in the same FIR.
- The complainant challenged the High Court's order before the Supreme Court, contending that parity cannot be claimed by an absconder, that the acquittal of co-accused was based on evidence specific to their trial, and that the absconder had deliberately delayed the trial by evading the process of law. The State supported the complainant's appeal before the Supreme Court, though the Court noted with concern that the State had not independently challenged the High Court's order.

Case Details

- Case Title:** Balmukund Singh Gautam v. State of Madhya Pradesh & Anr.
- Citation:** 2026 INSC 157
- Bench:** Justice J.B. Pardiwala and Justice Vijay Bishnoi

Issue Before the Court

- Whether an absconding accused can invoke the principle of parity to seek anticipatory bail solely on the ground that co-accused persons have been acquitted after trial.
- Whether the acquittal of co-accused persons in a trial — which was conducted in the absence of the absconding accused — constitutes a relevant or sufficient ground for granting anticipatory bail to the absconder.
- Whether and in what exceptional circumstances an absconding accused may be granted anticipatory bail.

Judgement of the Court

- The Supreme Court held that the principle of parity cannot be invoked by an absconder who deliberately evades trial to seek anticipatory bail merely because co-accused persons have been acquitted, as the acquittal is based on evidence specific to those accused and has no bearing on the absconder.
- The Court held that the acquittal of co-accused does not ipso facto entitle the absconder to anticipatory bail on the ground of parity, particularly when the accused himself failed to cooperate with the court and delayed the trial of co-accused persons by absconding.
- The Court observed that any finding recorded by the trial court – whether in favour of or against the absconding accused – during the co-accused's trial is wholly irrelevant for deciding the bail application of the absconder, since the prosecution was not required to produce any evidence against the absconder during that trial.
- The Court held that granting anticipatory bail to an absconding accused sets a bad precedent and sends a message that law-abiding co-accused persons who diligently attended trial were wrong to do so, thereby incentivising others to evade the process of law with impunity.
- The Court strongly disapproved the High Court's reasoning as "completely erroneous and perverse," noting that the High Court had failed to consider the accused's six years of abscondance, the separate FIR for witness intimidation, and the prior rejection of his anticipatory bail applications.
- The Court clarified that while an absconder is not entitled to anticipatory bail as a general rule, in exceptional cases where a prima facie examination of the FIR, case diary, and relevant materials discloses that no case is made out against the accused, the court may still exercise its discretion to grant anticipatory bail – however, the present case was not such an exceptional case.
- The appeal was allowed, the High Court's order was set aside, and the accused was directed to surrender before the concerned court within four weeks.

Key Takeaway for CLAT Aspirant

- **Principle of Parity in Bail Matters – Concept and Scope:** The principle of parity in bail matters holds that an accused may seek bail on the ground that a co-accused, similarly situated in the same FIR, has already been granted bail or acquitted. It is rooted in Article 14's guarantee of equal treatment – similarly situated persons should not be treated differently without rational justification. However, parity is not an absolute right and must be assessed in light of the individual circumstances of each accused, including their role in the alleged offence, criminal antecedents, and conduct during investigation and trial.
- **Limitations of Parity – When It Cannot Be Claimed:** The principle of parity has well-recognised limitations. It cannot be invoked where the accused persons are not truly similarly situated. An absconder who deliberately evades investigation and trial is not similarly situated to co-accused who cooperated with the process of law and stood trial. The acquittal of co-accused is the product of evidence led against them specifically – evidence that the prosecution was never required to lead against the absconder. Parity cannot bridge this fundamental factual and procedural distinction.

- **Absconder — Legal Status and Consequences:** An absconder is a person who evades the process of law — typically by fleeing after the registration of an FIR or after the court issues process — to avoid arrest, investigation, or trial. Under criminal procedure, courts can issue proclamation against absconders and attach their property. An absconder who deliberately evades trial for years forfeits the moral and legal standing to claim the indulgence of anticipatory bail on grounds that are available only to those who have participated in and cooperated with the judicial process.
- **Anticipatory Bail and Judicial Discretion — Not an Absolute Right:** Anticipatory bail under Section 482 of the BNSS is a discretionary remedy — it is not a matter of right even where the accused satisfies the formal eligibility criteria. Courts exercise this discretion by weighing the nature and gravity of the accusation, the antecedents and conduct of the accused, the possibility of the accused fleeing, and the larger interests of justice. An accused who has absconded, intimidated witnesses, and had earlier bail applications rejected presents a profile that is fundamentally adverse to the exercise of judicial discretion in their favour.
- **Witness Intimidation as a Ground Against Bail:** One of the standard factors that courts weigh while deciding bail applications — both regular and anticipatory — is the likelihood of the accused intimidating witnesses or tampering with evidence. The presence of a separate FIR for threatening an eyewitness, as in this case, is strong direct evidence of precisely this risk. The court must be especially reluctant to grant anticipatory bail where the accused has demonstrated by concrete conduct that they pose a threat to the safety and integrity of witnesses.
- **Relevance of Trial Findings to Bail of an Absconder — A Critical Distinction:** When co-accused stand trial, the prosecution leads evidence against them and the court records findings based on that evidence. These findings — whether resulting in conviction or acquittal — pertain specifically to those accused in respect of whom evidence was led. An absconding accused is not a party to those proceedings in any meaningful sense; the prosecution was under no obligation to and did not lead evidence against them. Therefore, findings in such a trial are wholly irrelevant for assessing the bail application of the absconder — applying them would create a perverse incentive to evade trial.
- **Incentive Effects of Bail Decisions — Institutional Perspective:** The Supreme Court's observation that granting bail to an absconder sends a wrong message to law-abiding co-accused reflects an important institutional perspective in bail jurisprudence. Bail decisions are not merely adjudications of individual liberty — they also send signals to potential accused persons about the consequences of evasion versus cooperation. A legal system that rewards evasion with the same outcome as cooperation — or a better one — undermines the rule of law and erodes public confidence in the criminal justice process.
- **Exception to the General Rule Against Bail for Absconders:** The Court recognised a narrow exception to the general rule that absconders are not entitled to anticipatory bail. Where, upon a prima facie examination of the FIR, case diary, and all relevant materials, the court is of the opinion that no case whatsoever is made out against the absconding accused — meaning the allegations are ex facie false, frivolous, or wholly unsupported — the court retains its discretionary power to grant anticipatory bail even to an absconder. This exception preserves judicial flexibility to prevent manifest injustice in extraordinary cases while maintaining the general rule as the norm.
- **Co-Accused Acquittal vs. Absconder's Bail — Procedural Fairness:** Procedural fairness demands that the outcome of a trial — including an acquittal — be based on evidence properly led and tested before the court. When co-accused are acquitted, that outcome reflects the prosecution's failure to prove the case against those specific persons on the evidence before the court.



Practice Questions

1. Rajan and Suresh were both clerks in the same government department, appointed on the same date under the same recruitment order. In 2015, the department issued an order denying both of them a seniority benefit. Suresh challenged the order before the tribunal in 2016 and succeeded in 2018, obtaining the seniority benefit. Rajan did not challenge the order at any point. In 2020, after learning of Suresh's success, Rajan filed a writ petition claiming the same seniority benefit on the ground of parity under Article 14. The government opposed the petition on the ground that Rajan had waited to see whether Suresh would succeed before approaching the court. Should Rajan be granted parity-based relief?

- (a) No, since Rajan is a fence-sitter who waited for Suresh's outcome before filing his claim.
- (b) Yes, since Rajan and Suresh were appointed on the same date under the same order.
- (c) Yes, since Article 14 mandates equal treatment for all similarly situated persons without exception.
- (d) No, since parity-based relief is never available in service matters under any circumstances.

2. Assume Meera and Priya are two teachers dismissed from the same school under the same dismissal order in 2010. Meera challenged the order before the tribunal, which reinstated her in 2013. Priya did not challenge the order. In 2016, Priya filed a fresh petition before the High Court seeking reinstatement on parity with Meera. Which of the following statements are True?

- i. Priya can claim parity with Meera since both were dismissed under the same order.
 - ii. Priya's claim is barred since she acquiesced to the dismissal for six years without protest.
 - iii. The doctrine of finality prevents Priya from re-agitating the same dispute in a new petition.
 - iv. Priya's petition is maintainable since Article 14 creates an absolute right to equal treatment.
- (a) Statements i and iv
 - (b) Statements ii and iii
 - (c) Statements i, ii, and iv
 - (d) Statements i, iii, and iv

3. A senior IAS officer whose compulsory retirement was upheld by the Central Administrative Tribunal in 2012 did not file any appeal against the order. In 2022, he filed a writ petition before the High Court raising the identical grounds of illegal retirement that had been adjudicated by the tribunal. He argued that since a decade had passed, the matter deserved a fresh look. How does this action align with the doctrine of finality in litigation?

- (a) The officer's petition is valid since a decade's passage constitutes sufficient ground to reopen any adjudicated dispute
- (b) The officer's petition is unconstitutional since only the Supreme Court can adjudicate service matters after tribunal orders
- (c) The officer's petition is unsustainable since the tribunal's order had attained finality and the same dispute cannot be re-agitated
- (d) The officer's petition is partially valid since finality applies only to money claims and not to service reinstatement matters

4. In 2008, Kamla's application for a government housing allotment was rejected. She filed a representation before the housing authority in 2010 seeking reconsideration, which was also rejected without reasons. She took no further action until 2023, when she filed a writ petition asking the High Court to direct the authority to consider her 2010 representation afresh. Which of the following rights or remedies was specifically available to Kamla at the time she filed the 2023 petition?

- (a) The right to a fresh consideration of her 2010 representation since every citizen's representation must be decided on merits
- (b) The right to approach the Supreme Court directly under Article 136 bypassing the High Court entirely
- (c) The right to claim compensation for the authority's failure to assign reasons in the 2010 rejection order
- (d) No enforceable remedy, since her underlying claim was stale and incapable of yielding any workable relief

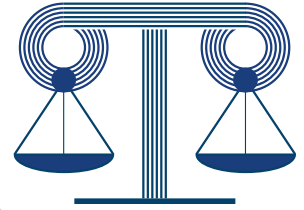
5. A High Court, while hearing a writ petition filed in 2024 challenging the rejection of a representation made in 2011 — which itself arose from an original order passed in 2006 — issued a direction to the concerned authority to "consider the representation and pass a speaking order within eight weeks." The authority complied and rejected the representation again in 2024, which was then challenged in a fresh writ petition. What does the principle governing stale claims and liveness of issues say about the High Court's original direction in 2024?

- (a) The High Court's direction was valid since every citizen has an enforceable right to a reasoned order on their representation
- (b) The High Court's direction was improper since it failed to examine whether the underlying 2006 claim was live and capable of workable relief
- (c) The High Court's direction was appropriate since procedural directions do not require examination of the claim's merits
- (d) The High Court's direction was unconstitutional since only the Supreme Court can issue directions on claims older than ten years



SUPREME COURT

Landmark Judgements



2 Court's Permission Necessary for Further Investigation

Background

- On 19 November 2013, an FIR was registered at Mahila Police Station, Firozabad (U.P.) against seven accused persons, including the appellants, for offences under Sections 376D, 352, 504 and 506 IPC, alleging gang rape.
- After the case was transferred to the Crime Branch (Firozabad and later Mathura), the Investigating Officer filed a Closure Report on 30 May 2014, stating that no offence was made out due to contradictions in the complainant's statements and lack of supporting evidence.
- The Judicial Magistrate, Firozabad, issued notices to the complainant, but as he neither appeared nor filed any protest petition, the Closure Report was accepted on 14 September 2015.
- About three years later, the complainant filed a revision petition before the District and Sessions Judge, Firozabad challenging the acceptance of the Closure Report.
- Meanwhile, following a complaint before the National Human Rights Commission (NHRC) regarding deficiencies in the investigation, the Government of Uttar Pradesh directed the CBCID on 6 June 2019 to conduct further investigation.
- The CBCID Investigating Officer sought permission for further investigation from the Magistrate on 22 April 2021, but no order granting such permission was passed. Despite this, the investigation continued and DNA samples were collected, and the DNA report dated 21 September

Case Details

- Case Title:** Pramod Kumar & Ors. v. State of U.P. & Ors.
- Citation:** Criminal Appeal No. of 2026 (Arising Out of SLP (Criminal) No. 350 of 2024)
- Bench** Justice Rajesh Bindal and Justice Vijay Bishnoi

Issue Before the Court

- Whether after submitting a final report under Section 173(2) of the Code of Criminal Procedure, 1973, the police or investigating agency can conduct further investigation under Section 173(8) CrPC without obtaining the leave of the Magistrate or Court concerned.

Judgement of the Court

- The Supreme Court held that after submission of a final report under Section 173(2) CrPC, the investigating agency cannot conduct further investigation under Section 173(8) CrPC without first obtaining the leave of the Magistrate or the Court concerned.
- The Court observed that the power to direct further investigation lies solely with the Magistrate or the Court, and if the investigating agency considers further investigation necessary, it must file an appropriate application seeking permission.
- The Court further held that upon such application, the Magistrate must apply judicial mind to the facts and reasons presented before deciding whether further investigation should be permitted.
- Relying on *Vinay Tyagi v. Irshad Ali* (2013), the Court reiterated that although Section 173(8) CrPC does not expressly require prior court permission, such a requirement has been read into the provision as a necessary implication and has become an accepted legal practice.
- Referring to *Vinubhai Haribhai Malaviya v. State of Gujarat* (2019), the Court affirmed that the Magistrate's power to order further investigation continues even after issuance of process, as fair investigation under Article 21 may require further inquiry.
- The Court also relied on *Peethambaran v. State of Kerala* (2024) to reiterate that the authority to order further investigation rests with the Magistrate or higher courts, and not with the investigating agency itself.
- The Court held that the Superintendent of Police acted contrary to law by directing further investigation without court permission, thereby undermining the authority of the Court.
- Consequently, the Supreme Court set aside the High Court's judgment and quashed the communications dated 06.06.2019 and 26.04.2021, while clarifying that its observations would not affect the pending criminal revision or other proceedings relating to the FIR.

Key Takeaway for CLAT Aspirant

- **Further Investigation – Concept and Statutory Basis:** Further investigation refers to the continuation of police investigation into an offence even after the final report or charge sheet has been submitted to the Magistrate under Section 173(2) CrPC. It is not the same as reinvestigation, which involves a fresh investigation displacing the earlier one. Further investigation is additive – it seeks to uncover additional evidence to supplement what has already been collected, and the results are submitted to the Magistrate through a supplementary report.
- **Section 173(8) CrPC and Section 193(9) BNSS – Further Investigation After Final Report:** Section 173(8) CrPC provides that submission of a final report does not preclude further investigation, and if further evidence is obtained, a supplementary report must be forwarded to the Magistrate. Section 193(9) of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS) is the corresponding provision and introduces an important addition through a proviso: further investigation during trial may be conducted only with the permission of the Court trying the case, and must be completed within ninety days, extendable with court permission. This statutory codification of the permission requirement under BNSS resolves any ambiguity that existed under CrPC.

- **Doctrine of Necessary Implication in Statutory Interpretation:** Where a statute does not explicitly provide for a procedural requirement but such a requirement is essential to give effect to the statute's purpose and scheme, courts read it into the provision as a "necessary implication." In this case, Section 173(8) CrPC does not expressly require prior court permission for further investigation, but the Supreme Court held – following Vinay Tyagi – that this requirement must be read into the provision as a necessary implication, given the Magistrate's supervisory role over investigation and the need for judicial oversight.
- **Supervisory Jurisdiction of the Magistrate Over Investigation:** Under the CrPC and BNSS, the Magistrate exercises supervisory jurisdiction over the investigation process. This jurisdiction flows from provisions such as Section 156(3) CrPC, which empowers the Magistrate to order investigation into a cognizable offence. This supervisory role does not end upon filing of the charge sheet or even after cognizance is taken. The Magistrate retains the power to order further investigation at all pre-trial stages, and even suo motu, in the interest of fair and complete investigation.
- **Closure Report (Final Report) and Its Acceptance by the Magistrate:** When the police conclude investigation and find that no offence is made out, they submit a Closure Report under Section 173(2) CrPC instead of a charge sheet. The Magistrate may accept or reject the Closure Report. If the complainant wishes to challenge the report, they may file a protest petition. Where the Magistrate accepts the Closure Report and the complainant does not challenge it, the closure attains judicial sanctity and cannot be undone by executive action of the police alone.
- **Separation of Executive and Judicial Functions in Criminal Investigation:** A fundamental principle of criminal procedure is that while the police have the power to investigate, the Magistrate exercises judicial control over that process. This case underscores that investigation is not a purely executive function free from judicial oversight – once a final report is submitted and accepted, any further investigation requires judicial sanction. The police or executive authorities cannot bypass this judicial check by issuing administrative communications directing further investigation.
- **Article 21 and the Right to Fair Investigation:** Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to a fair investigation. This cuts both ways – it protects the accused from being subjected to investigation without legal basis, and also ensures that victims receive a thorough inquiry. The Supreme Court in Vinubhai Haribhai Malaviya recognised that Article 21 may itself necessitate further investigation in appropriate cases, but such investigation must always be conducted under judicial supervision to protect the rights of the accused.
- **Role of the NHRC and Its Limitations in Criminal Matters:** The National Human Rights Commission (NHRC) has the power to inquire into violations of human rights and make recommendations to authorities. However, NHRC recommendations do not by themselves confer legal authority on the police to conduct further investigation in a criminal case where the court has already accepted a Closure Report. Compliance with NHRC directions must still conform to the procedural requirements of criminal law, including the requirement of obtaining Magistrate's permission before conducting further investigation.



Practice Questions

1. Constable Harish, posted as investigating officer in a murder case, submitted a final report to the Magistrate in 2021 stating that no offence was made out. The Magistrate accepted the Closure Report. The complainant did not file any protest petition. In 2023, the Superintendent of Police, acting on an NHRC recommendation, issued an administrative order directing Constable Harish to conduct further investigation into the same case and collect DNA samples from the accused. Constable Harish complied and submitted a supplementary report to the Magistrate. Should the further investigation and its results be treated as valid?

- (a) No, since the NHRC has no power to make recommendations in criminal matters involving murder
- (b) No, since further investigation after an accepted Closure Report requires prior Magistrate permission, which was not obtained
- (c) Yes, since the Superintendent of Police has supervisory authority over investigating officers and may direct further investigation
- (d) Yes, since NHRC recommendations carry statutory force and compliance with them constitutes valid legal authority

2. Assume Inspector Verma is investigating a robbery case. He submits a charge sheet against the accused in 2019. During the trial in 2021, he discovers a crucial witness who can provide additional evidence against the accused. He applies to the trial court for permission to conduct further investigation. The court grants permission and he submits a supplementary report. Which of the following statements are True?

- i. Inspector Verma's action is impermissible since a charge sheet had already been submitted.
 - ii. Inspector Verma's action is valid since Section 193(9) BNSS permits further investigation during trial with court permission.
 - iii. The supplementary report submitted by Inspector Verma is the correct procedural mechanism for placing additional evidence on record.
 - iv. Further investigation during trial is permissible without court permission since BNSS does not restrict police powers.
- (a) Statements i and iv
 - (b) Statements ii and iv
 - (c) Statements ii and iii
 - (d) Statements i, ii, and iv

3. A police officer investigating a kidnapping case submitted a final report to the Magistrate concluding that the accused had committed no offence. The Magistrate accepted the report. Six months later, the same police officer, without seeking the Magistrate's permission, commenced further investigation citing new evidence and arrested the accused again. The accused challenged this action before the High Court. How does the principle governing separation of executive and judicial functions in criminal investigation apply to this situation?

- (a) The police officer's action is valid since new evidence always independently empowers further investigation without judicial sanction
- (b) The police officer's action is valid since the Magistrate's acceptance of the final report does not extinguish the police's investigative powers permanently
- (c) The police officer's action is impermissible since once a Closure Report is accepted, further investigation requires prior judicial permission and cannot be initiated by executive action alone
- (d) The police officer's action is partially valid since the arrest may stand but the further investigation must be subsequently ratified by the Magistrate

4. In a case involving alleged custodial torture, the trial court accepted the police's Closure Report finding no prima facie case. The victim's family did not challenge the report. Two years later, citing the accused's right to a fair investigation under Article 21, a human rights organisation filed a petition before the Supreme Court seeking a direction for fresh investigation, entirely displacing the earlier investigation. Which of the following remedies was specifically available under the principles governing reinvestigation and further investigation?

- (a) Fresh reinvestigation ordered by the Supreme Court since Article 21 overrides all procedural requirements in human rights cases
- (b) No remedy, since Article 21 protections apply only to the accused and not to victims or their representatives
- (c) A direction to the NHRC to take cognizance and issue binding recommendations to the police to restart the investigation
- (d) A direction for further investigation under judicial supervision, not reinvestigation, since reinvestigation cannot displace the earlier inquiry entirely

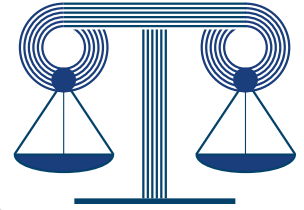
5. A Sessions Court was conducting trial in an assault case when the investigating officer, without seeking the court's permission, collected fresh forensic samples from the crime scene and submitted a supplementary report to the Magistrate. The accused challenged the admissibility of the supplementary report and the evidence collected during this unauthorised further investigation. What does the principle governing contempt of judicial authority and conduct of investigating officers say about the consequences of this unauthorised further investigation?

- (a) The supplementary report is valid since forensic evidence is always admissible regardless of the procedure followed to collect it
- (b) The investigating officer's conduct was proper since further investigation after charge sheet requires no judicial permission under CrPC
- (c) The investigating officer's conduct was unbecoming of his office, and the evidence collected and the supplementary report are liable to be rendered inadmissible and quashed
- (d) The supplementary report may be admitted at the court's discretion since procedural irregularities do not automatically invalidate evidence



SUPREME COURT

Landmark Judgements



3 Trial Courts Must Record Free Legal Aid Offer Before Witness Examination

Background

- The appellant-accused was charged for offences under Section 8(c) read with Sections 20(b)(ii)(C), 22(c), 23, 28, and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, read with Section 135 of the Customs Act, 1962, relating to alleged possession of contraband in commercial quantity.
- The appellant was denied regular bail by the Madras High Court in the NDPS case and had undergone prolonged incarceration of over four years at the time of the appeal.
- The appellant contended that she was denied legal representation during the trial and was thereby deprived of the opportunity to cross-examine prosecution witnesses.
- The Trial Court had not informed the accused of her right to free legal aid and had not recorded any offer made to the accused or her response thereto before commencing examination of witnesses.
- The appellant did not cross-examine witnesses at the initial stage of trial; it was only after she subsequently engaged her own private counsel and her application for re-examination of those witnesses was allowed that cross-examination was permitted.
- Aggrieved by the High Court's order denying bail, the appellant appealed to the Supreme Court on the grounds of prolonged incarceration and denial of fair trial due to absence of legal representation.

Case Details

Case Title: Reginamary Chellamani v. State Rep. by Superintendent of Customs
Citation: 2026 LiveLaw (SC) 121
Bench Justice Sanjay Kumar and Justice K. Vinod Chandran

Issue Before the Court

1. Whether the failure of the Trial Court to provide legal representation to an indigent accused vitiates the fairness of the trial.
2. Whether Trial Courts are duty-bound to formally inform accused persons of their right to free legal aid and record the offer made, the accused's response, and the action taken before commencing examination of witnesses.

Judgement of the Court

- The Supreme Court held that the omission by the Trial Court to provide legal representation to the accused was a serious procedural lapse directly affecting the right to a fair trial guaranteed under Article 21 of the Constitution.
- The Court observed that the appellant's inability to cross-examine prosecution witnesses at the initial stage was a direct consequence of the absence of legal representation, which fundamentally compromised the adversarial fairness of the proceedings.
- The Court held that mere availability of legal aid is insufficient; the offer of free legal aid must be made to the accused, and both the offer and the accused's response must be recorded in writing by the Trial Court before examination of witnesses commences.
- The Court held that it is incumbent upon Trial Courts dealing with criminal proceedings to inform accused persons of their right to legal representation and their entitlement to be represented by legal aid counsel in the event they cannot afford private counsel.
- The Court allowed the appeal and granted bail to the appellant on grounds of prolonged incarceration of over four years.
- The Court directed that its order be communicated to the Chief Justices of all High Courts to enable them to issue suitable binding instructions to all Trial Courts within their respective jurisdictions ensuring compliance with this requirement.

Key Takeaway for CLAT Aspirant

- **Right to Free Legal Aid – Constitutional Basis:** The right to free legal aid is embedded in multiple constitutional provisions. Article 39A, inserted by the 42nd Constitutional Amendment Act, 1976, directs the State to ensure that the operation of the legal system promotes justice on a basis of equal opportunity, and specifically to provide free legal aid to citizens who are denied access to justice by reason of economic or other disabilities. Article 14 guarantees equality before law, which courts have interpreted to include equal access to legal assistance. Article 22(1) guarantees the right of every arrested person to consult and be defended by a legal practitioner, which extends to the right to free legal aid for those who cannot afford counsel.
- **Article 21 and the Right to Fair Trial:** Article 21 of the Constitution protects the right to life and personal liberty. The Supreme Court has expansively interpreted this provision to encompass the right to a fair trial, which includes the right to legal representation. A trial conducted without informing the accused of their right to legal aid – resulting in the accused facing proceedings without counsel – directly undermines the constitutional guarantee of a fair trial and renders the proceedings procedurally flawed.
- **Article 39A of the Constitution – Directive Principle on Legal Aid:** Article 39A is a Directive Principle of State Policy, meaning it is not directly enforceable in court but guides the State in making laws and policies. It casts a positive obligation on the State to ensure that economic disabilities do not deny any citizen access to justice. Courts have treated compliance with Article 39A as essential to the meaningful realisation of rights under Articles 14 and 21, effectively elevating legal aid from a directive principle to a judicially enforceable right in the context of criminal trials.
- **Adversarial System of Trial and the Role of Cross-Examination:** Indian criminal procedure is based on the adversarial system, in which the prosecution and defence present their cases before an

- impartial judge. A cornerstone of this system is the right of the accused to cross-examine prosecution witnesses, which is the primary tool for testing the credibility and reliability of evidence. Denial of legal representation directly impairs the accused's ability to conduct effective cross-examination, undermining the adversarial process and jeopardising the integrity of the trial.
- **Procedural Fairness and the Duty of Trial Courts:** Procedural fairness requires that all parties to a proceeding are given a meaningful opportunity to participate in and respond to the case against them. Trial Courts bear an affirmative duty – not merely a passive one – to ensure that accused persons are aware of their rights, including the right to legal aid. Failure to discharge this duty by not informing the accused and not recording the offer and response constitutes a serious procedural lapse that can vitiate the fairness of the entire trial.
- **NDPS Act, 1985 – Offences Involving Commercial Quantity:** The Narcotic Drugs and Psychotropic Substances Act, 1985 is a strict liability statute that prescribes severe punishments for drug-related offences. Section 8(c) prohibits possession, sale, purchase, and transportation of narcotic drugs and psychotropic substances. Where the quantity involved is a "commercial quantity" as defined under the Act, the offence attracts the most stringent penalties, including rigorous imprisonment for a minimum of ten years and up to twenty years, along with heavy fines. Bail in NDPS cases involving commercial quantity is subject to the rigorous conditions of Section 37 of the Act.
- **Prolonged Incarceration as a Ground for Bail:** The Supreme Court has consistently held that an accused who has undergone incarceration for an extended period – particularly where trial is not proceeding expeditiously – may be entitled to bail on the ground of prolonged detention, as indefinite pre-trial incarceration itself amounts to a violation of the right to personal liberty under Article 21. In NDPS cases where bail is ordinarily difficult to obtain due to Section 37, prolonged incarceration remains a recognised ground for the Court to exercise its jurisdiction and grant relief.
- **Legal Aid Societies and the National Legal Services Authority (NALSA):** The Legal Services Authorities Act, 1987 established the National Legal Services Authority (NALSA) and corresponding State Legal Services Authorities (SLSAs) and District Legal Services Authorities (DLSAs) to provide free legal services to eligible persons. Persons eligible for free legal aid include women, children, members of Scheduled Castes and Scheduled Tribes, victims of trafficking, the mentally ill, and persons whose annual income falls below the prescribed limit. Trial Courts are required to ensure that accused persons who qualify are connected to these legal aid services before trial proceedings commence.
- **Recording of Judicial Acts – Importance of Documentation in Criminal Proceedings:** A fundamental principle of criminal procedure is that all significant judicial acts must be recorded in writing. The Court's direction that Trial Courts must record the offer of legal aid, the accused's response, and the action taken is an application of this principle. Written documentation ensures accountability, creates a verifiable record for appellate review, and prevents disputes about what transpired during proceedings. The absence of such a record makes it impossible to determine, at a later stage, whether the accused was ever informed of their rights.
- **Suo Motu Directions and the Supreme Court's Role in Systemic Reform:** The Supreme Court in this case went beyond deciding the immediate dispute between the parties and issued systemic directions to all Trial Courts through the Chief Justices of all High Courts. This reflects the Court's power and responsibility under Article 142 of the Constitution to pass orders necessary to do complete justice, and its broader role in addressing systemic lapses in the criminal justice system.



Practice Questions

1. Ramu, a daily wage labourer, was arrested in connection with a theft case. He could not afford a lawyer. The Trial Court proceeded with the trial without informing Ramu of his right to free legal aid, and without recording any offer of legal aid or his response. Ramu was convicted. On appeal, Ramu argued that his conviction was vitiated because he had faced the entire trial without counsel and without being informed of his right to legal representation. Should the appellate court accept this argument?

- (a) Yes, since the Trial Court's failure to inform Ramu of his right to legal aid and record the offer constitutes a serious procedural lapse that undermines the fairness of the trial
- (b) No, since the right to free legal aid is a Directive Principle and cannot be enforced as a fundamental right in criminal proceedings
- (c) Yes, since Ramu's conviction must be set aside on the sole ground that he was a daily wage labourer unable to afford counsel
- (d) No, since procedural lapses in informing an accused of their rights do not affect the validity of the conviction if the evidence of guilt is otherwise sufficient

2. Assume Nalini is an undertrial prisoner charged with possession of a commercial quantity of narcotics under the NDPS Act. She has been in custody for six years and her trial has not yet concluded due to repeated adjournments. She applies for bail before the Sessions Court. The prosecution opposes bail citing Section 37 of the NDPS Act, which imposes stringent conditions for bail in commercial quantity cases. Which of the following statements are True?

- i. Nalini cannot be granted bail since Section 37 NDPS Act absolutely bars bail in commercial quantity cases under all circumstances.
 - ii. Nalini's prolonged incarceration of six years without trial conclusion is a recognised ground for bail even in NDPS cases.
 - iii. Prolonged pre-trial detention itself constitutes a violation of the right to personal liberty under Article 21.
 - iv. Section 37 NDPS Act applies only to offences involving small quantities and not commercial quantities.
- (a) Statements i and iv
 - (b) Statements i and iii
 - (c) Statements ii and iii
 - (d) Statements ii and iv

3. A District Court was hearing a sessions trial against Govind, who was accused of a serious offence under the Indian Penal Code. Govind appeared without a lawyer at every hearing. The Court never enquired whether Govind wanted legal aid, never offered to connect him to the District Legal Services Authority, and never recorded anything about legal representation in its proceedings. Govind was ultimately convicted and sentenced to seven years' imprisonment. How does the principle governing the duty of Trial Courts with respect to procedural fairness apply to the District Court's conduct in this case?

- (a) The District Court's conduct was proper since it is the accused's personal responsibility to arrange

legal representation before appearing in court

(b) The District Court discharged its duty since it allowed Govind to appear and participate in each hearing without obstruction

(c) The District Court committed a serious procedural lapse by failing to inform Govind of his right to legal aid, offer DLSA assistance, and record its actions, vitiating the fairness of the trial

(d) The District Court's conduct was permissible since procedural fairness obligations apply only to High Courts and not to subordinate Trial Courts

4. The Supreme Court, while deciding an appeal in a criminal matter, noticed that across the country Trial Courts were routinely failing to inform accused persons of their right to free legal aid before commencing trials. Without limiting itself to the facts of the case before it, the Court issued binding directions to all Trial Courts through the Chief Justices of all High Courts, mandating the recording of offers of legal aid and the accused's response before trial proceedings begin. Which of the following powers specifically enabled the Supreme Court to issue such sweeping directions beyond the facts of the case before it?

(a) The Supreme Court's power under Article 136 to grant special leave to appeal from any court or tribunal in India

(b) The Supreme Court's power under Article 142 to pass orders necessary to do complete justice and address systemic lapses

(c) The Supreme Court's power under Article 32 to issue writs for enforcement of fundamental rights on individual petitions

(d) The Supreme Court's advisory jurisdiction under Article 143 to render opinions on questions of law referred by the President

5. Arjun was arrested and produced before a Magistrate. The Magistrate informed him that he was entitled to consult and be defended by a lawyer of his choice, but did not inform him that he was also entitled to free legal aid if he could not afford counsel. Arjun, being unaware of the legal aid scheme, proceeded through trial without a lawyer and was convicted. On appeal, Arjun argued that Article 22(1) read with Article 39A required the court to have informed him specifically of his right to free legal aid, and that the partial information given to him was constitutionally insufficient. Is Arjun's argument legally sound?

(a) No, since Article 22(1) only guarantees the right to consult a lawyer of one's choice and does not extend to free legal aid in any circumstance

(b) No, since Article 39A is a Directive Principle that cannot be enforced alongside Article 22(1) to create an expanded right to legal aid

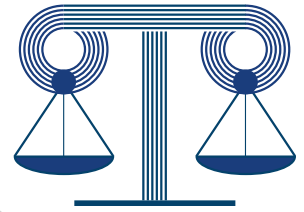
(c) Yes, since Article 22(1) read with Article 39A and judicial interpretation extends the right to include specifically informing the accused of free legal aid when they cannot afford counsel

(d) Yes, since any failure to provide complete legal information to an accused automatically results in acquittal regardless of the evidence on record



SUPREME COURT

Landmark Judgements



4

Properties Acquired by Karta Presumed to be Joint Family Property

Background

- The litigation stemmed from a partition suit filed in 1987 by Duraisamy against his father Sengan and brother Dorairaj (appellant), relating to 79 items of immovable properties, largely agricultural lands situated in Perambalur Taluk, Tiruchirappalli District.
- The plaintiff claimed that the properties were joint Hindu family properties traceable to ancestral lands and income generated therefrom, and that the family had remained joint in residence, cultivation, enjoyment, and management without any partition, either oral or written.
- The plaintiff further contended that properties purchased in the Karta's name or in the names of other family members were, in substance, acquisitions made for and on behalf of the family, thereby constituting joint family property.
- The appellant Dorairaj, a coparcener and brother of the plaintiff, resisted the partition suit, contending that several properties were either the self-acquisitions of their father Sengan or purchases made by him from his own independent income earned as a contractor and businessman.
- The appellant relied on multiple sale deeds executed in his favour by Sengan and an unregistered Will dated 24.11.1989, allegedly executed shortly before Sengan's death.
- The Trial Court dismissed the plaintiff's suit. The First Appellate Court and the High Court reversed the Trial Court's decision and decreed the suit, granting the plaintiff a 5/16th share in the joint property induced by the Karta, while excluding only Items 66, 74, and part of Item 36, which were proved to be the appellant's self-acquisitions from third parties.

Case Details

Case Title: Dorairaj v. Doraisamy (Dead) Through LRs & Ors.

Citation: 2026 LiveLaw (SC) 119

Bench Justice Sanjay Karol and Justice Satish Chandra Sharma

Issue Before the Court

- Whether properties acquired in the name of the Karta during the subsistence of a joint Hindu family, where ancestral income-yielding properties existed, are to be treated as joint family properties or as self-acquired properties.
- Whether separate enjoyment of portions, installation of irrigation facilities, or obtaining borrowings individually establish partition in law so as to sever the joint family status.

Aggrieved by the concurrent findings of the First Appellate Court and the High Court, the appellant appealed to the Supreme Court.

Judgement of the Court

- The Supreme Court upheld the concurrent findings of the First Appellate Court and the High Court, holding that once the existence of ancestral properties capable of yielding income was established, the onus shifted to the appellant to prove that subsequent acquisitions were made from independent sources without the aid of the joint family nucleus.
- The Court held that properties acquired in the name of the Karta during the subsistence of the joint family are ordinarily regarded as joint family properties unless the contrary is proved, and the appellant failed to discharge this burden with cogent evidence.
- Relying on *Shrinivas Krishnarao Kango v. Narayan Devji Kango and Ors.* (1954) 1 SCC 544, the Court affirmed that where ancestral property capable of yielding income is shown to exist, any subsequent acquisition made by the Karta is presumed to be joint family property, and the burden of proof shifts to the person claiming self-acquisition.
- On the question of partition, the Court upheld the High Court's finding that separate enjoyment of portions, installation of irrigation facilities, and individual borrowings do not by themselves establish partition in law; what is required is a clear and unequivocal intention to sever the joint status.
- The Court noted that all relevant conveyances described the interests conveyed as undivided shares, there was no mutation evidencing division, and 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.
- The Court found no reason to interfere with the concurrent findings and dismissed the appeal, noting that the High Court had already granted limited relief to the appellant by excluding items demonstrably purchased from non-coparceners.

Key Takeaway for CLAT Aspirant

- **Joint Hindu Family and Coparcenary — Nature and Composition:** A Joint Hindu Family consists of all persons lineally descended from a common ancestor, along with their wives and unmarried daughters. Within this family, a narrower body called the coparcenary exists, comprising those who have acquired an interest in joint family property by birth. Traditionally, this included male descendants up to four degrees from a common ancestor. After the Hindu Succession (Amendment) Act, 2005, daughters are also coparceners by birth, with rights equal to sons. Each coparcener has an undivided interest in the entire joint family property, not in any specific portion.
- **Joint Family Property vs. Self-Acquired Property — Distinction:** Joint family property is property inherited through ancestral descent — traceable to a common ancestor — and belongs collectively to all coparceners who acquire an interest in it by birth. Self-acquired property, by contrast, is property acquired by an individual through their own independent effort, skill, or income without utilising any joint family nucleus or resources. The two categories carry fundamentally different legal consequences: joint family property cannot be alienated by a single coparcener without consent or legal necessity, whereas self-acquired property can be freely disposed of by its owner.

- **The Karta – Role, Powers, and Limitations:** The Karta is the manager of the joint Hindu family, ordinarily the senior-most male member, though after the 2005 amendment a senior-most female member may also serve as Karta. The Karta manages joint family property on behalf of all coparceners and has broad powers of management, but limited powers of alienation. The Karta can alienate joint family property only for legal necessity, benefit of the estate, or with the consent of all coparceners. Acquisitions made by the Karta during the subsistence of the joint family are presumed in the presence of an ancestral nucleus – to be made on behalf of the family and thus constitute joint family property.
- **Joint Family Nucleus and the Presumption of Joint Acquisition:** A joint family nucleus refers to the pool of ancestral property, including its income-yielding capacity, from which further acquisitions may be funded. Once a plaintiff establishes that such a nucleus existed at the time of the subsequent acquisitions, the law presumes that those acquisitions were made from or with the aid of the nucleus and therefore constitute joint family property. This presumption is rebuttable the person claiming self-acquisition must prove by cogent evidence that the property was acquired entirely from independent sources unconnected to the family nucleus.
- **Burden of Proof in Partition Suits – Shifting of Onus:** In a partition suit, the general rule is that the party asserting joint family character of a property bears the initial burden of proof. However, once the claimant establishes the existence of an ancestral, income-yielding nucleus, the burden shifts to the person claiming self-acquisition to prove the contrary. This reversal of burden is significant in litigation strategy the defendant can no longer merely deny the joint character but must affirmatively demonstrate independent sources of funding.
- **Partition Under Hindu Law – Requirements and What Does Not Constitute Partition:** Partition is the process by which the joint status of a Hindu family is severed and coparceners receive definite, separate shares. Partition requires a clear, unequivocal, and unambiguous intention to sever the joint status, communicated to the other members. Importantly, separate enjoyment of portions of joint property, installation of improvements such as irrigation facilities, individual borrowings, or separate management of portions do not by themselves constitute partition in law. Partition must be evidenced by a definite act – such as a partition deed, mutation of revenue records, or an unambiguous oral declaration followed by accepted conduct – reflecting the intention to divide.
- **Undivided Share in Joint Family Property:** Until partition occurs, each coparcener holds an undivided share in the whole of the joint family property – not in any specific identifiable portion. This means no coparcener can point to a particular field or building and claim exclusive ownership. The undivided nature of the share is why conveyances referring to "undivided shares" are treated as evidence of continued joint family status, as they reflect that no actual division of the property on the ground has taken place.
- **Section 6 of the Hindu Succession Act, 1956 – Equal Rights of Daughters as Coparceners:** Prior to the Hindu Succession (Amendment) Act, 2005, only male descendants acquired coparcenary rights by birth. The 2005 amendment to Section 6 conferred upon daughters the same rights as sons in coparcenary property, giving them birthright interests equal to male coparceners.
- **Doctrine of Blending – Conversion of Self-Acquired Property into Joint Family Property:** A coparcener may voluntarily convert their self-acquired property into joint family property through the doctrine of blending. Blending requires a clear intention by the owner to abandon their separate rights over the property and throw it into the common stock of the joint family. Mere use of the property by family members, or the fact that others benefited from it, does not constitute blending. Once blended, the property loses its self-acquired character and becomes subject to the rights of all coparceners.



Practice Questions

1. Ramesh, the Karta of a joint Hindu family, purchased agricultural land in 2010 using income generated from the family's ancestral orchards. He later claimed that the land was his self-acquired property since the purchase deed was in his name alone. His son Suresh filed a partition suit asserting that the land was joint family property. The family's ancestral orchards were undisputedly income-generating at the time of purchase. Who bears the burden of proof regarding the character of the purchased land?

- (a) Suresh, since the party asserting joint family character always bears the burden throughout the suit.
- (b) Ramesh, since the purchase deed being in his name raises a presumption of self-acquisition that Suresh must displace.
- (c) Ramesh, since once Suresh establishes the ancestral nucleus, the burden shifts to Ramesh to prove self-acquisition.
- (d) Suresh, since Ramesh as Karta is presumed to act independently of the joint family in all property matters.

2. Assume Kaveri, a daughter born in 2000, seeks a share in her father's coparcenary property. Her father died in 2004, before the Hindu Succession (Amendment) Act, 2005 came into force. Her brothers argue that since their father died before the amendment, Kaveri cannot claim coparcenary rights. Which of the following statements are True?

- i. Kaveri has equal coparcenary rights regardless of whether her father was alive at the time of the 2005 amendment.
 - ii. Kaveri has no coparcenary rights since her father died before the 2005 amendment came into force.
 - iii. The Supreme Court in Vineeta Sharma v. Rakesh Sharma clarified that daughters' rights are not contingent on the father being alive.
 - iv. Daughters acquire coparcenary rights only if they were born after the 2005 amendment.
- (a) Statements i and iii
 - (b) Statements ii and iv
 - (c) Statements i, ii, and iii
 - (d) Statements ii, iii, and iv

3. Govind owned a small plot of land which he had purchased entirely from his personal savings earned before his marriage and before joining his joint family business. He never used any ancestral property income to fund this purchase, as evidenced by clear documentary proof. His coparceners claimed that since Govind was a member of a joint Hindu family with a nucleus at the relevant time, the plot should be treated as joint family property. How does the principle governing the presumption of joint acquisition apply here?

- (a) The plot is joint family property since any acquisition during joint family membership is automatically presumed to be joint.
- (b) The plot is self-acquired since the presumption of joint acquisition is irrebuttable once ancestral nucleus is established.

(c) The plot is self-acquired since Govind has discharged the shifted burden with cogent evidence of independent funding.

(d) The plot remains joint family property since no single coparcener can hold self-acquired property while the family is undivided.

4. Three brothers — Hari, Mohan, and Sohan — are coparceners in a joint Hindu family owning agricultural lands. Hari has been separately cultivating the northern fields for fifteen years, installed an irrigation pump at his own expense, and borrowed money individually using those fields as security. Mohan and Sohan now claim that Hari's long separate enjoyment and improvements constitute a partition in law. Which of the following correctly states the legal position regarding what constitutes partition under Hindu law?

(a) Hari's separate cultivation and improvements constitute a valid partition since continuous separate enjoyment severs joint status.

(b) Hari's actions do not constitute partition since separate enjoyment and improvements alone are insufficient to sever joint status.

(c) Hari's individual borrowings against the fields alone are sufficient to constitute partition of his share from the joint family.

(d) Hari's installation of the irrigation pump constitutes a partition since it reflects an unambiguous intention to hold separately.

5. Shortly before his death, Vikram — the Karta of a joint Hindu family — executed an unregistered Will bequeathing the entire ancestral farmland to his eldest son Arun, excluding his other two sons. Arun relied on the Will to resist a partition suit filed by his brothers. The farmland had always been treated as joint family property and no partition had ever taken place. How does the principle governing unregistered Wills and joint family property apply to Arun's claim?

(a) Arun's claim succeeds since an unregistered Will is valid and the Karta has full power to bequeath joint family property.

(b) Arun's claim fails since Wills must be registered to be valid under the Registration Act, 1908.

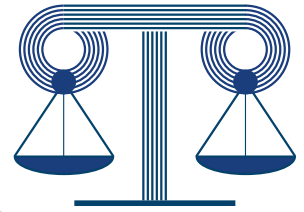
(c) Arun's claim partially succeeds since the Will is effective only to the extent of Vikram's own definite share, not the entire property.

(d) Arun's claim succeeds since the Karta's Will overrides coparcenary rights of other family members upon his death.



SUPREME COURT

Landmark Judgements



5

Arrest under Section 35(6) BNSS

Background

- The case arose in the context of interpreting the arrest provisions under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the Code of Criminal Procedure, 1973.
- Section 35(3) of the BNSS mandates issuance of a notice for offences punishable with imprisonment up to seven years, requiring the accused to appear before the police officer instead of being arrested.
- Section 35(6) BNSS empowers the police to arrest a person who fails to comply with a Section 35(3) notice or fails to identify themselves.
- In the earlier case of *Satender Kumar Antil v. CBI (II)* (2025), the same bench had held that non-compliance with a Section 35(3) notice does not automatically justify arrest, and that arrest is a measure of last resort to be exercised only after applying mind to the necessity thereof.
- The earlier judgment, however, did not address whether police officers must rely on fresh material distinct from the circumstances existing at the time of issuing the Section 35(3) notice while effecting an arrest under Section 35(6), leaving a gap in interpretation.
- The present case was taken up specifically to address this gap and clarify the legal requirements for a valid arrest under Section 35(6) of the BNSS.

Judgement of the Court

- The Court held that issuance of a notice under Section 35(3) of the BNSS is mandatory for offences punishable with imprisonment up to seven years, making notice the rule and arrest the exception in such cases.

Case Details

- Case Title:** *Satender Kumar Antil v. Central Bureau of Investigation*
- Citation:** 2026 LiveLaw (SC) 114
- Bench** Justice M.M. Sundresh and Justice N. Kotiswar Singh

Issue Before the Court

- Whether notices under Section 35(3) of the BNSS, 2023 are to be mandatorily issued in all cases involving offences punishable with imprisonment up to seven years.
- Whether an arrest under Section 35(6) of the BNSS can be based on the same circumstances and factors that existed at the time of issuing the Section 35(3) notice, or whether it must be founded on fresh material not available at that stage.

- The Court held that an arrest, being an act done in furtherance of investigation, is discretionary and optional – a police officer must ask himself whether arrest is a necessity before undertaking it, and even where conditions for arrest exist, arrest is not mandatory.
- The Court clarified that for offences punishable up to seven years, a valid arrest requires simultaneous satisfaction of both Section 35(1)(b)(i) – reason to believe the accused committed the offence – and at least one of the necessity conditions under Section 35(1)(b)(ii), such as preventing further offences, facilitating investigation, preventing tampering of evidence, protecting witnesses, or ensuring court appearance.
- The Court held that circumstances and factors existing at the time of issuing the Section 35(3) notice cannot be taken into consideration while effecting an arrest under Section 35(6); the arrest must be based on fresh material and factors that were not available to the police officer at the time the notice was issued.
- The Court held that as long as a person served notice under Section 35(3) complies with it and appears, they cannot be arrested, as provided under Section 35(5).
- The Court directed that the power of arrest under Section 35(6) is not a matter of routine but a clear exception, and police officers are expected to be circumspect and slow in exercising it.
- The Court further held that police officers must record reasons in writing both for making an arrest and for choosing not to arrest, ensuring accountability and preventing arbitrary exercise of arrest powers.

Key Takeaway for CLAT Aspirant

- **Arrest Without Warrant Under BNSS – Nature and Statutory Basis:** Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 governs the power of police officers to arrest persons without a warrant in cases involving cognizable offences. Unlike a bailable or non-cognizable offence where a warrant is required, cognizable offences permit warrantless arrest under specified conditions. The BNSS introduced significant procedural safeguards, particularly for offences punishable with imprisonment up to seven years, distinguishing such cases from more serious offences where arrest powers are wider.
- **Cognizable vs. Non-Cognizable Offences – Relevance to Arrest Powers:** A cognizable offence is one for which a police officer may arrest without a warrant, as listed in the First Schedule of the BNSS. A non-cognizable offence requires prior judicial authorisation before arrest. The distinction is critical in criminal procedure: in cognizable cases, the police can investigate and arrest without approaching a Magistrate, though this power is now subject to the procedural conditions and notice requirements introduced under Section 35 of the BNSS, particularly for lesser offences.
- **Section 35(3) of the BNSS – Notice as the Rule for Offences Up to Seven Years:** Section 35(3) provides that for cognizable offences punishable with imprisonment up to seven years, the police officer shall, instead of arresting the accused, issue a notice directing the person to appear. The Supreme Court held that this notice is mandatory – it is the rule, not a discretion. This provision is a significant departure from the CrPC framework and reflects the legislature's intent to restrict pre-trial detention for relatively less serious offences and protect personal liberty under Article 21 of the Constitution.

clause as a “promise to facilitate compliance” rather than a “promise to discharge liability,” and refused to infer guarantee obligations by implication. This approach prevents re-characterisation of commercial covenants into surety obligations without clear contractual language.

- **Section 35(1)(b) of the BNSS – Twin Conditions for Arrest:** Even in cases where arrest is permissible for offences up to seven years, it requires satisfaction of two cumulative conditions under Section 35(1)(b). First, under Section 35(1)(b)(i), the officer must have reason to believe that the accused committed the offence based on reasonable complaint, credible information, or reasonable suspicion. Second, under Section 35(1)(b)(ii), the officer must be satisfied that arrest is necessary for at least one specified purpose – preventing further offences, ensuring proper investigation, preventing tampering of evidence, protecting witnesses, or ensuring court appearance. Both conditions must coexist; satisfaction of one alone is insufficient.
- **Discretionary Nature of Arrest – Arrest as a Tool, Not an Obligation:** The Supreme Court affirmed that arrest is a discretionary and optional tool available to the police to facilitate investigation – it is not a mandatory step in every case. A police officer must actively apply their mind to the question of whether arrest is necessary in the facts of a particular case, and must record reasons in writing both when arresting and when choosing not to arrest. This reflects the constitutional principle that personal liberty under Article 21 cannot be curtailed except by procedure established by law, and that such procedure must be fair, just, and reasonable.
- **Section 35(6) of the BNSS – Arrest After Notice and the Requirement of Fresh Material:** Section 35(6) empowers police to arrest a person who fails to comply with a Section 35(3) notice or refuses to identify themselves. The Supreme Court held that such arrest under Section 35(6) cannot be based on the same circumstances that existed when the notice was issued. It must be founded on fresh material – new facts or circumstances that have come to light after the issuance of the notice and were not available to the officer at that stage. This prevents the police from using the notice mechanism as a mere formality before proceeding to arrest on pre-existing grounds.
- **Personal Liberty and Article 21 – Constitutional Underpinning of Arrest Safeguards:** Article 21 of the Constitution guarantees that no person shall be deprived of their life or personal liberty except according to procedure established by law. The Supreme Court has consistently held that this procedure must not be arbitrary, fanciful, or oppressive. The safeguards under Section 35 of the BNSS – mandatory notice, twin conditions for arrest, requirement of written reasons, and the fresh material rule – are direct expressions of the Article 21 guarantee, ensuring that arrest does not become an instrument of harassment or coercion.
- **Obligation to Record Reasons in Writing – Accountability in Arrest:** Section 35 of the BNSS imposes a mandatory obligation on police officers to record reasons in writing for making an arrest, and equally for choosing not to arrest when conditions for arrest exist. This written record requirement serves multiple purposes: it ensures that the officer has applied their mind to the necessity of arrest, creates a documentary basis for judicial review, and provides accountability against arbitrary or mala fide arrests. Absence of recorded reasons can be a ground for challenging the legality of an arrest before a Magistrate or High Court.
- **Compliance with Notice Under Section 35(5) – Protection from Arrest:** Section 35(5) of the BNSS provides that so long as a person who has been served a notice under Section 35(3) complies with its terms and appears before the police officer as directed, they cannot be arrested for that offence. This protection reflects the foundational principle that the notice mechanism is intended as a genuine alternative to arrest, not a prelude to it. The accused's compliance with the notice is thus a complete shield against arrest, and any arrest in such circumstances would be unlawful.



Practice Questions

1. Inspector Dinesh arrested Sunil for an offence punishable with five years of imprisonment without issuing any notice under Section 35(3) BNSS. Sunil had no prior criminal record and had been cooperating with the police throughout the inquiry. Inspector Dinesh did not record any reasons for choosing arrest over notice. Sunil challenged the arrest before the Magistrate. Should the Magistrate uphold the arrest?
- (a) Yes, since the offence is cognizable and Inspector Dinesh had complete discretion to arrest without notice.
 - (b) No, since for offences up to seven years, issuing a notice is mandatory and arrest without notice is impermissible.
 - (c) Yes, since Sunil's cooperation with the police is irrelevant to the legality of the arrest in cognizable offences.
 - (d) No, since arrests without warrant are unconstitutional under Article 21 regardless of the nature of the offence.
2. Constable Rekha served a notice under Section 35(3) BNSS on Pradeep, who was suspected of committing an offence punishable with four years of imprisonment. Pradeep duly appeared before Constable Rekha on the date specified in the notice and cooperated fully with all directions. Constable Rekha nonetheless arrested Pradeep, citing the seriousness of the original allegation. Was Constable Rekha's arrest of Pradeep lawful?
- (a) Yes, since compliance with a notice does not bar arrest if the investigating officer considers the offence serious.
 - (b) Yes, since a notice under Section 35(3) is a preliminary step and arrest remains available at any stage of investigation.
 - (c) No, since compliance with a Section 35(3) notice is a complete shield against arrest for that offence.
 - (d) No, since Constable Rekha should have first obtained a warrant before proceeding to arrest Pradeep.
3. Sub-Inspector Karan suspected Meena of committing an offence punishable with six years of imprisonment. He believed she had committed the offence based on credible information. He arrested her without issuing a notice, without recording reasons in writing, and without considering whether any of the specified purposes for arrest under Section 35(1)(b)(ii) BNSS were satisfied. Meena filed a writ petition before the High Court challenging her arrest. How does the principle governing twin conditions for arrest apply to Meena's case?
- (a) Meena's arrest is valid since Sub-Inspector Karan's credible information alone satisfies all requirements for arrest under BNSS.
 - (b) Meena's arrest is unlawful since both conditions under Section 35(1)(b) must coexist and satisfaction of one alone is insufficient.
 - (c) Meena's arrest is valid since offences punishable with more than five years automatically justify arrest without further conditions.
 - (d) Meena's arrest is unlawful since credible information can never form the basis of arrest for offences below ten years.

4. Head Constable Vijay issued a notice under Section 35(3) BNSS to Ramona for an offence punishable with three years of imprisonment. Ramona failed to appear as directed. Head Constable Vijay then arrested her, relying entirely on the same facts and circumstances that were available to him when he issued the original notice. Ramona's counsel challenged the arrest arguing that no fresh material justified it. Consider the following statements and identify which are true:

- i. Arrest under Section 35(6) is valid whenever the accused fails to comply with a notice, on any available grounds.
 - ii. Arrest under Section 35(6) must be founded on fresh material not available to the officer when the notice was issued.
 - iii. Using pre-existing grounds for arrest after non-compliance reduces the notice mechanism to a mere formality.
 - iv. Non-compliance with a Section 35(3) notice automatically authorises arrest without any further conditions.
- (a) Statements i and iv
 - (b) Statements ii and iii
 - (c) Statements i, iii, and iv
 - (d) Statements ii, iii, and iv

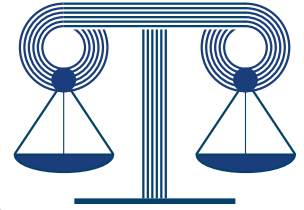
5. Inspector Harpal arrested Sunita for an offence punishable with four years of imprisonment. He recorded detailed reasons stating that he had credible information that Sunita committed the offence, but did not record any reasons for why he chose arrest over notice. Sunita challenged the arrest before the Magistrate on the ground that the police officer failed to comply with recording obligations under Section 35 BNSS. Is Sunita's challenge maintainable?

- (a) No, since recording reasons for believing the accused committed the offence is the only documentation required for arrest.
- (b) No, since the decision to arrest over notice is an operational matter within the officer's exclusive discretion.
- (c) Yes, since Section 35 requires recording reasons both for arresting and for choosing not to issue a notice instead.
- (d) Yes, since any procedural defect in recording automatically results in the accused's immediate release and acquittal.



SUPREME COURT

Landmark Judgements



6

Quasi-Judicial Authorities Lack Review Power

Background

- The dispute arose under the West Bengal Estates Acquisition Act, 1953 (WBEA Act), concerning the vesting of land in the State.
- A Revenue Officer had earlier passed an order determining that the disputed land stood vested in the State Government under the provisions of the WBEA Act.
- Years later, the State Government issued an executive direction under Section 57A of the WBEA Act, approved by the Minister-in-Charge, citing economic considerations and the proposed industrial use of the land.
- Acting pursuant to this executive direction, the same Revenue Officer purported to review and reopen its earlier order, and passed a fresh order dated 07.05.2008 vesting the disputed land in favour of the respondent, Jai Hind Pvt. Ltd.
- This fresh vesting was effected even though the land had already stood vested with the State Government under the earlier order.
- The State of West Bengal challenged the legality of the Revenue Officer's review exercise before the courts.
- The Calcutta High Court upheld the Revenue Officer's review order, holding that the Government Order issued under Section 57A, having been approved by the Minister-in-Charge, constituted sufficient authority to confer review jurisdiction upon the Revenue Officer.
- Aggrieved by the High Court's decision, the State of West Bengal appealed to the Supreme Court.

Case Details

- Case Title:** State of West Bengal & Ors. v. Jai Hind Pvt. Ltd.
- Citation:** 2026 LiveLaw (SC) 126
- Bench** Justice M.M. Sundresh and Justice N. Kotiswar Singh

Issue Before the Court

- Whether a Revenue Officer exercising quasi-judicial functions could review its own earlier order in the absence of an express or implied statutory power of review.
- Whether an executive direction issued by the State Government, even when approved by the Minister-in-Charge, could confer review jurisdiction upon a quasi-judicial authority.

Judgement of the Court

Findings of the Court:

- The Supreme Court held that the power of review is not inherent in any quasi-judicial authority and must be conferred by statute, either expressly or by necessary implication; in the absence of such statutory conferment, any exercise of review jurisdiction is without authority and void ab initio. The Court held that the WBEA Act, 1953 does not confer any power of substantive review upon the Revenue Officer, either expressly or by necessary implication, and the review order dated 07.05.2008 was therefore wholly without jurisdiction and void ab initio.
- The Court noted that the proviso to Section 57B(3) of the WBEA Act explicitly prohibits the Revenue Officer from reopening any matter that has already been enquired into, investigated, determined, or decided by the State Government or any authority under the Act, making the review doubly impermissible.
- The Court held that the High Court erred in treating the Government Order issued under Section 57A, approved by the Minister-in-Charge, as sufficient authority to confer review jurisdiction upon the Revenue Officer, observing that this approach conflated executive direction with statutory conferment of substantive power.
- The Court further held that the High Court incorrectly treated review as a mere procedural incident of civil court powers, and overlooked the fundamental constitutional limits on vesting judicial functions in executive authorities.
- The Court held that the vesting of the disputed land in favour of the respondent was impermissible, particularly when the land had earlier stood vested with the State Government.
- The appeal was accordingly allowed and the Calcutta High Court's decision was overturned.

Key Takeaway for CLAT Aspirant

- **Review Jurisdiction – Nature and Source:** Review is the power of an authority to reconsider and correct its own earlier decision. Unlike appellate jurisdiction – which is exercised by a superior authority over an inferior one – review is exercised by the same authority that passed the original order. Courts of record such as the Supreme Court and High Courts possess inherent power of review under Articles 137 and 226 of the Constitution respectively. However, for all other authorities, including quasi-judicial bodies, the power of review is not inherent and must be specifically conferred by statute, either expressly or by necessary implication.
- **Quasi-Judicial Authorities – Nature and Distinction from Courts:** Quasi-judicial authorities are bodies that perform functions similar to courts – they adjudicate disputes, hear evidence, apply law to facts, and issue binding orders – but are not courts of law in the strict sense. They derive their jurisdiction entirely from the statute that creates them and can exercise only those powers that the statute expressly confers or necessarily implies. Unlike civil courts which possess inherent powers under the Code of Civil Procedure, quasi-judicial bodies have no inherent jurisdiction and are entirely creatures of statute.
- **Doctrine of Statutory Conferment of Power:** A fundamental principle of administrative law is that a statutory authority can exercise only those powers that have been expressly conferred upon it by the parent statute, or that are necessarily implied from the express provisions. Any action taken in excess

- of these conferred powers is ultra vires – beyond the authority's jurisdiction – and void. This doctrine prevents authorities from arrogating powers to themselves that the legislature did not intend to confer, and ensures that the exercise of public power remains within legally defined limits.
- **Void Ab Initio – Legal Consequence of Acting Without Jurisdiction:** An act or order that is void ab initio is void from the very beginning – it has no legal existence or effect whatsoever and cannot confer any rights or impose any obligations. When a quasi-judicial authority exercises review jurisdiction without statutory authority, the resulting order is not merely voidable – capable of being set aside on appeal – but is void ab initio, as if it never existed. This means all consequences flowing from such an order, including any vesting of rights or property, are also legally non-existent.
- **Executive Direction vs. Statutory Conferment of Power – A Critical Distinction:** An executive direction or government order is an instruction issued by the executive branch of government to an authority under its administrative control. Such a direction cannot confer substantive legal powers upon a quasi-judicial authority that the parent statute has not granted. The Supreme Court in this case drew a sharp distinction between executive direction – which operates in the administrative sphere – and statutory conferment of power – which alone can vest jurisdiction in a quasi-judicial body. Treating an executive direction as a source of judicial power conflates the executive and judicial functions of the State, which is constitutionally impermissible.
- **Separation of Powers and Limits on Executive Control over Quasi-Judicial Bodies:** The doctrine of separation of powers requires that legislative, executive, and judicial functions be kept broadly separate. While quasi-judicial bodies are not part of the formal judiciary, they exercise judicial functions and must therefore be insulated from executive interference when adjudicating. The State Government cannot, through an executive order, direct a quasi-judicial authority to reopen or review a concluded adjudication, as this amounts to executive override of a judicial determination – a violation of the rule of law and the principles of natural justice.
- **Doctrine of Finality of Quasi-Judicial Orders:** Once a quasi-judicial authority has exercised its jurisdiction and passed an order that has attained finality – not being challenged through the available appellate mechanism – the matter is conclusively settled. The doctrine of finality protects parties from being subjected to repeated proceedings on the same issue and ensures certainty and stability in legal relations. The proviso to Section 57B(3) of the WBEA Act in this case is a statutory expression of this doctrine, explicitly prohibiting reopening of matters already determined under the Act.
- **Ultra Vires Doctrine in Administrative Law:** The ultra vires doctrine holds that any action of a statutory body that exceeds the powers conferred upon it by its parent statute is invalid. Ultra vires can be substantive – where the authority does something it has no power to do – or procedural – where the authority fails to follow the procedure prescribed by the statute. The Revenue Officer's review in this case was substantively ultra vires, as the WBEA Act conferred no review power whatsoever. Courts apply this doctrine to maintain the constitutional supremacy of the legislature and to ensure that delegated powers are exercised within their prescribed limits.
- **West Bengal Estates Acquisition Act, 1953 – Context of Land Vesting:** The WBEA Act was enacted to abolish the zamindari system and vest ownership of estates and agricultural lands in the State Government as part of post-independence land reform. Under this Act, the Revenue Officer exercises quasi-judicial powers to determine whether particular lands are subject to vesting. Once vesting is determined and the order attains finality, the land stands transferred to the State by operation of law. The Act's explicit prohibition on reopening concluded matters in the proviso to Section 57B(3) reflects the legislature's intent that land reform determinations be final and not subject to repeated challenge.



Practice Questions

1. The State Transport Authority, a quasi-judicial body constituted under the Motor Vehicles Act, passed an order cancelling Ramesh's transport permit in 2019. Ramesh did not challenge the order through the available appellate mechanism. In 2021, the State Transport Authority suo motu reviewed its own 2019 order and restored Ramesh's permit, citing changed circumstances. A competitor permit holder challenged the review order. The Motor Vehicles Act contained no provision conferring review power on the State Transport Authority. Should the review order be upheld?

- (a) No, since quasi-judicial authorities have no inherent review power and the Motor Vehicles Act conferred none expressly.
- (b) Yes, since the State Transport Authority is empowered to correct its own errors in the interest of justice.
- (c) No, since Ramesh should have challenged the original cancellation order within the prescribed time limit.
- (d) Yes, since review of one's own orders is an inherent power available to all adjudicatory bodies without exception.

2. A Revenue Officer under the West Bengal Estates Acquisition Act determined in 2010 that certain agricultural lands were subject to vesting in the State. The landowner did not appeal this order and it attained finality. In 2015, the State Government issued an executive direction to the Revenue Officer to reopen and review the vesting determination in light of new revenue policy. The Revenue Officer complied and passed a fresh order reversing the vesting. The State challenged the reversal in the High Court. Consider the following statements and identify which are true:

- i. The State Government's executive direction is a valid source of jurisdiction for the Revenue Officer to reopen the concluded matter.
 - ii. The Revenue Officer's review is void ab initio since the WBEA Act confers no review power and the matter had attained finality.
 - iii. An executive direction cannot confer substantive judicial powers that the parent statute has not granted.
 - iv. The Revenue Officer acted within jurisdiction since the State Government has administrative control over its officers.
- (a) Statements i and iv
 - (b) Statements ii and iii
 - (c) Statements i, iii, and iv
 - (d) Statements ii, iii, and iv

3. The Income Tax Appellate Tribunal, a statutory quasi-judicial body, passed an order in 2018 rejecting a taxpayer's appeal. The taxpayer did not challenge this order before the High Court. In 2020, the Tribunal reviewed its own order citing an error apparent on the face of the record, although the Income Tax Act contained no express provision conferring review jurisdiction on the Tribunal. The Revenue Department challenged the review. How does the doctrine of statutory conferment of power apply to the Tribunal's review?

- (a) The review is valid since all adjudicatory bodies possess inherent power to correct errors apparent on the face of record.
- (b) The review is valid since the Income Tax Act necessarily implies review power given the Tribunal's adjudicatory functions.
- (c) The review is invalid since quasi-judicial bodies have no inherent powers and can only act within expressly or impliedly conferred statutory authority.
- (d) The review is valid since the taxpayer's failure to appeal to the High Court implies acceptance of the Tribunal's continued jurisdiction.

4. A Rent Control Tribunal passed a final eviction order against Mohan in 2016 under the local Rent Control Act. Mohan did not appeal. In 2019, Mohan filed a review application before the same Tribunal. The Tribunal entertained the application and stayed the eviction, relying on its general power to do justice between parties. The Rent Control Act was silent on review jurisdiction. Consider the following statements and identify which are false:

- i. The Tribunal's entertainment of the review application is valid since it must have power to correct its own errors.
 - ii. The Tribunal acted ultra vires since the Rent Control Act conferred no review power upon it.
 - iii. The Tribunal's review order staying eviction is void ab initio and has no legal existence or effect.
 - iv. Silence of a statute on review power implies that review is permissible as a general principle of adjudication.
- (a) Statements ii and iii
 - (b) Statements i and iv
 - (c) Statements i, ii, and iii
 - (d) Statements i, iii, and iv

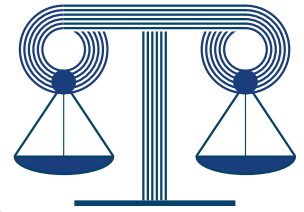
5. The Employees' Provident Fund Appellate Tribunal passed an order directing an employer to deposit arrears in 2017. The employer did not challenge the order. In 2022, a government circular directed the Tribunal to reconsider all pre-2018 arrear orders in light of revised contribution rates. The Tribunal reconsidered and reduced the employer's liability. The employees' union challenged this reconsideration. Which of the following correctly states the legal position regarding the government circular's effect on the Tribunal's jurisdiction?

- (a) The government circular validly extended the Tribunal's jurisdiction since it operates under government oversight.
- (b) The Tribunal's reconsideration is valid since revised contribution rates constitute changed circumstances justifying review.
- (c) The government circular cannot confer review jurisdiction since only the parent statute can vest powers in a quasi-judicial body.
- (d) The Tribunal's reconsideration is valid since the employees' union has no locus standi to challenge an order reducing liability.



SUPREME COURT

Landmark Judgements



7 Grant of Bail Should Not Be Subject to Deposit of Money

Background

- The two accused persons – a father and son – were alleged to have failed to make a payment of Rs. 9,00,000 to the complainant after purchasing craft papers from him, giving rise to a cheating case and registration of an FIR.
- Anticipating arrest, the accused applied for anticipatory bail before the Sessions Court, which denied their application.
- The accused then approached the Jharkhand High Court, which passed two conditional orders dated 13.01.2025 and 14.11.2025, directing them to file a supplementary affidavit demonstrating that a payment of Rs. 9,12,926.84 had been made to the complainant.
- In both orders, the High Court observed that if the affidavit showing payment was not filed, the anticipatory bail application would be dismissed without further reference.
- The accused sought time before the High Court and thereafter challenged both conditional orders before the Supreme Court.
- The Supreme Court bench noted with disappointment that the High Court had passed these orders in ignorance of its own binding judgment in *Gajanan Dattatray Gore v. State of Maharashtra* (2025), which had clearly held that bail applications must be adjudicated on merits and not on the assurance or payment obligations of the accused.

Case Details

- Case Title:** Prantik Kumar & Anr. v. The State of Jharkhand & Anr.
- Citation:** 2026 LiveLaw (SC) 131
- Bench** Justice J.B. Pardiwala and Justice K.V. Viswanathan

Issue Before the Court

- Whether a court can make the grant of anticipatory bail conditional upon the deposit of a sum of money or the discharge of a civil liability owed to the complainant.
- Whether bail applications – both regular and anticipatory – must be decided solely on their merits, without imposing financial preconditions unrelated to the standard considerations governing bail.

Judgement of the Court

- The Supreme Court described the High Court's orders as "unusual orders" passed in ignorance of a clear and binding judgment of the Supreme Court, and expressed that it was "very unfortunate" that High Courts continue to pass such conditional bail orders despite explicit directions to the contrary.
- The Court reiterated unequivocally that if a case for grant of bail or anticipatory bail is made out on merits, the court must pass an appropriate order granting bail; and if not made out, the court may decline – however, the court cannot pass a conditional order directing deposit of a particular amount and then exercise its discretion.
- The Court held that the grant of regular bail or anticipatory bail cannot be made subject to the deposit of any amount by the accused, as this amounts to using the bail jurisdiction as a recovery mechanism for civil dues, which is impermissible in law.
- Relying on *Gajanan Dattatray Gore v. State of Maharashtra* (2025), the Court affirmed that bail applications must be adjudicated on merits and not on the assurance or compliance of the accused with civil payment obligations.
- The Court set aside the impugned conditional orders of the Jharkhand High Court and directed that in the event of arrest of the accused persons, they shall be released on bail subject to conditions imposed by the investigating officer.
- The Court directed its Registry to forward a copy of the order to the file of the Chief Justice of the Jharkhand High Court.

Key Takeaway for CLAT Aspirant

- **Bail – Concept and Purpose:** Bail is the provisional release of an accused person from custody upon furnishing a security or surety, ensuring their appearance before the court when required. The primary purpose of bail is not to punish the accused but to secure their presence at trial while preserving their liberty. The underlying principle is the presumption of innocence – an accused is presumed innocent until proven guilty – and therefore pre-trial detention should be the exception, not the rule.
- **Anticipatory Bail – Nature and Scope:** Anticipatory bail is a pre-arrest remedy available to a person who apprehends arrest for a non-bailable offence. Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) – corresponding to Section 438 of the CrPC – a person may apply to the Sessions Court or High Court for a direction that, in the event of arrest, they shall be released on bail. Anticipatory bail is a pre-emptive protection of personal liberty under Article 21, intended to prevent unnecessary arrest and incarceration before investigation or trial.
- **Bailable vs. Non-Bailable Offences – Distinction and Consequences:** Bailable offences are those for which bail is a matter of right under Section 479 of the BNSS – the police or court must grant bail upon the accused furnishing the required security. Non-bailable offences are those for which bail is not a right but a matter of judicial discretion under Section 480 of the BNSS. In non-bailable cases, courts evaluate factors such as the gravity of the offence, the strength of evidence, criminal antecedents, likelihood of flight, risk of tampering with evidence, and threat to witnesses before deciding whether to grant bail.
- **Merits-Based Adjudication of Bail – The Core Principle:** Bail jurisdiction is a judicial function that must be exercised on the basis of established legal criteria relating to the accused's liberty, the nature

- of the offence, and the interests of justice. Courts must assess the specific factors relevant to bail – such as flight risk, evidence tampering, and the accused's past conduct – and either grant or refuse bail based on those considerations. Bail cannot be used as a tool to compel civil compliance, recover dues, or enforce contractual obligations, as these are matters for civil courts, not the criminal bail jurisdiction.
- **Conditional Bail Orders – Permissible vs. Impermissible Conditions:** Courts can impose conditions on bail to serve the legitimate purposes of bail – securing the accused's appearance, preventing tampering with evidence, and protecting the public. Permissible conditions include requirements to surrender the passport, report to the police station, not leave the jurisdiction, or not contact witnesses. Impermissible conditions are those that have no connection to these legitimate bail purposes – such as requiring the accused to deposit a sum of money owed to the complainant – as these effectively convert the bail jurisdiction into a debt recovery mechanism.
- **Criminalisation of Civil Disputes – A Recurring Concern:** Indian courts have repeatedly cautioned against the use of criminal law as a tool to recover civil dues or resolve purely commercial disputes. Where the core of a dispute is a failure to pay a contractual debt, the remedy lies in civil courts through suits for recovery, not in the criminal system. Conditioning bail on payment of alleged dues blurs this boundary, effectively allowing complainants to use the threat of arrest and detention to coerce payment – a use of criminal process that is contrary to law and liable to be set aside.
- **Article 21 and Personal Liberty in Bail Jurisprudence:** Article 21 of the Constitution guarantees that no person shall be deprived of their life or personal liberty except according to procedure established by law. The Supreme Court has held that this procedure must be fair, just, and reasonable. Impermissible conditions on bail – such as mandatory deposit of disputed amounts – impose a financial burden that effectively continues the deprivation of liberty through economic compulsion rather than legal justification, thereby violating Article 21.
- **Doctrine of Binding Precedent – Obligation of High Courts to Follow Supreme Court Judgments:** Under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India. This means High Courts are constitutionally obligated to follow the ratio decidendi of Supreme Court judgments. The Jharkhand High Court's failure to follow the clear ruling in *Gajanan Dattatray Gore v. State of Maharashtra* (2025) – a binding precedent on conditional bail – was not merely an error of judgment but a breach of constitutional obligation, warranting the Supreme Court's strong disapproval.
- **Default Bail – Statutory Protection Against Prolonged Detention:** Section 187 of the BNSS provides for default bail – also called statutory bail – where an accused must be released on bail if the investigating agency fails to file a charge sheet within the prescribed time limit from the date of arrest. This is an indefeasible right that cannot be defeated once it accrues. For serious offences punishable with death, life imprisonment, or imprisonment exceeding ten years, the time limit is ninety days; for other offences, it is sixty days. Default bail is a safeguard against indefinite pre-trial detention embedded in the statute itself.
- **Supervisory Role of the Supreme Court Over High Courts – Article 136 and Institutional Accountability:** The Supreme Court exercises supervisory and corrective jurisdiction over all courts and tribunals in India. When High Courts persistently pass orders contrary to binding Supreme Court precedent, the Supreme Court not only sets aside such orders but also communicates its displeasure to the Chief Justice of the concerned High Court, as it did in this case. This practice is part of the institutional mechanism for maintaining uniformity in the application of law and ensuring that binding precedents are followed at all levels of the judicial hierarchy.



Practice Questions

1. Ramesh was granted bail by a Sessions Court in a non-bailable cheating case. The Sessions Court, while granting bail, imposed a condition requiring Ramesh to deposit ₹5,00,000 – the amount allegedly owed to the complainant – as a precondition for his release. Ramesh challenged this condition before the High Court. Is the condition legally permissible?

- (a) Yes, since courts have wide discretion to impose any condition on bail that they deem appropriate in the interest of justice.
- (b) Yes, since requiring deposit of disputed dues is a legitimate condition that ensures the complainant is not prejudiced pending trial.
- (c) No, since the condition effectively converts bail jurisdiction into a debt recovery mechanism, which is impermissible and violates Article 21.
- (d) No, since bail conditions can only be imposed in cases involving offences punishable with life imprisonment or death.

2. Sunita was arrested in connection with a non-bailable offence. The police filed a charge sheet sixty-five days after her arrest. Sunita applied for default bail under Section 187 BNSS, contending that the charge sheet was not filed within sixty days. The prosecution argued that since the offence was serious and carried imprisonment exceeding ten years, ninety days were available, and the charge sheet was filed within time. Which of the following statements is false?

- i. Default bail under Section 187 BNSS is an indefeasible right that cannot be defeated once it accrues.
 - ii. For offences punishable with death, life imprisonment, or imprisonment exceeding ten years, the prescribed time limit for filing a charge sheet is ninety days.
 - iii. Default bail arises automatically upon expiry of sixty days regardless of the nature of the offence or punishment prescribed.
 - iv. The time limit of sixty days applies to offences other than those punishable with death, life imprisonment, or imprisonment exceeding ten years.
- (a) Statement iii only
 - (b) Statements i and iv
 - (c) Statements ii and iii
 - (d) Statements i, ii, and iv

3. Vijay apprehends arrest in connection with a non-bailable offence following a commercial dispute with his business partner. He applies for anticipatory bail before the Sessions Court. The Sessions Court rejects his application solely on the ground that he has not yet been arrested and therefore the application is premature. Is the Sessions Court's reasoning correct?

- (a) Yes, since anticipatory bail can only be applied for after an FIR has been registered and an arrest warrant has been issued against the applicant.
- (b) No, since anticipatory bail is a pre-arrest remedy specifically designed to protect personal liberty before arrest occurs, and non-arrest does not make the application premature.
- (c) Yes, since anticipatory bail jurisdiction vests exclusively in the High Court and the Sessions Court has no power to entertain such applications.

(d) No, since anticipatory bail applications are maintainable only before the Sessions Court and the Sessions Court must grant bail in all commercial disputes as a matter of right.

4. A Division Bench of the Jharkhand High Court, while granting bail to an accused in a fraud case, imposed a condition requiring the accused to pay a specified sum to the complainant. The Supreme Court, in an appeal, found that this condition was directly contrary to its binding ruling in *Gajanan Dattatray Gore v. State of Maharashtra* (2025) and expressed strong disapproval, communicating its displeasure to the Chief Justice of the Jharkhand High Court. Which of the following best explains the constitutional basis for the Supreme Court's action?

- (a) The Supreme Court acted under Article 32 since the High Court's order violated the accused's fundamental right to equality under Article 14 of the Constitution.
- (b) The Supreme Court acted under Article 141 read with Article 136, since High Courts are constitutionally bound to follow Supreme Court precedent and persistent non-compliance warrants institutional correction.
- (c) The Supreme Court acted under Article 226 since High Courts must refer all bail matters involving binding precedent to the Supreme Court before passing orders.
- (d) The Supreme Court acted under Article 32 since the High Court's bail condition constituted an offence under the Indian Penal Code warranting criminal action against the judges.

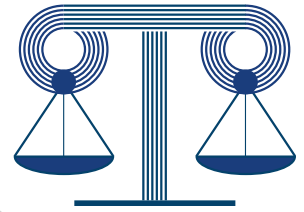
5. Mohan is accused of a non-bailable offence. He applies for regular bail before the Sessions Court. The Sessions Court, without examining any bail-relevant factors, rejects the bail application solely on the ground that the offence is serious. Mohan challenges this order. Which of the following correctly identifies the legal error in the Sessions Court's order?

- (a) The Sessions Court erred since seriousness of the offence is entirely irrelevant to bail adjudication and cannot be considered under any circumstances.
- (b) The Sessions Court erred since all non-bailable offences must be granted bail by courts as a matter of statutory right under Section 480 BNSS.
- (c) The Sessions Court erred since bail in non-bailable cases requires merits-based adjudication examining flight risk, evidence tampering, criminal antecedents, and other relevant factors – not a mechanical rejection based on offence gravity alone.
- (d) The Sessions Court's order is correct since gravity of the offence is the sole and conclusive factor in bail decisions for non-bailable offences.



SUPREME COURT

Landmark Judgements



8 Inclusion of Gratuity – Central Government Employees

Background

- The appellants were retired employees of the Heavy Water Plant (HWP), Tuticorin, functioning under the Department of Atomic Energy (DAE), a Central Government department.
- Their gratuity upon retirement was computed and paid under the Central Civil Services (Pension) Rules, 1972 (CCS Pension Rules).
- The appellants contended that they were entitled to a higher amount of gratuity had it been calculated under the Payment of Gratuity Act, 1972 (PG Act), and accordingly demanded payment of the differential amount.
- The Controlling Authority and the Appellate Authority ruled in favour of the employees, holding that HWP qualified as an "industry" and therefore fell within the ambit of the PG Act.
- A Single Judge of the Madras High Court upheld this view.
- A Division Bench of the Madras High Court reversed the decision, holding that since the retired employees of HWP are Central Government employees governed by the CCS Pension Rules, they fall within the exclusionary clause of Section 2(e) of the PG Act and are therefore not "employees" entitled to claim gratuity under that Act.
- The appellants challenged the Division Bench's decision before the Supreme Court, relying on *Municipal Corporation of Delhi v. Dharam Prakash Sharma* (1998) 7 SCC 22, where PG Act benefits had been extended despite adoption of CCS Rules.

Case Details

- Case Title:** N. Manoharan v. The Administrative Officer & Anr.
- Citation:** 2026 LiveLaw (SC) 137
- Bench** Justice Pankaj Mithal and Justice S.V.N. Bhatti

Issue Before the Court

- Whether retired employees of the Heavy Water Plant, Tuticorin, functioning under the Department of Atomic Energy and governed by the CCS (Pension) Rules, 1972, qualify as "employees" under Section 2(e) of the Payment of Gratuity Act, 1972, so as to be entitled to claim gratuity under that Act.
- Whether Central Government employees governed by a separate statutory scheme providing for gratuity can simultaneously claim the benefit of the Payment of Gratuity Act, 1972.

Judgement of the Court

- The Supreme Court dismissed the appeal and declined to interfere with the Division Bench's findings, holding that the exclusionary clause under Section 2(e) of the PG Act clearly keeps Central Government employees outside its ambit.
- The Court held that persons holding posts under the Central Government and governed by rules providing for payment of gratuity – such as the CCS Pension Rules – do not fall within the definition of "employee" under the PG Act and are therefore not entitled to claim gratuity thereunder.
- The Court endorsed the respondent's argument that employees cannot claim the status and benefits of Central Government servants under the CCS Rules for all purposes while simultaneously seeking the higher gratuity benefits available under the PG Act – a party cannot approbate and reprobate at the same time.
- On examination of the constitution, establishment, and functioning of HWP, the Court found that HWP is an adjunct of the Department of Atomic Energy, directly part of the governmental framework, and therefore its employees are Central Government servants squarely within the exclusionary clause of Section 2(e).
- The Court distinguished *Municipal Corporation of Delhi v. Dharam Prakash Sharma* (1998) on facts, noting that MCD employees were employees of a statutory corporation and not Central Government servants, making that precedent inapplicable to the present case where HWP staff are directly part of the Central Government.
- The appeal was accordingly dismissed.

Key Takeaway for CLAT Aspirant

- **Gratuity – Nature and Purpose:** Gratuity is a lump sum payment made by an employer to an employee as a recognition of long and faithful service rendered by the employee. It is a statutory right accruing upon completion of five or more years of continuous service and becomes payable at the time of retirement, resignation, death, or disablement. Gratuity is distinct from pension – pension is a periodic payment for past service, while gratuity is a one-time terminal benefit. Both serve the broader purpose of providing post-retirement financial security and are elements of the social security framework for employees.
- **Payment of Gratuity Act, 1972 – Scope and Coverage:** The Payment of Gratuity Act, 1972 is a Central legislation applicable to factories, mines, oilfields, plantations, ports, railway companies, shops, and other establishments employing ten or more persons. It mandates payment of gratuity at the rate of fifteen days' wages for each completed year of service, subject to a statutory ceiling. The Act was designed primarily to extend gratuity protection to employees in the private and quasi-public sector who had no other statutory guarantee of post-retirement benefits – it was not intended to supplement or improve upon existing governmental gratuity schemes.
- **Section 2(e) of the PG Act – Definition of "Employee" and the Exclusionary Clause:** Section 2(e) of the Payment of Gratuity Act defines "employee" as any person employed on wages in an establishment to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical, or clerical work. Critically, the definition contains an exclusionary clause – it specifically excludes any person who holds a post under

- the Central Government or a State Government and is governed by any other Act or rules providing for payment of gratuity. This exclusion reflects the legislative intent that government employees with their own comprehensive gratuity scheme need not – and cannot – additionally claim under the PG Act.
- **CCS (Pension) Rules, 1972 – Framework for Central Government Employees:** The Central Civil Services (Pension) Rules, 1972, framed under Article 309 of the Constitution, provide a comprehensive and self-contained retirement benefits framework for Central Government civilian employees, including provisions for superannuation pension, retiring pension, family pension, and gratuity. Employees governed by these rules are thus already protected by a statutory gratuity scheme and therefore fall squarely within the exclusionary clause of Section 2(e) of the PG Act. These rules apply to government servants appointed on or before 31.12.2003, after which the New Pension Scheme applies.
- **Article 309 of the Constitution – Power to Frame Service Rules:** Article 309 of the Constitution empowers the Parliament and State Legislatures to regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or a State. Rules framed under Article 309 by the President or Governor have statutory force and are binding on government servants. The CCS (Pension) Rules, 1972 derive their authority from Article 309 and constitute a statutory scheme of retirement benefits for Central Government employees.
- **Doctrine of Approbate and Reprobate:** The doctrine of approbate and reprobate – also known as the principle of election – holds that a party cannot simultaneously accept and reject the same instrument, transaction, or status. A person cannot claim the benefits of a particular status while simultaneously disowning its burdens or limitations. In this case, the Court applied this doctrine to hold that the appellants could not claim Central Government employee status and the corresponding CCS Pension Rules benefits for all purposes, while simultaneously seeking the higher gratuity benefits under the PG Act – they must elect one consistent position.
- **Statutory Corporation vs. Central Government Department – A Critical Distinction in Service Law:** A statutory corporation is a body created by a statute – such as the Municipal Corporation of Delhi – that has a separate legal identity distinct from the Central or State Government. Its employees are not government servants in the strict sense. By contrast, a department directly under the Central Government – such as the Department of Atomic Energy and its constituent units like HWP – is an integral part of the government, and its employees are Central Government servants. This distinction is critical in determining whether the exclusionary clause of Section 2(e) of the PG Act applies, as it only covers persons holding posts under the Central or State Government, not employees of autonomous bodies or statutory corporations.
- **Distinguishing Precedents – When Earlier Judgments Do Not Apply:** The technique of distinguishing a precedent involves showing that the earlier case rested on materially different facts and therefore its ratio decidendi does not govern the present case. In *Municipal Corporation of Delhi v. Dharam Prakash Sharma* (1998), the court extended PG Act benefits because MCD employees were not Central Government servants. The Supreme Court in the present case distinguished this precedent by identifying the key factual difference – HWP employees are directly part of the governmental framework and are Central Government servants, unlike MCD employees.
- **Social Security Legislation and Its Interpretive Approach:** Labour welfare statutes such as the Payment of Gratuity Act are social security legislation intended to protect economically weaker employees from being left without post-retirement support. Courts generally interpret such legislation broadly and in favour of the employee. However, this principle of beneficial interpretation does not override clear and unambiguous exclusionary clauses. Where the legislature has expressly carved out a category of persons from the Act's protection – as it has done for government employees with their own gratuity scheme – courts must give effect to that exclusion, as the legislature's intent is plain.



Practice Questions

1. Ramesh worked as a technician at Heavy Water Plant, Baroda, a unit directly under the Department of Atomic Energy, for twenty-two years before retiring in 2018. He was governed by the CCS (Pension) Rules, 1972 throughout his service and received gratuity under those rules upon retirement. He subsequently filed a claim before the Controlling Authority under the Payment of Gratuity Act, arguing that the PG Act offered higher gratuity and he was entitled to its benefits additionally. Should Ramesh's claim under the PG Act be entertained?

- (a) No, since Ramesh is a Central Government servant governed by the CCS Pension Rules and falls within the exclusionary clause of Section 2(e) of the PG Act.
- (b) Yes, since gratuity is a social security benefit and labour welfare statutes must always be interpreted in favour of the employee.
- (c) No, since the Payment of Gratuity Act applies only to private sector employees and never to any person working in a government-linked establishment.
- (d) Yes, since Ramesh completed more than five years of continuous service, which independently entitles him to claim under the PG Act.

2. Sunita was employed as a clerk with the Municipal Corporation of Delhi for eighteen years. She retired in 2020 and received gratuity under the MCD's own service rules. She subsequently filed a claim under the Payment of Gratuity Act seeking additional gratuity, arguing that MCD employees should be treated on par with Central Government servants. The MCD opposed the claim citing the exclusionary clause of Section 2(e). Consider the following statements and identify which are true:

- i. Sunita's claim is maintainable since MCD employees are not Central Government servants and the exclusionary clause does not apply to them.
 - ii. Sunita's claim is barred since any employee who has received gratuity under any scheme is excluded from the PG Act.
 - iii. The distinction between a statutory corporation and a Central Government department is critical in determining whether Section 2(e)'s exclusion applies.
 - iv. MCD employees are Central Government servants since MCD is established under a Central statute and operates in the national capital.
- (a) Statements i and iii
 - (b) Statements ii and iv
 - (c) Statements i, ii, and iii
 - (d) Statements ii, iii, and iv

3. Arvind worked for twenty years as an engineer at a private manufacturing company employing five hundred workers. He resigned in 2019 and claimed gratuity under the Payment of Gratuity Act. The company refused, arguing that Arvind's employment contract provided for a separate contractual gratuity scheme offering lower benefits than the PG Act. Arvind contended that the PG Act's benefits could not be contracted out. Which of the following correctly states the legal position regarding the PG Act's applicability to Arvind?

- (a) Arvind's claim fails since a contractual gratuity scheme entered into voluntarily by the employee

supersedes the PG Act.

(b) Arvind's claim succeeds since the PG Act is a mandatory statutory scheme that cannot be displaced by a less beneficial contractual arrangement.

(c) Arvind's claim fails since the exclusionary clause of Section 2(e) covers all employees with an existing gratuity scheme regardless of employment type.

(d) Arvind's claim succeeds only if the contractual scheme offers benefits lower than those prescribed under the PG Act ceiling.

4. Govind worked as a scientist at the Bhabha Atomic Research Centre, a constituent unit of the Department of Atomic Energy, for twenty-five years. His appointment order described him as a "BARC employee" and made no reference to Central Government service. Govind claimed that since his appointment order did not designate him a Central Government servant, the CCS Pension Rules did not apply to him and he could claim under the PG Act. The authorities rejected this claim. How does the principle governing jurisdictional fact in service disputes apply to Govind's case?

(a) Govind's claim succeeds since appointment orders are the definitive source for determining the character of an employee's service.

(b) Govind's claim fails since the substantive character of the establishment – BARC being an adjunct of the Department of Atomic Energy – determines his status as a Central Government servant.

(c) Govind's claim succeeds since beneficial interpretation of social security legislation requires resolving all ambiguity in favour of the employee.

(d) Govind's claim fails since scientists employed in any nuclear establishment are categorically excluded from the PG Act by a separate provision.

5. Priya worked for fifteen years at a Central Government department and was governed by the CCS (Pension) Rules, 1972. She claimed gratuity under the PG Act, arguing that accepting CCS Pension Rules benefits for pension purposes did not bar her from claiming the higher gratuity under the PG Act since the two are separate and distinct terminal benefits. Consider the following statements and identify which are false:

i. Priya cannot simultaneously claim the benefits of Central Government employee status and the higher gratuity under the PG Act.

ii. Priya's claim is valid since pension and gratuity are distinct benefits and accepting one does not bar claiming the other under a different statute.

iii. The doctrine of approbate and reprobate prevents Priya from accepting the CCS Pension Rules for some purposes while rejecting its limitations for others.

iv. The principle of beneficial interpretation of labour welfare statutes overrides the exclusionary clause of Section 2(e) in Priya's favour.

(a) Statements i and iii

(b) Statements ii and iv

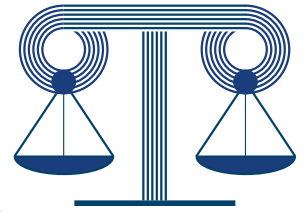
(c) Statements i, ii, and iii

(d) Statements i, iii, and iv



SUPREME COURT

Landmark Judgements

**9**

Anticipatory Bail Cannot Be Restricted till Filing of Chargesheet Ordinarily

Background

- An FIR was registered by the Uttar Pradesh Police against the appellant – the brother-in-law of the deceased woman – for offences under Sections 80(2) and 85 of the Bharatiya Nyaya Sanhita, 2023 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.
- Anticipating arrest, the appellant sought anticipatory bail before the Allahabad High Court, which granted the application but restricted the protection only "till the filing of the police chargesheet."
- Upon filing of the chargesheet, the anticipatory bail protection lapsed by operation of the High Court's own order, and the appellant filed a fresh anticipatory bail application before the High Court.
- The High Court rejected the fresh anticipatory bail application without indicating any change in circumstances that had occurred after the earlier grant of protection.
- Aggrieved by both the mechanical restriction in the first order and the rejection of the second application, the appellant approached the Supreme Court.

Judgement of the Court

- The Supreme Court described the High Court's earlier order as "very unusual," holding that once a court exercises its discretion in favour of the accused after considering the nature of allegations and the role attributed to them, there is no justification to confine the relief only till the filing of the chargesheet.

Case Details

- Case Title:** Sumit v. State of Uttar Pradesh & Anr.
- Citation:** 2026 LiveLaw (SC) 147
- Bench** Justice J.B. Pardiwala and Justice K.V. Viswanathan

Issue Before the Court

- Whether anticipatory bail protection can be mechanically restricted to the stage of filing of the chargesheet, after which the protection automatically lapses.
- Whether the filing of a chargesheet, taking of cognizance, or issuance of summons terminates anticipatory bail protection in the absence of special reasons recorded by the court.
- What is the legal position when graver or new cognizable and non-bailable offences are added against an accused after bail has already been granted.

- The Court held that once anticipatory bail is granted, it ordinarily continues without a fixed expiry – the filing of a chargesheet, taking of cognizance, or issuance of summons does not terminate protection unless special reasons are recorded by the court.
- Relying on the Constitution Bench judgment in *Sushila Aggarwal v. State (NCT of Delhi)*, the Court reiterated that anticipatory bail should not invariably be limited to a fixed period.
- Relying on *Gurbaksh Singh Sibbia v. State of Punjab* (1980), *Bharat Chaudhary v. State of Bihar* (2003), and *Siddharth v. State of Uttar Pradesh* (2021), the Court affirmed that filing of a chargesheet or taking of cognizance does not bar the grant or continuation of anticipatory bail.
- The Court held that risk management arising from changed circumstances must be addressed by imposing conditions of cooperation, attendance, and non-tampering – not by inserting expiry clauses at the inception of the anticipatory bail order; where circumstances genuinely change, modification or cancellation may be sought under the BNSS, 2023.
- On the question of addition of graver offences, the Court held that courts must apply their mind afresh and summarised the applicable principles: the accused may surrender and apply for bail for newly added offences; the investigating agency may seek orders for arrest and custody from the court that granted bail; courts may direct custody even without formally cancelling earlier bail if graver offences are added; and the investigating agency cannot unilaterally arrest an accused already on bail upon addition of new offences without first obtaining a court order.
- The Court set aside the High Court's orders and directed that a copy be forwarded to the Registrar General of the Allahabad High Court to be placed before the Chief Justice.

Key Takeaway for CLAT Aspirant

- **Anticipatory Bail – Nature, Purpose, and Statutory Basis:** Anticipatory bail is a pre-arrest remedy available under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 438 of the CrPC), which empowers the High Court or Sessions Court to direct that an applicant, if arrested for a specified non-bailable offence, shall be released on bail. It is a protective provision designed to safeguard personal liberty under Article 21 against the possibility of arrest on frivolous, mala fide, or politically motivated complaints. The remedy is available only for non-bailable offences and is subject to the court's discretion guided by established legal criteria.
- **Duration of Anticipatory Bail – The Sushila Aggarwal Principle:** The Constitution Bench of the Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* settled the position that anticipatory bail should not invariably be limited to a fixed period and ordinarily continues until the trial is concluded, unless special reasons exist to restrict it. This case reaffirmed that principle – once anticipatory bail is granted, it does not automatically expire upon filing of the chargesheet, taking of cognizance, or issuance of summons. The protection endures unless modified or cancelled by the court on the basis of changed circumstances.
- **Mechanical Restriction of Anticipatory Bail – Why It Is Impermissible:** Bail jurisdiction is a judicial function that must be exercised on reasoned consideration of relevant factors at every stage. Inserting an automatic expiry clause – such as "protection till filing of chargesheet" – at the inception of an anticipatory bail order converts a judicial determination into a mechanical, time-bound relief that terminates without any assessment of whether circumstances have changed. The Supreme Court held such clauses to be unsustainable because they circumvent the requirement of judicial application of

mind at the point of termination and effectively deny the accused the protection to which they were found entitled.

- **Chargesheet and Its Effect on Bail – A Settled Position:** A chargesheet, also called a police report, is the document submitted by the investigating officer to the Magistrate under Section 193 of the BNSS upon completion of investigation, stating the offences disclosed and the evidence collected. Filing of a chargesheet does not alter the accused's entitlement to bail – it is a step in the investigative and pre-trial process, not a ground for withdrawing bail already granted. Courts have consistently held that the filing of a chargesheet is not a change in circumstance sufficient to justify cancellation or termination of bail.
- **Conditions as an Alternative to Time Limits – Risk Management in Bail:** Courts granting anticipatory bail can and should impose appropriate conditions to manage the risks that bail is designed to address – flight risk, tampering with evidence, witness intimidation, and non-cooperation with investigation. Conditions such as regular reporting to the police station, surrender of passport, restrictions on travel, availability for interrogation, and prohibition on contacting witnesses are legitimate tools of risk management. The Supreme Court in this case emphasised that such conditions are the proper mechanism to address risk – not artificial time limits that terminate protection without judicial scrutiny.
- **Cancellation and Modification of Bail – Changed Circumstances:** Bail, once granted, is not irrevocable. Under the BNSS, 2023, the court retains the power to modify or cancel bail where circumstances change materially – for instance, where the accused tampers with evidence, threatens witnesses, fails to cooperate with investigation, or where graver offences come to light. The power of cancellation or modification is distinct from the power of refusal at inception: cancellation requires a stronger justification, as it entails taking away a liberty that has already been judicially granted.
- **Addition of Graver Offences After Grant of Bail – Legal Consequences:** When new cognizable and non-bailable offences are added against an accused who is already on bail, the legal position is: the accused should surrender and apply for bail in respect of the newly added offences; the court may grant or refuse bail for those offences afresh; the investigating agency may apply to the court that granted bail for an order of arrest and custody; and courts may, even without formally cancelling earlier bail, order the accused's custody if the addition of graver offences so justifies. Critically, the investigating agency cannot unilaterally arrest an accused already on bail merely because new offences have been added – a court order is required.
- **Dowry Prohibition Act, 1961 – Relevant Provisions:** The Dowry Prohibition Act, 1961 prohibits the giving or taking of dowry as a condition of marriage. Section 3 penalises the giving and taking of dowry, while Section 4 penalises demanding dowry. These provisions complement Section 85 of the Bharatiya Nyaya Sanhita, 2023 – which penalises cruelty by a husband or his relatives – and Section 80(2) of the BNS – which deals with dowry death. Cases involving these provisions are non-bailable and routinely give rise to anticipatory bail applications by relatives of the husband, including, as in this case, the brother-in-law.
- **Article 21 and the Right Against Arbitrary Arrest:** Article 21 of the Constitution guarantees that no person shall be deprived of their life or personal liberty except according to procedure established by law. The Supreme Court has interpreted this to require that the procedure must be fair, just, and not arbitrary. Allowing bail protection to expire mechanically at a pre-fixed stage – without any judicial assessment of whether the accused poses a continuing risk – is an arbitrary procedure that deprives the accused of liberty without reasoned judicial determination, thereby violating Article 21.



Practice Questions

1. Vikram was granted anticipatory bail by the Sessions Court in a dowry harassment case. The order contained a clause stating that "the protection granted herein shall stand vacated upon filing of the chargesheet." The police filed a chargesheet three months later, and the investigating officer treated Vikram's anticipatory bail as automatically expired and arrested him without approaching any court. Vikram challenged his arrest before the High Court. Should the High Court uphold the arrest?

- (a) No, since the chargesheet's filing is not a change in circumstance justifying termination of bail and the arrest required a court order.
- (b) Yes, since the Sessions Court expressly limited the anticipatory bail to the pre-chargesheet stage and that condition is binding.
- (c) No, since anticipatory bail granted by a Sessions Court cannot be terminated by any authority other than the Supreme Court.
- (d) Yes, since filing of a chargesheet transforms a pre-arrest remedy into a post-arrest one, extinguishing prior anticipatory bail.

2. Sunita was granted anticipatory bail by the High Court in a case under the Dowry Prohibition Act. The High Court's order specified that the bail would expire upon the Magistrate taking cognizance of the chargesheet. The Magistrate took cognizance two months later, and Sunita was arrested by the police without any fresh court order. Sunita filed a writ petition arguing that her arrest was illegal. Consider the following statements and identify which are true:

- i. The High Court's order inserting an automatic expiry clause upon cognizance is consistent with settled law on anticipatory bail duration.
 - ii. Anticipatory bail ordinarily continues until conclusion of trial unless modified or cancelled by a court on changed circumstances.
 - iii. The police cannot arrest an accused already on bail merely because a pre-fixed expiry condition has been triggered without a court order.
 - iv. Taking of cognizance by the Magistrate constitutes a change in circumstance sufficient to justify automatic termination of anticipatory bail.
- (a) Statements i and iv
 - (b) Statements ii and iii
 - (c) Statements i, ii, and iv
 - (d) Statements ii, iii, and iv

3. Ramesh was granted anticipatory bail by the Sessions Court with a condition that he report to the police station every Monday, surrender his passport, and remain available for interrogation. Six months later, the prosecution argued that the bail should be cancelled since the investigation was ongoing and Ramesh posed a risk of tampering with evidence. However, the prosecution produced no material showing that Ramesh had violated any bail condition or tampered with any evidence. Should the bail be cancelled?

- (a) Yes, since ongoing investigation is itself a sufficient ground for cancelling anticipatory bail granted at an earlier stage.

(b) No, since cancellation of bail requires material justification grounded in changed circumstances and mere apprehension is insufficient.

(c) Yes, since anticipatory bail is a pre-arrest remedy that automatically loses its force once investigation is substantially complete.

(d) No, since bail conditions adequately address investigative risks and cancellation requires stronger justification than refusal at inception.

4. Priya, who was on anticipatory bail in a dowry case, had two new and graver offences under the Bharatiya Nyaya Sanhita added against her during investigation. The investigating officer, without approaching any court, arrested Priya at her residence stating that the addition of graver offences rendered her existing bail invalid. Priya challenged her arrest. Which of the following correctly states the legal position regarding arrest of a person on bail after addition of graver offences?

(a) The arrest is valid since addition of graver non-bailable offences automatically invalidates all existing bail orders against the accused.

(b) The arrest is valid since the investigating agency has inherent power to arrest in fresh offences regardless of existing bail orders.

(c) The arrest is invalid since the investigating agency cannot unilaterally arrest an accused on bail for new offences without a court order.

(d) The arrest is invalid since graver offences added during investigation must be adjudicated separately and cannot affect the accused's bail status.

5. A Sessions Court granted anticipatory bail to Harish in a non-bailable offence case, imposing no conditions whatsoever. The prosecution approached the High Court arguing that at minimum the bail order should be modified to include conditions such as surrender of passport, reporting obligations, and travel restrictions, even if outright cancellation was not warranted. Consider the following statements and identify which are false:

i. Courts granting anticipatory bail have no power to impose conditions since anticipatory bail is a pre-arrest protective remedy.

ii. Imposition of conditions such as passport surrender and reporting obligations is the proper mechanism to address risk in bail matters.

iii. The absence of conditions in the Sessions Court's order renders the anticipatory bail order void and liable to be set aside entirely.

iv. Conditions are legitimate alternatives to artificial time limits and allow courts to manage risk without terminating bail protection.

(a) Statements ii and iv

(b) Statements i and iii

(c) Statements i, ii, and iv

(d) Statements ii, iii, and iv

Their Next Chapter



NLSIU - Bengaluru

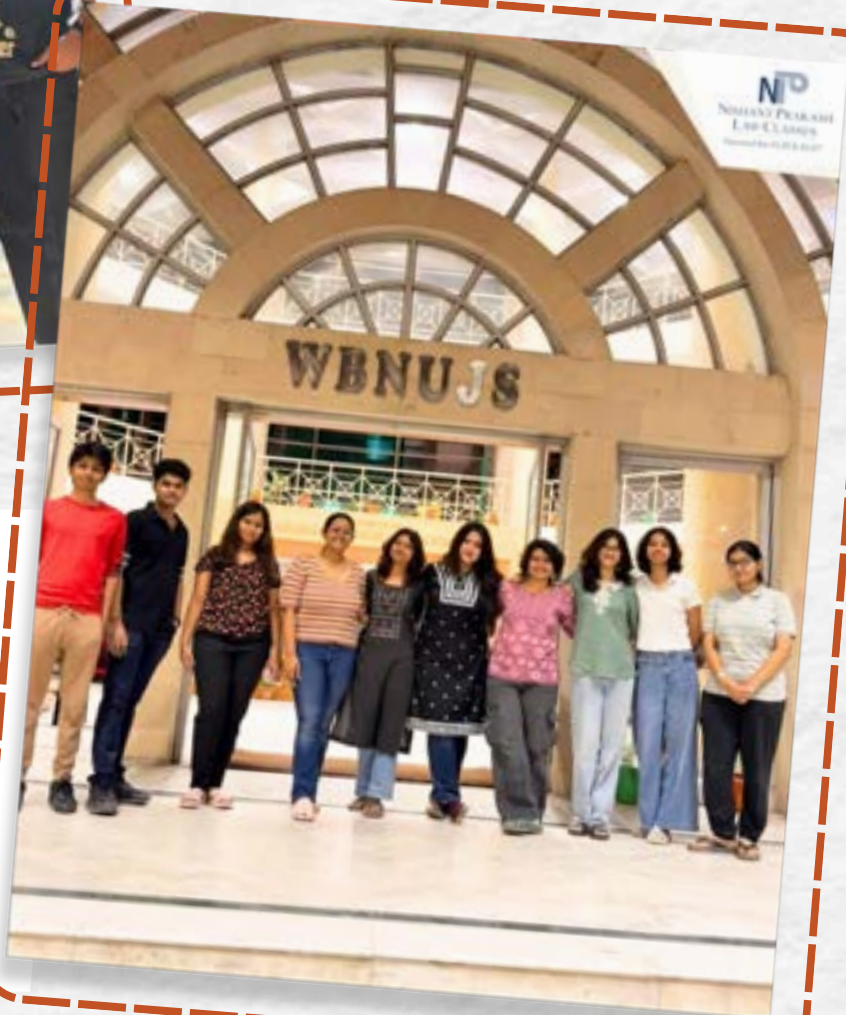
(Left to Right)

**Dainik Agarwala
Daksh Balakrishnan
Dhruv Kamath
Aditya Ankhad**

WBNUJS - Kolkata

(Left to Right)

**Reyhaan Aryan, Shashwat
Singh, Aanya Arora,
Shivakshi Dixit, Dhara
Mittal, Vaishali Bhatra,
Labonyo Banerjee, Yutika
Kumar, Janani Murugan,
Megha Malhotra**



Their Next Chapter



NLU - Delhi

(Left to Right)
**Ananya Prakash,
Amoolya Kapani, Vidisha
Singh, Goohika Joshi,
Masirah Hussain, Krish
Walia, Chaitanya Ghosh,
Aditya Mehta**

NLU - Jodhpur

(Left to Right)

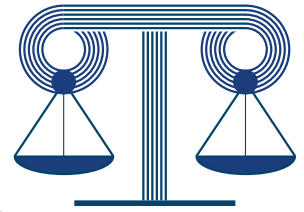
**Vivaan Mehta
Khushi Gaur
Maahi Yadav
Shefali Talwar
Kaushtubh Anand**





SUPREME COURT

Landmark Judgements



10 Principle of Parity

Background

- The Appellants purchased 15 Biswa of land within Khasra No. 436 through a registered sale deed in 1992.
- Bharat Heavy Electricals Ltd. (BHEL) constructed a boundary wall along a public road, which the Appellants claimed obstructed their access to the public road from their property.
- The Appellants filed a suit seeking a mandatory injunction simpliciter for demolition and removal of the boundary wall allegedly constructed on their land.
- The suit did not include any relief for declaration of title or recovery of possession, despite disputes regarding title, possession, and the identity/location of the property.
- The Trial Court decreed the suit and directed removal of the wall, and the First Appellate Court affirmed the decree.
- In a second appeal, the Uttarakhand High Court reversed the concurrent findings and dismissed the suit as barred under Section 41(h) of the Specific Relief Act, 1963, holding that a more efficacious remedy such as a suit for possession was available.

Judgement of the Court

- The Court held that serious disputes existed regarding title, possession, and the precise identity and location of the property, making a bare injunction suit legally inappropriate.
- The Court reasoned that when a defendant raises a structure on land claimed by the plaintiff, the situation effectively amounts to trespass and dispossession, for which the most efficacious

Case Details

- Case Title:** Sanjay Paliwal and Another v. Bharat Heavy Electricals Ltd.
- Citation:** 2026 INSC 61
- Bench** Justice Aravind Kumar and Justice N. Kotiswar Singh

Issue Before the Court

- Whether a suit seeking mandatory injunction simpliciter is maintainable when the plaintiff's title is seriously disputed, rival claims exist over possession, and the identity/location of the suit property is uncertain, without seeking declaration of title and recovery of possession.
- Whether Section 41(h) of the Specific Relief Act, 1963 bars a bare suit for mandatory injunction when an equally efficacious remedy, such as a suit for possession (with appropriate consequential reliefs), is available.

remedy is recovery of possession.

- Even assuming the plaintiffs asserted valid title, once construction exists on disputed property and possession is in question, the proper remedy is a comprehensive suit for possession along with consequential relief such as injunction, and where necessary, declaration.
- The Court held that the plaintiffs' failure to seek possession and/or declaration despite a "cloud" over the property and possession rendered the suit for injunction simpliciter not maintainable.
- Applying the settled principles governing injunction suits where title is disputed, the Court affirmed that Section 41(h) operates as a bar when an equally efficacious legal remedy is available.
- The Court dismissed the appeal and upheld the Uttarakhand High Court's decision dismissing the suit.

Key Takeaway for CLAT Aspirant

- **Principle of Parity in Bail Matters – Concept and Scope:** The principle of parity in bail matters holds that an accused may seek bail on the ground that a co-accused, similarly situated in the same FIR, has already been granted bail or acquitted. It is rooted in Article 14's guarantee of equal treatment – similarly situated persons should not be treated differently without rational justification. However, parity is not an absolute right and must be assessed in light of the individual circumstances of each accused, including their role in the alleged offence, criminal antecedents, and conduct during investigation and trial.
- **Limitations of Parity – When It Cannot Be Claimed:** The principle of parity has well-recognised limitations. It cannot be invoked where the accused persons are not truly similarly situated. An absconder who deliberately evades investigation and trial is not similarly situated to co-accused who cooperated with the process of law and stood trial. The acquittal of co-accused is the product of evidence led against them specifically – evidence that the prosecution was never required to lead against the absconder. Parity cannot bridge this fundamental factual and procedural distinction.
- **Absconder – Legal Status and Consequences:** An absconder is a person who evades the process of law – typically by fleeing after the registration of an FIR or after the court issues process – to avoid arrest, investigation, or trial. Under criminal procedure, courts can issue proclamation against absconders and attach their property. An absconder who deliberately evades trial for years forfeits the moral and legal standing to claim the indulgence of anticipatory bail on grounds that are available only to those who have participated in and cooperated with the judicial process.
- **Anticipatory Bail and Judicial Discretion – Not an Absolute Right:** Anticipatory bail under Section 482 of the BNSS is a discretionary remedy – it is not a matter of right even where the accused satisfies the formal eligibility criteria. Courts exercise this discretion by weighing the nature and gravity of the accusation, the antecedents and conduct of the accused, the possibility of the accused fleeing, and the larger interests of justice. An accused who has absconded, intimidated witnesses, and had earlier bail applications rejected presents a profile that is fundamentally adverse to the exercise of judicial discretion in their favour.
- **Witness Intimidation as a Ground Against Bail:** One of the standard factors that courts weigh while deciding bail applications – both regular and anticipatory – is the likelihood of the accused intimidating witnesses or tampering with evidence. The presence of a separate FIR for threatening an eyewitness, as in this case, is strong direct evidence of precisely this risk. The court must be especially reluctant to grant anticipatory bail where the accused has demonstrated by concrete conduct that they pose a threat to the safety and integrity of witnesses.
- **Relevance of Trial Findings to Bail of an Absconder – A Critical Distinction:** When co-accused stand

- trial, the prosecution leads evidence against them and the court records findings based on that evidence. These findings – whether resulting in conviction or acquittal – pertain specifically to those accused in respect of whom evidence was led. An absconding accused is not a party to those proceedings in any meaningful sense; the prosecution was under no obligation to and did not lead evidence against them. Therefore, findings in such a trial are wholly irrelevant for assessing the bail application of the absconder – applying them would create a perverse incentive to evade trial.
- **Incentive Effects of Bail Decisions – Institutional Perspective:** The Supreme Court's observation that granting bail to an absconder sends a wrong message to law-abiding co-accused reflects an important institutional perspective in bail jurisprudence. Bail decisions are not merely adjudications of individual liberty – they also send signals to potential accused persons about the consequences of evasion versus cooperation. A legal system that rewards evasion with the same outcome as cooperation – or a better one – undermines the rule of law and erodes public confidence in the criminal justice process.
- **Exception to the General Rule Against Bail for Absconders:** The Court recognised a narrow exception to the general rule that absconders are not entitled to anticipatory bail. Where, upon a prima facie examination of the FIR, case diary, and all relevant materials, the court is of the opinion that no case whatsoever is made out against the absconding accused – meaning the allegations are ex facie false, frivolous, or wholly unsupported – the court retains its discretionary power to grant anticipatory bail even to an absconder. This exception preserves judicial flexibility to prevent manifest injustice in extraordinary cases while maintaining the general rule as the norm.
- **Co-Accused Acquittal vs. Absconder's Bail – Procedural Fairness:** Procedural fairness demands that the outcome of a trial – including an acquittal – be based on evidence properly led and tested before the court. When co-accused are acquitted, that outcome reflects the prosecution's failure to prove the case against those specific persons on the evidence before the court. An absconder who was not before the court during trial cannot benefit from this outcome, as extending the acquittal's benefit to them would mean granting relief based on a proceeding in which neither the prosecution had the opportunity to lead evidence against them nor the court had the opportunity to assess their individual culpability.
- **Duty of the State to Challenge Erroneous Bail Orders:** The Supreme Court's observation that the State had not independently challenged the High Court's order – despite the order being legally indefensible – highlights an important principle of criminal justice: the State, as the prosecutor and guardian of public interest, has a duty to challenge judicial orders that are contrary to law and that undermine the integrity of the criminal justice process. Failure by the State to challenge such orders when it has the locus to do so reflects an institutional lapse that the Supreme Court noted with concern.



Practice Questions

1. Ramesh and Suresh were co-accused in the same FIR for a serious non-bailable offence. Suresh cooperated with the investigation, stood trial, and was acquitted by the Sessions Court. Ramesh had absconded from the time the FIR was registered and evaded investigation for five years. Ramesh then applied for anticipatory bail before the High Court, relying solely on Suresh's acquittal as grounds for parity. Should the High Court grant anticipatory bail to Ramesh on the ground of parity?

- (a) Yes, since Ramesh and Suresh were named in the same FIR and are similarly situated for the purpose of parity.
- (b) No, since an absconder who evaded investigation for five years is not similarly situated to a co-accused who cooperated and stood trial.
- (c) Yes, since Suresh's acquittal establishes that no case was made out under the FIR and this conclusion applies to all accused equally.
- (d) No, since anticipatory bail is unavailable to any person once a chargesheet has been filed in the case.

2. Kavita was named as an accused in an FIR for a non-bailable offence. She absconded after the FIR was registered. Her co-accused Meena and Priya, who both cooperated with investigation and stood trial, were convicted by the trial court. Kavita was subsequently apprehended and applied for anticipatory bail, arguing that since the prosecution had already concluded its evidence in the trial against Meena and Priya, no further evidence could be led against her. Consider the following statements and identify which are true:

- i. The findings of the trial against Meena and Priya are wholly irrelevant to Kavita's bail application since the prosecution led no evidence against Kavita.
 - ii. Kavita's argument is valid since the prosecution cannot lead fresh evidence against her once the trial against co-accused has concluded.
 - iii. An absconder cannot benefit from trial findings pertaining to co-accused in respect of whom evidence was specifically led and tested.
 - iv. Extending the benefit of co-accused acquittal to an absconder would create a perverse incentive to evade trial.
- (a) Statements i and ii
 - (b) Statements ii and iv
 - (c) Statements i, iii, and iv
 - (d) Statements i, ii, and iii

3. Arjun was accused in a murder case and had been absconding for three years. During his absence, a proclamation was issued against him and his property was attached. He was also named in a separate FIR for threatening an eyewitness in the murder case. He eventually applied for anticipatory bail before the Sessions Court. The Sessions Court granted him anticipatory bail observing that since the eyewitness was still alive and could testify, no irreversible harm had occurred. How does the principle governing witness intimidation as a ground against bail apply to the Sessions Court's reasoning?

- (a) The Sessions Court's reasoning is sound since witness intimidation is relevant only where the witness has been physically harmed.

(b) The Sessions Court's reasoning is flawed since a separate FIR for threatening a witness is strong direct evidence of the risk of intimidation.

(c) The Sessions Court's reasoning is sound since the continued availability of the witness neutralises any concern about intimidation.

(d) The Sessions Court's reasoning is flawed since witness intimidation automatically results in cancellation of bail without further inquiry.

4. Govind absconded after being named in an FIR for a serious offence. After seven years of evasion, he applied for anticipatory bail before the High Court. The High Court, on examining the FIR, case diary, and all relevant materials, concluded that the allegations against Govind were ex facie false and wholly unsupported by any credible material. Despite Govind's prolonged evasion, the High Court granted him anticipatory bail. Which of the following correctly states the legal position regarding the High Court's decision?

(a) The High Court's decision is incorrect since absconders are absolutely barred from seeking anticipatory bail regardless of the merits of the case.

(b) The High Court's decision is correct since prolonged evasion is always excused where the allegations in the FIR are serious in nature.

(c) The High Court's decision is correct since the exception to the general rule permits anticipatory bail to an absconder where no case whatsoever is made out on prima facie examination.

(d) The High Court's decision is incorrect since only the Supreme Court has jurisdiction to grant anticipatory bail to a proclaimed absconder.

5. Deepak and Vikram were co-accused in the same FIR. Vikram cooperated with the investigation and was granted regular bail by the Sessions Court. Deepak had absconded for two years but surrendered and applied for anticipatory bail claiming parity with Vikram's bail. The prosecution opposed the application pointing to Deepak's prolonged evasion and a pending proclamation against him. Consider the following statements and identify which are false:

i. Deepak and Vikram are similarly situated since they are named in the same FIR and the same offences are alleged against both.

ii. Parity cannot be claimed where the accused persons are not truly similarly situated due to differences in conduct during investigation.

iii. An absconder who evades investigation forfeits the moral and legal standing to claim indulgence on parity grounds.

iv. Vikram's grant of bail conclusively establishes that all co-accused in the FIR are entitled to the same relief as a matter of right.

(a) Statements ii and iii

(b) Statements i and iv

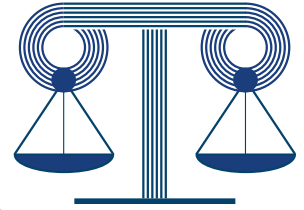
(c) Statements i, ii, and iii

(d) Statements ii, iii, and iv



SUPREME COURT

Landmark Judgements

**11**

Disclosure Statements Made Outside Police Custody Not Admissible

Background

- The accused was convicted of the murder of his six-year-old stepdaughter, whose charred bone remnants and skull fragments were later recovered from different locations.
- The prosecution's case rested on three primary circumstances: a neighbour's testimony that the accused was last seen with the child, recovery of skeletal remains allegedly at his instance pursuant to a disclosure statement, and DNA matching of some recovered bone fragments with the biological parents.
- The disclosure memorandum under Section 27 of the Indian Evidence Act, 1872 was recorded on October 13, 2018 at 10:30 am, while the arrest memo showed the accused was formally arrested at 10:00 pm the same day – nearly twelve hours after the statement was recorded.
- The accused had been released on October 8, 2018, two days before the FIR was lodged.
- No missing complaint was filed immediately after the child disappeared, and the FIR was registered only several days later, despite the family and police already being aware that the child had last been seen going with the accused.
- DNA matching occurred only with some bone fragments recovered from a canal; other recovered remains did not match, and a piece of cloth found
- with the remains was not properly identified through witness confrontation. The corpus delicti was not fully recovered and no definite time of death was established. The lower court convicted the accused, and the High Court affirmed the conviction, following which the accused appealed

Case Details

- Case Title:** Rohit Jangde v. The State of Chhattisgarh
- Citation:** 2026 INSC 162
- Bench** Justice Sanjay Kumar and Justice K. Vinod Chandran

Issue Before the Court

- Whether a disclosure statement leading to the recovery of evidence is admissible under Section 27 of the Indian Evidence Act, 1872 when the accused was not in police custody at the time of making the statement.
- Whether such a disclosure statement, inadmissible under Section 27, can nonetheless be admissible as conduct evidence under Section 8 of the Indian Evidence Act, and if so, whether it can independently sustain a conviction.
- Whether the prosecution established guilt beyond reasonable doubt on the basis of the circumstantial evidence available.

to the Supreme Court.

Judgement of the Court

- The Supreme Court held that the disclosure statement and the consequent recovery of bone remnants could not be admitted under Section 27 of the Indian Evidence Act, as one of its essential preconditions – that the accused must be in police custody at the time of making the statement – was not satisfied, given that the memorandum was recorded nearly twelve hours before the formal arrest.
- The Court referred to *Durlav Namasudra v. Emperor* (1931), which held that information coming from a person not in police custody cannot be brought within the ambit of Section 27.
- The Court acknowledged that "custody" need not necessarily mean formal arrest and can include surveillance or restraint, but held that the gap of over twelve hours between the recording of the memorandum and the formal arrest was determinative against treating the accused as being in custody at the relevant time.
- Relying on *State of A.P. v. Gangula Satya Murthy* (1997) and *Dharam Deo Yadav v. State of Uttar Pradesh* (2014), the Court held that a disclosure statement made outside custody, though inadmissible under Section 27, may be admissible to show the accused's conduct under Section 8 of the Evidence Act.
- However, the Court held – relying on the same precedents – that evidence admissible under Section 8 is only corroborative in nature and can at best supplement other circumstances; it cannot independently sustain a conviction.
- The Court noted that the accused's knowledge of the location of the remains could not by itself establish culpability or direct connection with the offence.
- The Court found that the last-seen evidence was unreliable due to the long unexplained delay in reporting, the failure to question the accused despite knowledge that the child had left with him, and the interpolation in official documents concerning the date and time of arrest.
- The Court concluded that only two circumstances were proved – the death of the child and the accused's knowledge of the recovery location – which was insufficient to form a complete chain of circumstances pointing solely and exclusively to guilt, and accordingly allowed the appeal, set aside the conviction, and directed release of the accused.

Key Takeaway for CLAT Aspirant

- **Section 27 of the Indian Evidence Act, 1872 – Disclosure Statements and Discovery of Facts:** Section 27 is an exception to the general rule under Sections 25 and 26 that confessions made to police officers or while in police custody are inadmissible. It provides that when any fact is discovered in consequence of information received from an accused person in police custody, so much of that information as relates distinctly to the fact discovered is admissible – whether or not it amounts to a confession. The provision is founded on the doctrine of confirmation by subsequent events: the reliability of the information is established by the fact that it actually led to a discovery.
- **Essential Conditions for Invoking Section 27 – The Four Requirements:** As authoritatively laid down in *Perumal Raja v. State* (2024) and *Mohmed Inayatullah v. State of Maharashtra* (1976), four conditions must be satisfied for Section 27 to apply: first, there must be a discovery of a fact relevant to the case; second, the discovery must be deposed to – meaning the fact must not have been previously known to the police; third, at the time of making the information, the accused must be in police custody; and

- fourth, only so much of the information as relates distinctly to the fact discovered is admissible. Failure to satisfy any one of these conditions renders the provision inapplicable.
- **"Custody" Under Section 27 — Formal Arrest vs. Actual Restraint:** The requirement of "custody" under Section 27 does not necessarily demand a formal arrest. Courts have held that custody can include situations of actual restraint, surveillance, or control by the police — even without a formal arrest memo. However, custody is not a fiction; there must be actual and effective control by the police over the accused's movements at the time of making the statement. Where the accused is free from any police control and the formal arrest occurs hours after the statement, the custody requirement is not satisfied.
- **Section 8 of the Indian Evidence Act — Conduct Evidence:** Section 8 provides that the conduct of a party or a witness, relevant to the facts in issue, is admissible as evidence. In the context of criminal cases, the conduct of an accused — including acts done in consequence of information given — can be admitted to show their connection to the crime even when the statement itself is not admissible. The leading example is where the accused leads police to a location and a relevant object is found — the act of leading, being conduct, is admissible under Section 8 even if the statement cannot be proved under Section 27.
- **Conduct Evidence as Merely Corroborative — Cannot Independently Sustain Conviction:** This case firmly establishes that evidence admitted under Section 8 as conduct is only corroborative — it can support and supplement other evidence but cannot by itself form the foundation of a conviction. Where the prosecution's case rests substantially or exclusively on conduct evidence, without independent corroboration through other reliable circumstances, the conviction cannot be sustained. This limitation ensures that accused persons are not convicted solely because they had knowledge of the location of a relevant object, which by itself does not prove commission of the offence.
- **Circumstantial Evidence and the Standard of Proof — The Complete Chain Requirement:** In cases based entirely on circumstantial evidence, the law requires that the chain of circumstances must be so complete and conclusive that it is inconsistent with any other reasonable hypothesis except the guilt of the accused. Each circumstance must be established beyond reasonable doubt, and collectively they must point solely and exclusively to the accused's guilt. If any link in the chain is missing or any proved circumstance is consistent with innocence, the accused is entitled to the benefit of doubt and must be acquitted.
- **Last-Seen Theory — Evidentiary Value and Limitations:** The last-seen theory is a circumstance in which the accused was the last person seen with the deceased before their death, creating a presumption of connection to the crime. However, this theory does not operate in a vacuum — its evidentiary value depends on the proximity of time between the last-seen and the discovery of death, the reliability of the witness who deposes to the last-seen fact, and the absence of explanations that break the chain. Significant delays in reporting, lack of promptness in the witness coming forward, and contradictions in the timeline all substantially weaken the last-seen theory.
- **Corpus Delicti — Significance in Murder Cases:** Corpus delicti, literally "the body of the crime," refers to the established fact that the crime charged has actually occurred. In murder cases, while a conviction is not impossible without recovery of the entire body, the absence of a complete corpus delicti — particularly where no definite time of death can be established — creates significant difficulties for the prosecution. Without establishing when the death occurred, the prosecution cannot conclusively link the accused's last-seen interaction with the deceased to the commission of the murder, leaving a gap in the chain of circumstances.
- **Benefit of Doubt — The Cornerstone of Criminal Adjudication:** The principle of benefit of doubt flows directly from the presumption of innocence — one of the foundational principles of criminal law. An accused is presumed innocent until proven guilty beyond a reasonable doubt. Where the evidence is equivocal, incomplete, or raises a reasonable hypothesis of innocence, the accused is entitled to the benefit of that doubt and must be acquitted. This principle protects individuals from conviction based on suspicion, conjecture, or incomplete evidence and places the entire burden of proof on the prosecution.



Practice Questions

1. Constable Mehra arrested Suresh at 9 AM and recorded a statement in which Suresh disclosed the location of a weapon. Based on this statement, the police recovered the weapon from a field at 11 AM. At trial, the prosecution sought to admit the statement under Section 27 of the Indian Evidence Act. The defence argued that the weapon's location had already been known to a local resident who had informally mentioned it to a sub-inspector two days earlier. Should the statement be admitted under Section 27?

- (a) Yes, since the weapon was physically recovered in consequence of Suresh's statement made while in custody.
- (b) No, since the fact discovered must not have been previously known to the police and prior knowledge defeats the discovery requirement.
- (c) Yes, since Section 27 applies to all statements made by an accused in custody regardless of prior police knowledge.
- (d) No, since statements made to police officers are always inadmissible regardless of whether they lead to a discovery.

2. Rajan was taken to a police station for questioning at 10 AM. Without being formally arrested, he made a statement at 11 AM disclosing where he had hidden stolen jewellery. The police recovered the jewellery at 12 PM. Rajan was formally arrested at 3 PM. At trial, the prosecution sought to admit the statement under Section 27. The defence argued the custody requirement was not satisfied. Consider the following statements and identify which are true:

- i. Formal arrest is always necessary to satisfy the custody requirement under Section 27.
 - ii. Custody under Section 27 can include actual restraint or control by the police even without a formal arrest.
 - iii. Where the accused is free from police control at the time of the statement, the custody requirement under Section 27 is not satisfied.
 - iv. The custody requirement is satisfied here since Rajan was at the police station when he made the statement.
- (a) Statements i and iii
 - (b) Statements ii and iv
 - (c) Statements i, ii, and iii
 - (d) Statements ii, iii, and iv

3. In a murder trial, the prosecution's case rested entirely on the fact that the accused had led the police to the location where the victim's belongings were found. The accused's statement was ruled inadmissible under Section 27 as the custody requirement was not satisfied. The prosecution argued that the act of leading the police to the location was independently admissible as conduct under Section 8 of the Indian Evidence Act and was sufficient to sustain a conviction. Should the conviction be upheld?

- (a) Yes, since the act of leading the police to the location is admissible as conduct under Section 8 and independently establishes guilt.

- (b) No, since conduct evidence under Section 8 is only corroborative and cannot by itself form the foundation of a conviction.
- (c) Yes, since Section 8 conducts evidence and Section 27 discovery evidence operates independently and either alone can sustain conviction.
- (d) No, since conduct evidence is inadmissible in murder trials where the statement leading to the conduct is ruled inadmissible.

4. In a kidnapping and murder case, the sole eyewitness testified that she had seen the accused leaving with the victim's child at 6 PM on the date of the alleged offence. The child's body was discovered three weeks later in a distant location. The witness had not reported what she saw for fifteen days after the discovery of the body. The accused was the last person seen with the child. Consider the following statements and identify which are false:

- The last-seen theory is sufficient by itself to sustain a conviction where the accused was undisputedly the last person seen with the deceased.
- Significant delay in the witness reporting the last-seen fact substantially weakens the evidentiary value of the last-seen theory.
- The last-seen theory's value depends on proximity of time, reliability of the witness, and absence of explanations breaking the chain.
- The fifteen-day delay in the witness coming forward is irrelevant to assessing the reliability of the last-seen evidence.

- (a) Statements ii and iii
- (b) Statements i and iv
- (c) Statements i, ii, and iv
- (d) Statements i, iii, and iv

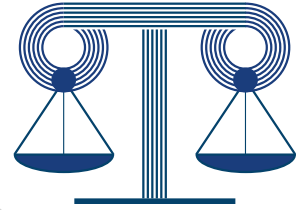
5. Mohan was charged with the murder of his neighbour. The prosecution's case was built entirely on circumstantial evidence. One circumstance — that Mohan was seen near the victim's house on the evening of the alleged murder — was proved. A second circumstance — that Mohan had motive — was partially established. The remaining three circumstances alleged by the prosecution were not proved to the required standard. The trial court convicted Mohan holding that the proved circumstances created a strong suspicion of guilt. Should the conviction be upheld?

- (a) Yes, since strong suspicion arising from proved circumstances is sufficient to sustain conviction in circumstantial evidence cases.
- (b) No, since in circumstantial evidence cases the chain must be complete and inconsistent with any reasonable hypothesis except guilt.
- (c) Yes, since partial proof of multiple circumstances cumulatively satisfies the standard of proof beyond reasonable doubt.
- (d) No, since circumstantial evidence can never form the basis of a murder conviction without direct eyewitness testimony.



SUPREME COURT

Landmark Judgements

**12**

Insurer Not Liable for Employer's Delay Penalty

Background

- The case arose from the death of a commercial driver who collapsed while driving his employer's vehicle, giving rise to a claim for compensation by his legal heirs under the Employees' Compensation Act, 1923.
- The legal heirs of the deceased driver approached the Commissioner under the Employees' Compensation Act, 1923, seeking compensation for the death arising in the course of employment.
- The Commissioner awarded compensation of ₹7.36 lakh along with 12% interest and issued a show-cause notice to the employer for delay in making the payment.
- The employer failed to respond to the show-cause notice, following which the Commissioner imposed a penalty of 35% on the arrears under Section 4A(3)(b) of the Employees' Compensation Act, 1923.
- The employer's vehicle was insured with the appellant, New India Assurance Co. Ltd.
- The insurer accepted liability for the compensation amount and interest but contested its liability to bear the penalty imposed for the employer's delay in payment.
- The Delhi High Court directed the insurer to pay not only the compensation and interest but also the penalty imposed for the employer's default, prompting the insurer to appeal to the Supreme Court.

Judgement of the Court

- The Supreme Court held that the insurer cannot be held liable for the personal fault or negligence of the employer in failing to make timely payment of compensation.
- Relying on *Ved Prakash Garg v. Premi Devi* (1997) 8 SCC 1, the Court reaffirmed that the penalty imposed under Section 4A(3)(b) of the Employees' Compensation Act is a consequence of the employer's personal default and must be borne by the employer alone, and cannot be passed on

Case Details

- Case Title:** New India Assurance Co. Ltd. v. Rekha Chaudhary and Others
- Citation:** 2026 LiveLaw (SC) 187
- Bench** Justice Aravind Kumar and Justice Prasanna B. Varale

Issue Before the Court

- Whether the liability to pay the penalty imposed under Section 4A(3)(b) of the Employees' Compensation Act, 1923 for the employer's delay in payment of compensation can be fastened upon the insurance company under a contractual insurance arrangement.

- to the insurance company.
- The Court held that when the statute itself obligates the employer to make payment within one month, that statutory obligation cannot be treated as subservient to any contractual arrangement, and bypassing it would amount to disregarding the legislative intent of the provision.
- The Court held that the statutory liability for delayed payment – arising from the employer's own conduct in failing to pay and failing to respond to the show-cause notice – is personal to the employer and is not a risk covered or transferable under the insurance contract.
- The Court set aside that part of the Delhi High Court's order which had imposed the penalty liability upon the appellant-insurer, and directed the employer to pay the penalty amount within eight weeks from the date of the order. The appeal was accordingly allowed in favour of New India Assurance Co. Ltd.

Key Takeaway for CLAT Aspirant

- **Employees' Compensation Act, 1923 – Nature and Purpose:** The Employees' Compensation Act, 1923 – formerly the Workmen's Compensation Act – is a social security legislation designed to provide financial protection to employees and their dependents in cases of injury, disability, or death arising out of and in the course of employment. It is a welfare statute that imposes strict obligations on employers to compensate workers for employment-related casualties, without requiring proof of negligence on the employer's part. Courts interpret such welfare legislation liberally in favour of the employee.
- **Section 4A of the Act – Compensation When Due and Consequences of Default:** Section 4A imposes a three-tier framework for compensation payment. Sub-section (1) requires that compensation must be paid as soon as it falls due. Sub-section (2) requires the employer to make a provisional payment of the undisputed portion even where liability is disputed. Sub-section (3) provides for consequences of default – if the employer fails to pay within one month from the due date, the Commissioner shall direct payment of 12% simple interest on the arrears under clause (a), and may additionally impose a penalty of up to 50% of the arrears under clause (b) if no justification for the delay is shown.
- **Section 4A(3)(b) – Penalty for Delayed Payment as Personal Liability of Employer:** The penalty under Section 4A(3)(b) is a punitive consequence specifically directed at the employer for their personal default in complying with the statutory obligation to pay compensation within the prescribed time. The penalty is not a component of the compensation itself – it is a sanction for the employer's conduct in delaying payment. Being a consequence of personal fault and negligence of the employer, it is a liability that attaches personally to the employer and cannot be shifted to a third party such as an insurer.
- **Nature of Insurance Contract and Scope of Insurer's Liability:** An insurance contract is a contract of indemnity under which the insurer undertakes to indemnify the insured against specified risks and liabilities covered under the policy. In the context of the Employees' Compensation Act, the insurer's liability extends to the compensation payable to the employee or their dependents – which represents the indemnifiable risk of employment-related casualty. The insurer's liability is co-extensive with the employer's liability to pay compensation, not with every financial consequence that may arise from the employer's post-event conduct.

- **Distinction Between Compensation Liability and Penalty Liability:** A crucial distinction must be drawn between the employer's primary liability to pay compensation — which is an insurable risk and which the insurer is obligated to cover — and the employer's secondary liability to pay a penalty for defaulting on that payment — which is a consequence of personal default and is not an insurable risk. The former arises from the employment casualty itself; the latter arises from the employer's conduct after the casualty. Courts have consistently held that insurers are not liable for penalties flowing from the personal default of the insured.
- **Statutory Obligation Cannot Be Subordinated to Contractual Arrangement:** A fundamental principle of law is that statutory obligations cannot be overridden or made subservient to contractual arrangements. Where a statute imposes a specific obligation on an employer — such as the obligation to pay compensation within one month — that obligation is binding regardless of the employer's contractual arrangements with its insurer. Allowing the insurer to absorb the consequences of the employer's statutory default would effectively permit the employer to use the insurance contract as a shield against the consequences of their own breach of statutory duty, which is contrary to legislative intent.
- **Doctrine of Personal Fault and Non-Transferability of Penal Liability:** A well-established principle in civil and insurance law is that liability arising from the personal fault, negligence, or default of a party is personal to that party and cannot be transferred to another. This principle prevents a wrongdoer from escaping the consequences of their own conduct by shifting liability onto an indemnifier. In the context of employer-employee relations, the employer's failure to timely pay compensation — and the consequent penalty — is a direct result of the employer's own inaction and cannot be visited upon the insurer.
- **Show-Cause Notice Before Penalty — Principle of Natural Justice:** Section 4A(3)(b) requires that before imposing a penalty on an employer for delayed payment, the Commissioner must give the employer a reasonable opportunity to show cause — that is, to explain the reasons for the delay. This procedural requirement is an application of the principles of natural justice, specifically the principle of audi alteram partem — hear the other side. The employer's failure to respond to the show-cause notice in this case was treated as an absence of justification for the delay, resulting in the imposition of a 35% penalty.
- **Social Security Legislation and the Beneficiary of Penalty Amount:** Under Section 4A(3A) of the Employees' Compensation Act, both the interest for delayed payment and the penalty amount are payable to the employee or their dependent — not to the State. This reflects the welfare-oriented character of the legislation: the financial consequences of the employer's default are not treated as a revenue measure for the government but as additional compensation to the victim of the employer's dilatory conduct. It ensures that the employee is fully compensated for the prejudice caused by delay in receiving their rightful dues.
- **Role of Precedent in Determining Insurer's Liability — Ved Prakash Garg v. Premi Devi:** The Supreme Court's reliance on Ved Prakash Garg v. Premi Devi (1997) illustrates the doctrine of binding precedent under Article 141 of the Constitution. The 1997 judgment had already settled the question that the penalty under Section 4A(3)(b) is the personal liability of the employer and cannot be transferred to the insurer. The Delhi High Court's failure to follow this binding precedent — and its direction to the insurer to pay the penalty — was directly contrary to settled law and had to be corrected by the Supreme Court. This case reinforces the importance of identifying and applying the correct precedent while adjudicating disputes involving statutory penalties.



Practice Questions

1. A construction worker suffered a permanent disability in an accident at a building site. The employer held a valid insurance policy covering employees' compensation liabilities. The Commissioner determined compensation of ₹5,00,000 and additionally imposed a penalty of ₹1,75,000 under Section 4A(3)(b) for the employer's failure to pay within the prescribed period. The employer argued that the insurer should bear both the compensation and the penalty since the entire claim arose from the employment accident. Should the insurer be held liable for the penalty?

- (a) Yes, since the insurer's liability is co-extensive with all financial consequences arising from an employment-related casualty.
- (b) No, since the penalty under Section 4A(3)(b) is a personal liability of the employer for their default and cannot be shifted to the insurer.
- (c) Yes, since the insurance policy covers all liabilities of the employer arising under the Employees' Compensation Act without exception.
- (d) No, since insurers are never liable for any amount under the Employees' Compensation Act regardless of the policy terms.

2. Rajan's employer failed to pay compensation within one month of it falling due after Rajan sustained a serious injury at work. The Commissioner issued a show-cause notice to the employer asking them to explain the delay. The employer did not respond to the notice. The Commissioner then imposed a 35% penalty on the arrears under Section 4A(3)(b). The employer challenged the penalty arguing that the show-cause notice was a mere formality since the penalty was mandatory. Consider the following statements and identify which are true:

- i. The show-cause notice before imposing penalty is a procedural requirement flowing from the principles of natural justice.
 - ii. The penalty under Section 4A(3)(b) is mandatory and the show-cause notice is merely a formality with no substantive effect.
 - iii. The employer's failure to respond to the show-cause notice was treated as an absence of justification for the delay.
 - iv. The principle of audi alteram partem requires that the employer be given an opportunity to explain the reasons for delayed payment before penalty is imposed.
- (a) Statements i and ii
 - (b) Statements ii and iii
 - (c) Statements i, iii, and iv
 - (d) Statements i, ii, and iv

3. An employee died in a factory accident. The employer held an insurance policy covering employees' compensation. The employer deliberately delayed payment of compensation for eight months, citing a dispute about the quantum. The Commissioner directed payment of compensation along with 12% interest under Section 4A(3)(a) and a 40% penalty under Section 4A(3)(b). The insurer argued it was

liable to pay the compensation and interest but not the penalty. How does the distinction between compensation liability and penalty liability apply to the insurer's argument?

- (a) The insurer's argument partially succeeds since the penalty alone is the employer's personal liability while compensation and interest are covered by the insurer.
- (b) The insurer's argument succeeds since the insurer is not liable for any amounts beyond the principal compensation under any circumstances.
- (c) The insurer's argument fails since interest and penalty both arise from the same delayed payment and must be treated identically.
- (d) The insurer's argument fails since all consequences of the employment accident including post-event defaults are indemnifiable risks under the policy.

4. Suresh, a truck driver, was injured in an accident while on duty. His employer had an insurance policy covering employees' compensation liabilities. The employer paid the compensation two months after the due date without any explanation for the delay. The Commissioner imposed a penalty under Section 4A(3) (b) and directed the insurer to pay it along with the compensation. The insurer challenged this direction before the High Court. The High Court upheld the direction relying on a single-judge bench decision from the same court. The Supreme Court reversed this, relying on *Ved Prakash Garg v. Premi Devi* (1997). Which of the following correctly explains why the High Court's reliance on its single-judge bench decision was erroneous?

- (a) High Courts cannot rely on single-judge bench decisions in any matter involving insurance disputes under the Employees' Compensation Act.
- (b) The High Court was bound by the Supreme Court's binding precedent under Article 141 and could not follow a contrary single-judge decision.
- (c) The High Court erred since single-judge bench decisions are always overruled by the Supreme Court in insurance matters as a matter of practice.
- (d) The High Court was correct since it is entitled to follow its own precedents over Supreme Court decisions on questions of statutory interpretation.

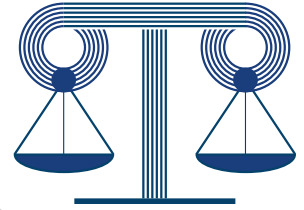
5. In a claim under the Employees' Compensation Act, the Commissioner directed payment of compensation, interest, and penalty to the claimant employee. The employer argued that the penalty amount should be deposited with the State Government as it was a punitive measure, and that only the compensation amount should be paid to the employee. Which of the following correctly states the legal position regarding the destination of the penalty amount?

- (a) The employer's argument succeeds since penalties under welfare legislation are always payable to the State as a revenue measure.
- (b) The employer's argument succeeds since the penalty is punitive in nature and punitive amounts cannot be paid to private parties under any statute.
- (c) The employer's argument partially succeeds since interest goes to the employee but penalty goes to the State under Section 4A(3A).
- (d) The employer's argument fails since both interest and penalty under Section 4A are payable to the employee as additional compensation for the prejudice caused by delay.



SUPREME COURT

Landmark Judgements

**13**

Non-Traceability in Public Records Alone Does Not Render a Document Forged

Background

- The dispute arose from a Joint Venture Agreement (JVA) dated August 16, 2010, entered into between the appellants and Motor General Sales Ltd. for the development of a property in Kanpur, which ultimately proved unsuccessful.
- Nearly eleven years after the execution of the JVA, in March 2021, the complainant lodged an FIR under Sections 406, 420, 467, 468, and 471 of the Indian Penal Code, alleging criminal breach of trust, cheating, and forgery.
- Among the allegations, the complainant contended that the appellants had submitted a forged letter purportedly issued by the Executive Magistrate to establish their title over the property.
- The sole basis for the forgery allegation was that the said letter was not traceable in the office of the Executive Magistrate from which it purportedly had been issued, approximately ten to eleven years after its alleged issuance.
- The complainant also alleged that false representations had been made regarding title and absence of litigation, and that possession of land was not handed over despite receipt of a security amount.
- The appellants approached the Allahabad High Court seeking quashing of the FIR, contending that
- the dispute was purely civil in nature arising from alleged breach of contractual obligations; the High Court dismissed the quashing petition in limine.
- Aggrieved, the appellants appealed to the Supreme Court.

Case Details

- Case Title:** Vandana Jain & Ors. v. The State of Uttar Pradesh & Ors.
- Citation:** 2026 INSC 192
- Bench** Justice Pamidighantam Sri Narasimha and Justice Manoj Misra

Issue Before the Court

- Whether non-traceability of a document in official records, after the passage of several years from its alleged issuance, can by itself lead to the conclusion that the document is forged within the meaning of Section 464 IPC.
- Whether the FIR disclosed the commission of cognizable criminal offences of cheating, criminal breach of trust, and forgery, or whether it merely reflected a civil dispute arising from contractual obligations that had been artificially given a criminal colour.

Judgement of the Court

- The Supreme Court reiterated that while considering a prayer for quashing an FIR, allegations are ordinarily to be taken at face value; however, where the dispute is essentially civil in nature, the court must examine whether a criminal colour has been artificially given to a contractual dispute and whether continuation of proceedings would amount to an abuse of process.
- The Court categorically held that merely because a document is not traceable in official records after several years of its issuance, it cannot be said that the document is forged – certificates and letters of such nature are not necessarily maintained in perpetuity, and non-traceability after a decade does not establish fabrication.
- The Court held that a document would be considered forged only when the allegations are to the effect that it is a false document within the meaning of Section 464 IPC – requiring proof of dishonest or fraudulent intent at the time of making, signing, sealing, executing, or altering the document; no such allegations were made in the FIR.
- On the allegation of criminal breach of trust, the Court held that the security deposit under the JVA was not refundable but adjustable against the share of sale proceeds, and therefore non-refund of the security amount could at best give rise to civil remedies and did not constitute criminal breach of trust.
- On the allegation of cheating, the Court found no material to indicate dishonest intention from inception – the JVA was executed years before the FIR was lodged and there was nothing to suggest that the accused had entered into the agreement with fraudulent intent.
- The Court concluded that the dispute stemmed entirely from alleged non-fulfilment of contractual obligations and competing claims regarding title – matters properly falling within the domain of civil law – and therefore quashed the FIR and all consequential proceedings.

Key Takeaway for CLAT Aspirant

- **Forgery – Definition and Essential Ingredients (Section 464 IPC / Section 335 BNS):** Forgery is understood through the concept of a “false document” under Section 464 IPC, now Section 335 of the Bharatiya Nyaya Sanhita, 2023. A person makes a false document when they dishonestly or fraudulently create, sign, alter, or execute a document while falsely attributing it to another person, making unauthorised alterations, or inducing someone to sign through deception. The essential requirement is dishonest or fraudulent intent at the time of the act; without this mental element, the offence of forgery is not established.
- **Non-Traceability of a Document – Not Equivalent to Forgery:** A document being untraceable in official records may occur due to administrative lapses, passage of time, loss, destruction, or lack of a policy for permanent preservation. Non-traceability by itself does not prove that the document was fabricated. Courts must therefore avoid drawing adverse conclusions solely from the absence of records, especially after a long period, unless there is independent proof of fraudulent intent.
- **Sections 467, 468, and 471 IPC – Forgery of Valuable Security and Use of Forged Documents:** Section 467 penalises forgery of documents such as valuable securities, wills, or authorities to receive money. Section 468 deals with forgery committed for the purpose of cheating, while Section 471 penalises using a forged document as genuine. All these provisions depend on the foundational requirement that the document is proved to be forged within the meaning of Section 464 IPC; if

- **Cheating — Dishonest Intention from the Beginning:** Section 415 IPC (Section 318 BNS) defines cheating as deceiving a person and dishonestly inducing them to deliver property or act in a certain way. The essential requirement is fraudulent or dishonest intention at the inception of the transaction. A mere breach of contract, even if deliberate, does not amount to cheating unless such intention existed from the beginning.
- **Criminal Breach of Trust — Entrustment and Misappropriation:** Under Section 405 IPC (Section 316 BNS), criminal breach of trust requires entrustment of property and dishonest misappropriation or conversion by the accused. If the transaction shows that money was a contractual payment rather than property held in trust, non-refund amounts to a civil dispute rather than a criminal offence.
- **Criminalisation of Civil Disputes — Abuse of Process:** Courts have repeatedly warned against converting civil or contractual disputes into criminal proceedings by alleging offences such as cheating or forgery. Where the dispute essentially concerns contractual obligations, courts may quash criminal proceedings to prevent misuse of the criminal justice system as a tool of pressure or harassment.
- **Power to Quash FIR:** The High Court may quash an FIR under Section 482 CrPC (Section 528 BNSS) to prevent abuse of the court's process and to secure justice, while the Supreme Court exercises similar powers under Article 142 of the Constitution. Even when allegations in the FIR are assumed to be true, if they do not disclose the ingredients of a criminal offence, the proceedings can be quashed.
- **Joint Venture Agreement — Civil Nature of Disputes:** A Joint Venture Agreement (JVA) is a contractual arrangement between parties for undertaking a business venture, such as property development. Disputes arising from delay, non-performance, or non-refund of deposits are ordinarily civil disputes, for which remedies lie in civil courts through damages, specific performance, or injunction.
- **Delay and Stale Criminal Complaints:** A criminal complaint filed many years after the underlying transaction, such as after eleven years, raises doubts about the complainant's bona fides. Although criminal law does not strictly prescribe limitation periods in the same manner as civil law, courts consider unexplained delay as a factor when deciding whether proceedings should continue.
- **Practical Realities of Record Maintenance:** Courts also recognise the practical limitations of record-keeping in public offices, where documents may be lost, misplaced, or not preserved for long periods. The mere inability of an office to locate a document after many years does not necessarily mean that the document never existed or was forged.



Practice Questions

1. Ramesh entered into a Joint Venture Agreement with Suresh in 2010 for the development of a commercial property. Suresh paid a security deposit of ₹10,00,000, adjustable against future sale proceeds. When the project was delayed, Suresh filed an FIR alleging criminal breach of trust for non-refund of the deposit. Will the charge of criminal breach of trust succeed?
- (a) No, since the deposit was adjustable against sale proceeds and was never held in trust by Ramesh.
 - (b) Yes, since Ramesh failed to refund the deposit despite repeated demands made by Suresh.
 - (c) Yes, since non-refund of a security deposit always amounts to dishonest misappropriation under law.
 - (d) No, since a Joint Venture Agreement can never give rise to any criminal liability under any circumstance.
2. Meena entered into a contract with Rajan for the supply of goods. Rajan paid an advance. After delivery, a dispute arose over quality, and Rajan refused to pay the balance. Rajan then filed an FIR alleging cheating against Meena. Meena argues there was no fraudulent intent at the inception of the contract. How should a court approach this FIR?
- (a) The court cannot interfere at the FIR stage and must wait for the charge sheet before examining the matter.
 - (b) The FIR discloses cheating since Rajan's deliberate refusal to pay the balance after delivery constitutes fraud.
 - (c) The court must proceed to trial since any deliberate breach of contract may independently disclose cheating.
 - (d) The court must quash the FIR since the dispute is essentially civil and criminal ingredients are absent.
3. Vikram is accused of using a document as genuine that is alleged to be forged, under Section 471 IPC. The prosecution, however, has been unable to establish that the underlying document was fabricated with dishonest or fraudulent intent under Section 464 IPC. Can the charge under Section 471 IPC be independently sustained?
- (a) Yes, since Section 471 IPC operates independently and does not require prior proof of forgery under Section 464.
 - (b) Yes, since the mere act of using a document as genuine is itself sufficient to attract liability under Section 471 IPC.
 - (c) No, since Section 471 IPC presupposes that the foundational allegation of forgery under Section 464 is first established.
 - (d) No, since Section 471 IPC stands repealed and its subject matter is now exclusively governed by the BNS.
4. Ajay obtained a land allotment certificate from a government office fifteen years ago. When he produced it in a property dispute, the issuing office stated it could not trace any record of the certificate. The opposing party argued that this non-traceability conclusively proved the document was forged. Is

this argument legally sound?

- (a) Yes, since any document untraceable in official records must be presumed to have been fabricated by the holder.
- (b) Yes, since the burden shifts entirely to Ajay to prove the document's authenticity beyond reasonable doubt.
- (c) No, since government offices are legally obligated to maintain all records permanently without any exception.
- (d) No, since non-traceability is a neutral fact and does not by itself establish fabrication or fraudulent intent.

5. Kavya executed a sale deed in favour of Priya in 2012. Eleven years later, in 2023, Priya filed an FIR alleging that the deed was forged. Kavya points to the long unexplained delay in filing the complaint. Which of the following statements is false?

- i. Criminal law has no limitation period, so the delay is legally irrelevant in all circumstances.
 - ii. Courts may treat the unexplained delay as a circumstance suggesting a collateral motive behind the FIR.
 - iii. The long gap between the transaction and the FIR has no bearing on whether proceedings should be quashed.
 - iv. A stale complaint filed without any explanation for the delay raises legitimate concerns about bona fides.
- (a) Statements i and iii
 - (b) Statements ii and iv
 - (c) Statement iv only
 - (d) Statements i, ii, and iv

NPLC's LNAT Achievers

University
of Oxford



LNAT (2021 - 2022)



Surbhi Sachdeva

LNAT (2022 - 2023)



Kartikay Kataria

LNAT (2023 - 2024)



Adi Singh

LNAT (2024 - 2025)



Samyuktha Kovilakath

LNAT (2025- 2026)



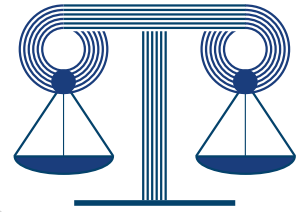
Karthik Ranganadhan

The only Indian Institute to place **five students** in a row in the undergrad law programme at Oxford University!



SUPREME COURT

Landmark Judgements

**14**

Limitation Period Starts from Date When Offender's Identity is Known

Background

- In January 2006, a complaint was received alleging discrepancies in the labelling of a vaccine manufactured by Panacea Biotech Ltd., giving rise to an inquiry under the Drugs and Cosmetics Act, 1940.
- The Drugs Inspector initiated inquiries across the entire supply chain to identify all persons involved in the alleged offence, as the identities of the accused were not immediately apparent from the initial complaint.
- The investigation was completed on April 18, 2006, which was the date on which the identities of all accused persons first became known to the Drugs Inspector.
- A formal complaint was filed before the Magistrate on January 20, 2009, following which cognisance was taken and summons were issued on January 29, 2009.
- The Kerala High Court quashed the criminal proceedings on two grounds: first, that the complaint was barred by limitation as it was filed beyond the stipulated three-year period under Section 468(2)(c) CrPC; and second, that the Magistrate had failed to conduct an inquiry under Section 202 CrPC before issuing summons to accused persons residing outside its jurisdiction.
- The State of Kerala challenged the High Court's quashing order before the Supreme Court.

Judgement of the Court

- The Supreme Court held that the High Court erred in calculating the limitation period from the date of the initial complaint or the first indication of the offence, rather than from the date on which the identity of the accused persons became known to the competent authority.

Case Details

Case Title: State of Kerala v. M/s Panacea Biotech Ltd. & Anr.
Citation: 2026 LiveLaw (SC) 206
Bench Justice Ahsanuddin Amanullah and Justice S.V.N. Bhatti

Issue Before the Court

- Whether the period of limitation under Section 469 CrPC runs from the date of the initial complaint or the first indication of an offence, or from the date on which the identity of the offender first became known to the competent authority.
- Whether the failure of the Magistrate to conduct an inquiry under Section 202 CrPC before issuing summons automatically invalidates the summoning order in a complaint filed by a public servant acting in discharge of official duties.

- Relying on Section 469(1)(c) CrPC, the Court held that the limitation period begins from the date on which the identity of the offender first becomes known to the person aggrieved or to the competent authority – which in the present case was April 18, 2006, the date of completion of investigation into the distribution chain.
- The Court held that since the maximum punishment under Section 27(d) of the Drugs and Cosmetics Act attracts a three-year limitation period under Section 468(2)(c) CrPC, the limitation period would expire only on April 17, 2009, and the formal complaint filed on January 20, 2009, was therefore within limitation.
- The Court cautioned that linking limitation to the date of the initial complaint would defeat the purpose of Section 469(1)(c) CrPC, which specifically accounts for regulatory and economic offences where the offender's identity may emerge only after investigation.
- On the Section 202 CrPC issue, the Court relied on *Cheminova India Limited v. State of Punjab* and held that complaints filed by public servants acting in discharge of official duties stand on a different footing and must be read with Section 200 CrPC, which exempts public servants from examination on oath at the stage of cognisance; accordingly, omission to conduct a Section 202 inquiry does not automatically invalidate a summoning order in such cases.
- The appeal was allowed and the High Court's order quashing the proceedings was set aside.

Key Takeaways for CLAT Aspirants

- **Limitation in Criminal Proceedings – General Framework Under Section 468 CrPC / Section 514 BNSS:** Unlike civil proceedings governed by the Limitation Act, 1963, criminal proceedings have their own limitation framework under Chapter XXXVI of the CrPC, now corresponding to Chapter XXXV of the BNSS, 2023. Section 468 CrPC prescribes the period of limitation for taking cognisance of offences based on the maximum punishment prescribed – six months for offences punishable with fine only, one year for offences punishable with imprisonment up to one year, and three years for offences punishable with imprisonment up to three years. Beyond three years, there is generally no bar of limitation for cognisance.
- **Section 469 CrPC / Section 515 BNSS – Commencement of Limitation Period:** Section 469 CrPC (Section 515 BNSS) governs when the limitation period begins to run. The general rule under Section 469(1)(a) is that the period runs from the date of the offence. However, Section 469(1)(b) provides an exception where the offence was not known to the aggrieved person or police – in such cases, limitation runs from the date the offence first came to their knowledge. Most significantly for this case, Section 469(1)(c) provides that where the identity of the offender is unknown, limitation runs from the date the identity of the offender first becomes known to the aggrieved person or the competent authority – whichever is earlier.
- **Section 469(1)(c) – Special Rule for Unknown Offenders in Regulatory Offences:** Section 469(1)(c) recognises a practical reality that is particularly common in regulatory, economic, and commercial offences – the offence may be apparent but the identity of the persons responsible may only emerge after detailed investigation across a chain of actors. In such cases, requiring limitation to run from the date of the initial complaint or the first intimation of the offence would effectively deny the prosecuting authority adequate time to investigate and identify all accused, thereby enabling offenders to escape prosecution through the limitation bar. The provision is a legislative safeguard against this outcome.

- **Drugs and Cosmetics Act, 1940 — Regulatory Framework and Offences:** The Drugs and Cosmetics Act, 1940 regulates the import, manufacture, distribution, and sale of drugs and cosmetics in India to ensure their safety, efficacy, and quality. Section 27 of the Act prescribes penalties for manufacture, sale, or distribution of drugs in contravention of the Act's provisions. Section 27(d) covers certain categories of violations for which the punishment prescribed falls within the three-year limitation bracket under Section 468(2)(c) CrPC.
- **"Competent Authority" in Regulatory Prosecutions — Role of Drugs Inspector:** In regulatory prosecutions, the "competent authority" referred to in Section 469(1)(c) CrPC is the designated official empowered to investigate and prosecute the offence — in this case, the Drugs Inspector. The date on which the identity of the accused first becomes known to this authority triggers the commencement of limitation. This is significant because in supply-chain offences — such as mislabelling of pharmaceuticals — the identity of all responsible parties at different links of the chain may emerge only progressively as investigation advances.
- **Section 200 CrPC — Examination of Complainant and Exemption for Public Servants:** Section 200 CrPC requires a Magistrate taking cognisance of an offence on complaint to examine the complainant and witnesses on oath. However, the provision contains an important exception: where the complainant is a public servant acting in the discharge of their official duties, the Magistrate is not required to examine them on oath. This recognises the official character and accountability of public servants and treats their complaints as inherently more reliable than private complaints, warranting a less stringent intake procedure at the cognisance stage.
- **Section 202 CrPC — Inquiry Before Issuing Summons to Outstation Accused:** Section 202 CrPC requires a Magistrate, before issuing process against an accused who resides outside its jurisdiction, to conduct an inquiry or direct an investigation to ascertain whether there is sufficient ground for proceeding. This provision was designed to protect persons residing outside the court's jurisdiction from being subjected to harassment by being summoned on frivolous complaints. However, the Supreme Court has held that this requirement must be applied with reference to the nature of the complaint — complaints by public servants acting in official capacity occupy a distinct position, and omission to conduct a Section 202 inquiry does not automatically render the summoning order invalid in such cases.
- **Purposive Interpretation of Limitation Provisions in Criminal Law:** Courts must interpret limitation provisions purposively, keeping in mind the legislative objective behind the limitation framework. The purpose of Section 469(1)(c) is to ensure that regulatory and investigative bodies are not deprived of the ability to prosecute offences merely because the identity of the accused took time to establish through investigation. A literal or mechanical interpretation that runs limitation from the date of the first complaint — before identities are known — would frustrate this purpose and confer an unintended windfall on offenders who conceal their identity.
- **Cognisance of Offence — Meaning and Significance:** Taking cognisance of an offence under Section 190 CrPC is the formal act by which a Magistrate applies their judicial mind to the allegations and decides to proceed with the case. It is at the stage of cognisance that the limitation bar under Section 468 CrPC is applied — meaning the question is whether cognisance was taken within the prescribed period from the relevant starting date. In this case, cognisance was taken on January 29, 2009, which was within three years of April 18, 2006, the date the identity of the accused became known, making the prosecution within limitation.



Practice Questions

1. Ramesh, a Drugs Inspector, detected mislabelled pharmaceutical products at a retail outlet on March 5, 2003. He filed a complaint but could not immediately identify the manufacturer responsible. After a detailed supply-chain investigation, the identity of the manufacturer, Pharma Solutions Pvt. Ltd., became known to him on April 18, 2006. The Magistrate took cognisance of the offence on January 29, 2009. The accused argued that cognisance was barred by limitation. Is the accused correct?

- (a) No, since cognisance was taken within three years of April 18, 2006, when the identity of the accused first became known to the competent authority.
- (b) Yes, since the limitation period began on March 5, 2003, when the offence was first detected by the Drugs Inspector.
- (c) Yes, since pharmaceutical offences carry no special limitation exception and must be prosecuted within three years of detection.
- (d) No, since Drugs Inspectors are public servants and their complaints are never subject to any limitation period.

2. A Drugs Inspector filed a complaint before a Magistrate against a pharmaceutical distributor residing outside the court's jurisdiction. The Magistrate, without conducting any inquiry under Section 202 CrPC, directly issued summons to the accused. The accused challenged the summoning order on the ground that the mandatory Section 202 inquiry was omitted. Which of the following statements is false?

- i. Omission of a Section 202 inquiry automatically renders a summoning order invalid in all cases.
 - ii. Complaints by public servants acting in official capacity occupy a distinct position under Section 202 CrPC.
 - iii. Section 202 CrPC was designed solely to protect courts from the burden of frivolous complaints by any party.
 - iv. The Supreme Court has held that omission of a Section 202 inquiry does not automatically invalidate summoning in public servant complaints.
- (a) Statements ii and iv
 - (b) Statements i and iii
 - (c) Statement iv only
 - (d) Statements i, ii, and iii

3. A Magistrate took cognisance of a complaint filed by a Drugs Inspector against a pharmaceutical manufacturer for selling mislabelled drugs. The offence under Section 27(d) of the Drugs and Cosmetics Act carries a maximum punishment of imprisonment up to three years. The accused argued that the complaint was time-barred. Within what period must cognisance have been taken to be within limitation?

- (a) Within six months of the relevant starting date, since all regulatory offences carry a six-month limitation period.
- (b) Within one year of the relevant starting date, since pharmaceutical offences are treated as minor regulatory violations.
- (c) Within three years of the relevant starting date, since the offence is punishable with imprisonment up

to three years.

(d) There is no limitation period applicable, since offences under special Acts are exempt from Chapter XXXVI CrPC entirely.

4. Sunita, a Drugs Inspector, received information on February 10, 2005 that adulterated drugs were being sold in a particular market. She could not, however, identify the supplier responsible. After extensive investigation across multiple distributors and wholesalers, the identity of the supplier became known to her on June 20, 2007. From which date does the limitation period commence under Section 469 CrPC?

(a) From February 10, 2005, since that is when the offence first came to the knowledge of the aggrieved authority.

(b) From the date the adulterated drugs were first manufactured, since that is when the offence was committed.

(c) From June 20, 2007, since that is when the identity of the offender first became known to the competent authority.

(d) From the date the Drugs Inspector formally filed the complaint before the Magistrate after completing investigation.

5. A Magistrate took cognisance of a complaint filed by a Drugs Inspector without examining the complainant on oath. The accused challenged the cognisance order, arguing that the Magistrate was required to examine the complainant on oath under Section 200 CrPC before proceeding. Is the accused's argument legally sound?

(a) No, since Section 200 CrPC exempts public servants acting in discharge of official duties from being examined on oath before a Magistrate takes cognisance.

(b) Yes, since every complainant without exception must be examined on oath by the Magistrate before cognisance can be taken of any offence.

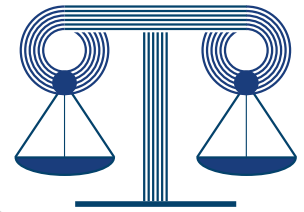
(c) Yes, since the exemption under Section 200 CrPC applies only to complaints filed by police officers and not to Drugs Inspectors.

(d) No, since Magistrates have absolute discretion to waive examination on oath for any complainant they deem credible.



SUPREME COURT

Landmark Judgements

**15**

Forgery Allegation Renders Dispute Non-Arbitrable

Background

- The dispute arose from a family-run jewellery partnership firm styled as M/s RDDHI Gold, which originally had three partners – the appellant (Barnali Mukherjee), Aftabuddin (second respondent), and Raihan Ikbal (third respondent).
- The first respondent (Rajia Begum) claimed that the other two respondents executed a power of attorney empowering her to manage the firm's affairs, pursuant to which she executed a Deed of Admission and Retirement (Admission Deed) in 2007, by which the two respondents retired from the firm and she was inducted as a partner.
- The Admission Deed contained an arbitration clause, which formed the basis of the first respondent's subsequent claims.
- The appellant contended that the Admission Deed was a forged and fabricated document, and that the business of the reconstituted firm had been absorbed and taken over by a company named RDDHI Gold Pvt. Ltd. pursuant to an absorption deed in 2011.
- The dispute arose in 2016 when the first respondent issued a notice to the appellant asserting that she had acquired a 50.33% interest in the erstwhile partnership firm.
- The first respondent filed an application under Section 9 of the Arbitration and Conciliation Act, 1996, for preservation of the subject matter and appointment of a receiver, which was allowed by the Trial Court; however, the High Court recorded a prima facie finding that the existence of the Admission Deed was doubtful and declined to grant

Case Details

- Case Title:** Rajia Begum v. Barnali Mukherjee
- Citation:** 2026 INSC 106
- Bench** Justice Pamidighantam Sri Narasimha and Justice Alok Aradhe

Issue Before the Court

- Whether a dispute can be referred to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996, when the very existence of the contract containing the arbitration clause is alleged to be forged or fabricated.
- Whether an arbitrator can be appointed under Section 11(6) of the Act when the existence of the arbitration agreement itself is in serious dispute.
- Whether allegations of fraud relating to the very existence of the arbitration agreement render the dispute non-arbitrable and require adjudication by a civil court.

- interim protection.
- The appellant filed a civil suit seeking a declaration that the Admission Deed was a forged document; the first respondent preferred an application under Section 8 of the Act to refer the suit to arbitration, which the Trial Court dismissed, but the High Court in revision allowed and referred the dispute to arbitration.
- The first respondent also filed a petition under Section 11(6) seeking appointment of an arbitrator, which was dismissed by the High Court.
- The batch of appeals before the Supreme Court arose from these conflicting decisions – one High Court order referring the dispute to arbitration under Section 8, and another declining to appoint an arbitrator under Section 11(6).
- The first respondent failed to produce the original Admission Deed or a certified copy thereof as required under Section 8(2) of the Act, leaving the very existence of the deed under serious dispute.

Judgement of the Court

- The Supreme Court quashed the High Court's order referring the dispute to arbitration under Section 8, holding that the arbitration clause was embedded in the Admission Deed whose very existence was seriously disputed.
- The Trial Court and First Appellate Court had both found serious allegations of fraud, and the respondent failed to produce the original Admission Deed or a certified copy as required under Section 8(2) of the Arbitration Act.
- The Court held that the prima facie finding of the High Court in earlier Section 9 proceedings, which doubted the existence of the Admission Deed, was relevant and could not be ignored as it had attained finality.
- Regarding the Section 11(6) petition, the Court held that when the existence of the arbitration agreement itself is seriously disputed, appointment of an arbitrator would be premature and impermissible.
- The Court reiterated that arbitral jurisdiction is based on consent, and a party can be compelled to arbitrate only when it is prima facie shown that the party agreed to the arbitration clause.
- It further held that where the arbitration agreement itself is alleged to be forged or fabricated, the dispute strikes at the root of arbitral jurisdiction and becomes non-arbitrable.
- Relying on *A. Ayyasamy v. A. Paramasivam* (2016) and *Avitel Post Studioz Ltd. v. HSBC PI Holdings* (2021), the Court distinguished between fraud in performance of a contract (arbitrable) and fraud affecting the arbitration agreement itself (non-arbitrable).
- Since the Admission Deed was under serious doubt requiring detailed inquiry, the Court held that the dispute must first be adjudicated by the civil court and not through arbitration.

Key Takeaways for CLAT Aspirants

- **Arbitration Agreement — Definition and Essential Nature:** An arbitration agreement is a written agreement between parties to submit their disputes, present or future, to arbitration. It is the cornerstone of the entire arbitral process. Without a valid and binding arbitration agreement, no arbitral tribunal has jurisdiction to adjudicate any dispute. The agreement must be in writing, and its existence must be established before any arbitral proceedings can commence.

- **Consensual Nature of Arbitral Jurisdiction:** Arbitration is a creature of consent. Unlike courts, which derive jurisdiction from statute, an arbitral tribunal derives its authority entirely from the agreement of the parties. A party cannot be compelled to arbitrate a dispute it never agreed to arbitrate. This principle means that the existence and validity of the arbitration agreement is always a threshold question that must be resolved before arbitration can proceed.
- **Non-Arbitrability of Disputes:** Not all disputes can be referred to arbitration. Disputes are considered non-arbitrable when they involve matters of public policy, statutory rights requiring court adjudication, or – as established in this case – when the very existence of the arbitration agreement is disputed through serious allegations of forgery or fraud. Non-arbitrable disputes must be decided by civil courts, irrespective of any arbitration clause in a contract.
- **Section 8 of the Arbitration and Conciliation Act, 1996 – Reference to Arbitration:** Section 8 empowers a judicial authority, before which an action is brought in a matter covered by an arbitration agreement, to refer the parties to arbitration. The applicant must satisfy two conditions: first, there must be a valid arbitration agreement; and second, under Section 8(2), the original agreement or a duly certified copy must be produced. Non-compliance with Section 8(2) disentitles the applicant from seeking a reference.
- **Section 11(6) of the Arbitration and Conciliation Act, 1996 – Appointment of Arbitrator:** Where the agreed procedure for appointment of an arbitrator fails or a party defaults, Section 11(6) empowers the Supreme Court or High Court to appoint an arbitrator. However, this power is contingent on the prior existence of a valid arbitration agreement. If the agreement itself is disputed at a foundational level, invoking Section 11(6) is premature, as appointment of an arbitrator presupposes that the parties had consented to arbitration in the first place.
- **Doctrine of Separability of the Arbitration Clause:** The doctrine of separability holds that an arbitration clause is treated as a separate and independent agreement from the main contract in which it is contained. Consequently, even if the main contract is held void, voidable, or unenforceable, the arbitration clause may survive and remain operative. However, this doctrine has a critical limitation – where the allegation of forgery or invalidity targets the entire document as a whole, including the arbitration clause, separability cannot save the clause, as it has no independent existence apart from the fabricated document.
- **Fraud Simpliciter vs. Serious Fraud – The Ayyasamy Test:** As laid down in *A. Ayyasamy v. A. Paramasivam* (2016), a mere allegation of fraud – fraud simpliciter – does not automatically render a dispute non-arbitrable. The arbitration clause remains operative for simple fraud allegations. However, where the fraud alleged is serious in nature, amounts to a criminal offence, or is so complicated that it requires voluminous and detailed evidence for adjudication, the dispute becomes non-arbitrable and the court may refuse to refer it to arbitration.
- **Fraud in Performance of Contract vs. Fraud Vitiating the Agreement – The Avitel Distinction:** As clarified in *Avitel Post Studioz Ltd. v. HSBC PI Holdings* (2021), a distinction must be drawn between two categories of fraud. First, fraud in the performance of a contract – where the underlying contract is genuine but one party alleges fraudulent conduct during its execution – remains arbitrable. Second, fraud that vitiates the arbitration agreement itself – meaning the agreement was procured by or is itself the product of fraud or forgery – renders the dispute non-arbitrable, as the consent required to found arbitral jurisdiction was never validly given.



Practice Questions

1. Arjun and Meera entered into a joint development contract. Meera later alleged that the entire contract, including the arbitration clause within it, was forged and fabricated. Arjun filed an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator. Can the court proceed to appoint an arbitrator?

- (a) No, since the arbitration agreement itself is disputed at a foundational level, making invocation of Section 11(6) premature.
- (b) Yes, since Section 11(6) empowers courts to appoint arbitrators irrespective of any dispute over the underlying agreement.
- (c) Yes, since the doctrine of separability protects the arbitration clause even when the main contract is alleged to be forged.
- (d) No, since Section 11(6) applications can only be filed by the party who drafted the original arbitration agreement.

2. Priya alleges that her business partner Karan committed fraud during the performance of their distribution contract specifically, that he falsified delivery records to claim payments for goods never supplied. The underlying contract and its arbitration clause are both genuine and undisputed. Karan seeks to refer the dispute to arbitration. Is the dispute arbitrable?

- (a) No, since any allegation of fraud in a commercial contract automatically renders the dispute non-arbitrable regardless of its nature.
- (b) No, since fraud allegations always require court adjudication through a full-fledged civil trial without exception.
- (c) Yes, since fraud in the performance of a contract, where the agreement itself is genuine, remains arbitrable under the Avitel distinction.
- (d) Yes, since arbitration agreements override all fraud-related objections once the parties have signed the contract.

3. Vikram seeks to compel Ananya to arbitrate a commercial dispute. Ananya denies ever having entered into any arbitration agreement with Vikram and contends that no such agreement exists between them. Vikram argues that since the dispute is commercial, Ananya can be compelled to arbitrate. Is Vikram's argument legally sound?

- (a) Yes, since commercial disputes are presumptively arbitrable and courts must refer them to arbitration.
- (b) Yes, since the absence of a written agreement can be cured if the parties have a long-standing commercial relationship.
- (c) No, since arbitration is only available for disputes specifically listed under the Arbitration and Conciliation Act, 1996.
- (d) No, since arbitration is consensual and a party cannot be compelled to arbitrate a dispute it never agreed to arbitrate.

4. Sundar alleges that the contract signed by him was a result of serious fraud — that the document was

fabricated, signatures were forged, and the entire transaction was a criminal conspiracy requiring examination of voluminous evidence. The other party invokes the arbitration clause in the contract and seeks a reference. A court is hearing the Section 8 application. What should the court do?

- (a) Refer the dispute to arbitration since the arbitration clause must be honoured regardless of the nature of fraud alleged.
- (b) Refer the dispute to arbitration since fraud simpliciter does not affect the validity of an arbitration clause under the Ayyasamy test.
- (c) Decline reference since the doctrine of separability always protects the arbitration clause from fraud allegations targeting the main contract.
- (d) Decline reference since the fraud alleged is serious, amounts to a criminal offence, and the document itself is alleged to be fabricated.

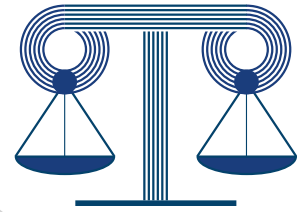
5. Nalini filed a suit in a civil court alleging that the agreement produced by the opposite party – which contained an arbitration clause – was entirely forged. The opposite party argued that since the document contained an arbitration clause, the dispute must be referred to arbitration under Section 8. The court conducted a prima facie examination and found the arbitration agreement to be seriously disputed. What is the correct legal position?

- (a) The court must refer the dispute to arbitration since any document containing an arbitration clause must be presumed valid until set aside by an arbitral tribunal.
- (b) The court must appoint an independent arbitrator under Section 11(6) to decide the question of forgery as a preliminary issue.
- (c) The court must decline to refer the dispute to arbitration since even prima facie doubt about the agreement's existence is sufficient to refuse reference.
- (d) The court must refer the dispute to arbitration since the doctrine of separability ensures the arbitration clause survives any allegation against the main contract.



HIGH COURT

Landmark Judgements

**16**

Simultaneous Recovery & Arrest Warrants Illegal

Background

- The petitioner Mohammad Shahzad filed a petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging an order passed by the Additional Principal Judge, Family Court, Aligarh.
- The Family Court had issued both recovery warrants and arrest warrants simultaneously against the petitioner to recover arrears of maintenance — a practice the petitioner challenged as illegal and contrary to the statutory scheme.
- The petitioner's counsel argued that while maintenance orders must be enforced, the procedure cannot contravene specific statutory provisions as laid down by the Supreme Court in *Rajnish v. Neha & Another* (2021).
- The Additional Government Advocate appearing for the State admitted that no arrest warrants can be issued for recovery of arrears of maintenance without first following the procedure prescribed under Sections 125(3) and 128 CrPC, but submitted that the petitioner had previously defaulted on payment instalments directed by the High Court.
- The Court noted that it had encountered numerous cases where Family Courts routinely issued arrest warrants — and in some cases even non-bailable warrants — simultaneously with recovery warrants, treating maintenance defaulters as if they had committed a criminal offence.

Judgement of the Court

- The Court held that a person liable to pay maintenance is not to be treated as a person who has committed a crime, and their personal dignity and liberty cannot be trampled upon by courts in their excessive enthusiasm in enforcement of maintenance orders.

Case Details

Case Title:	Mohammad Shahzad v. State of U.P. and 2 Others
Court	Allahabad High Court
Citation:	2026:AHC:10500
Bench	Justice Rajiv Lochan Shukla

Issue Before the Court

- Whether the simultaneous issuance of recovery warrants and arrest warrants for enforcement of maintenance arrears under Section 125(3) CrPC is legally permissible under the statutory scheme.
- Whether a person who defaults on maintenance payments can be subjected to arrest and detention without first exhausting the prescribed procedure of recovery by execution of the recovery warrant in the manner provided for levying fines.

- The Court held that Section 125(3) CrPC clearly requires that efforts must first be made to recover arrears of maintenance in the manner provided for levying fines under Section 421 CrPC; only if the warrant is not executed or is partially executed may the Court then sentence the person to imprisonment.
- The Court noted that Section 421 CrPC, which governs warrants for levy of fines, explicitly provides through a proviso that no such warrant shall be executed by the arrest or detention in prison of the offender – meaning arrest cannot be used as a primary or simultaneous mode of execution.
- The Court held that the simultaneous issuance of warrants for recovery and arrest is not contemplated under the Code of Criminal Procedure, and the directions given by the Supreme Court in *Rajnish v. Neha & Another* (2021) do not contemplate any such practice either.
- On the question of enforcement through the Civil Procedure Code, the Court clarified that while Family Courts may adopt their own procedure under the Family Courts Act, 1984, Section 18(2) of that Act expressly provides that orders passed under Chapter IX of the CrPC – which includes Section 125 – shall be executed in the manner prescribed by the CrPC, making the CrPC framework exhaustive for maintenance enforcement.
- The Court directed that the practice of issuing arrest warrants simultaneously with recovery warrants must stop, set aside the impugned order, and remitted the matter to the Family Court to decide the application strictly in accordance with statutory provisions.

Key Takeaways for CLAT Aspirants

- **Section 125 CrPC / Section 144 BNSS – Maintenance Proceedings:** Section 125 CrPC (Section 144 BNSS) provides for maintenance of wives, children, and parents who are unable to maintain themselves. It empowers a Magistrate to order a person with sufficient means who neglects or refuses to maintain such dependants to pay a monthly allowance of maintenance. The provision is remedial and welfare-oriented – it is not punitive in character. Section 125(3) specifically addresses enforcement of maintenance orders, prescribing a sequential procedure: first, attempt recovery in the manner for levying fines; and only upon failure, may imprisonment follow.
- **Sequential Enforcement of Maintenance – Recovery Before Arrest:** The statutory scheme under Section 125(3) CrPC establishes a mandatory sequence for enforcement of maintenance arrears. The court must first issue a recovery warrant directing recovery in the manner provided for levying fines under Section 421 CrPC – meaning attachment and sale of movable property or recovery through the Collector as arrears of land revenue. Only after this recovery warrant has been executed and arrears still remain unpaid, or if the warrant cannot be executed at all, can the court proceed to impose imprisonment. Arrest is a last resort, not a simultaneous or primary remedy.
- **Section 421 CrPC / Section 458 BNSS – Warrant for Levy of Fine:** Section 421 CrPC governs the execution of warrants for recovery of fines and provides two modes: attachment and sale of the defaulter's movable property, or authorising the Collector to recover the amount as arrears of land revenue. The proviso to Section 421 contains a critical prohibition – no such warrant shall be executed by the arrest or detention in prison of the offender. This proviso applies equally to the execution of recovery warrants in maintenance proceedings under Section 125(3), which expressly incorporates the fine-recovery mechanism.
- **Personal Liberty and Human Dignity in Civil Enforcement:** Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to human dignity.

- While courts have wide powers to enforce their orders, the exercise of these powers must remain within the bounds prescribed by statute and must respect the constitutional guarantee of personal liberty. Using arrest as a routine or simultaneous enforcement tool – without first exhausting less coercive remedies – transforms a civil enforcement proceeding into a quasi-criminal one and violates the fundamental principle that deprivation of liberty must be a measure of last resort.
- **Family Courts Act, 1984 – Jurisdiction and Procedure:** The Family Courts Act, 1984 established Family Courts for the settlement of family disputes, including matrimonial matters, custody of children, and maintenance. Section 18(2) of the Act provides that orders passed under Chapter IX of the CrPC – which includes maintenance orders under Section 125 – shall be executed in the manner prescribed by the CrPC. This provision makes the CrPC enforcement framework governing maintenance orders exhaustive, and Family Courts cannot resort to enforcement mechanisms under the CPC or any other procedure that conflicts with the CrPC's prescribed scheme.
- **Rajnish v. Neha & Another (2021) – Supreme Court Guidelines on Maintenance:** The Supreme Court in *Rajnish v. Neha & Another* (2021) issued comprehensive guidelines for maintenance proceedings, including directions on enforcement. The Court held that maintenance orders may be enforced under Section 28-A of the Hindu Marriage Act, Section 20(6) of the Protection of Women from Domestic Violence Act, Section 128 CrPC, or as a money decree under the Civil Procedure Code. Crucially, none of these modes contemplate the simultaneous issuance of arrest and recovery warrants – the binding directions of the Supreme Court, which constitute law under Article 141 of the Constitution, do not sanction such a practice.
- **Distinction Between Civil Liability and Criminal Default:** A person who defaults on payment of court-ordered maintenance is not a criminal – they have failed to comply with a civil obligation. The law distinguishes between persons who default on civil obligations and persons who commit criminal offences, and the enforcement mechanisms applicable to each category are correspondingly different. Treating a maintenance defaulter as a criminal by issuing arrest warrants without completing the prescribed civil enforcement process conflates these two fundamentally distinct categories, causing unjust deprivation of liberty and stigmatisation of the defaulter.
- **Non-Bailable Warrants in Maintenance Cases – An Impermissible Practice:** The Court observed that some Family Courts went so far as to issue non-bailable warrants against maintenance defaulters – a practice that is entirely outside the statutory scheme. Non-bailable warrants result in the immediate arrest and detention of the person named therein, without any right to bail at the police station. Issuing such warrants in maintenance proceedings, where the statutory scheme prescribes a graduated enforcement mechanism culminating in imprisonment only as a last resort, is both legally impermissible and violative of the defaulter's fundamental rights.
- **Section 528 BNSS – Inherent Power of High Court to Quash Illegal Orders:** Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 – corresponding to Section 482 CrPC – preserves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under the Code, to prevent abuse of the process of any court, or to otherwise secure the ends of justice. The petitioner successfully invoked this provision to challenge the Family Court's illegal order – demonstrating that inherent jurisdiction is available not only to quash FIRs but also to correct procedurally illegal orders passed by subordinate courts in the course of enforcement proceedings.



Practice Questions

1. A Family Court passed a maintenance order against Ramesh. Upon default, the Family Court simultaneously issued both a recovery warrant and an arrest warrant against him on the same day. Ramesh challenges this before the High Court. Which of the following correctly states the legal position?
- (a) The Family Court acted correctly since simultaneous issuance of recovery and arrest warrants ensures faster compliance with maintenance orders.
 - (b) The Family Court acted correctly since arrest is an equally valid primary remedy alongside recovery in maintenance enforcement proceedings.
 - (c) The Family Court acted illegally since arrest is a last resort and can only follow after the recovery warrant has been executed and arrears remain unpaid.
 - (d) The Family Court acted correctly since Section 18(2) of the Family Courts Act empowers it to adopt any enforcement mechanism it deems appropriate.
2. A Family Court, while enforcing a maintenance order against Suresh, issued a non-bailable warrant directly without first attempting recovery through attachment of his movable property. Suresh was arrested and detained. He challenges the order before the High Court under Section 528 BNSS. Which of the following statements is false?
- i. Issuance of a non-bailable warrant in maintenance proceedings is entirely outside the statutory scheme under Section 125(3) CrPC.
 - ii. Section 528 BNSS can only be invoked to quash FIRs and has no application to illegal enforcement orders passed by Family Courts.
 - iii. Non-bailable warrants result in immediate arrest without any right to bail at the police station.
 - iv. The High Court's inherent jurisdiction under Section 528 BNSS is available to correct procedurally illegal orders of subordinate courts.
- (a) Statements i and iii
 - (b) Statement ii only
 - (c) Statements ii and iv
 - (d) Statements i, iii, and iv
3. Geeta obtained a maintenance order from a Family Court against her husband Dinesh. Dinesh defaulted on payments. The Family Court sought to enforce the order and considered issuing a warrant for recovery of arrears. Under Section 421 CrPC, which of the following modes of recovery is expressly prohibited by the proviso to that section?
- (a) Recovery through arrest and detention of Dinesh in prison while executing the recovery warrant.
 - (b) Recovery by authorising the Collector to recover the arrears as land revenue from Dinesh.
 - (c) Recovery through attachment and sale of Dinesh's movable property by the executing court.
 - (d) Recovery through attachment of Dinesh's bank account as directed by the Family Court.
4. Kavita filed a maintenance petition before a Family Court. After the order was passed, her husband Mohan defaulted. Kavita argued that the Family Court could enforce the maintenance order either under the CrPC framework or alternatively under the CPC as a money decree, whichever was more convenient.

Is Kavita's argument on CPC enforcement legally sound?

- (a) Yes, since Section 18(2) of the Family Courts Act gives Family Courts discretion to choose between CrPC and CPC enforcement mechanisms freely.
- (b) No, since Section 18(2) of the Family Courts Act makes the CrPC enforcement framework exhaustive, and no conflicting mechanism under the CPC can be adopted.
- (c) Yes, since the Supreme Court in *Rajnish v. Neha* specifically directed that all maintenance orders must be enforced exclusively as money decrees under the CPC.
- (d) No, since Family Courts have no jurisdiction to enforce maintenance orders and must transfer all enforcement proceedings to civil courts.

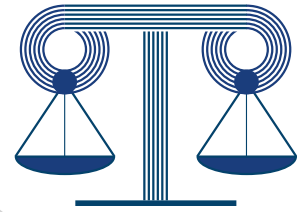
5. Prakash defaulted on a court-ordered maintenance payment. The Family Court, treating him as a criminal defaulter, issued an arrest warrant without first exhausting civil recovery mechanisms. Prakash contends that this conflates civil default with criminal offending and violates his fundamental rights. Which of the following best supports Prakash's contention?

- (a) A maintenance defaulter is a civil obligor, and arrest without first exhausting recovery mechanisms violates Article 21 and the statutory scheme under Section 125(3) CrPC.
- (b) A maintenance defaulter cannot be arrested under any circumstances since maintenance proceedings are purely civil and imprisonment is never a permissible remedy.
- (c) A maintenance defaulter is entitled to the same procedural protections as an accused in a criminal trial, including the right to a full hearing before any warrant is issued.
- (d) A maintenance defaulter's arrest is valid if the court is satisfied that recovery through attachment of property would be time-consuming and inconvenient.



HIGH COURT

Landmark Judgements



17

Freezing Non-Accused Bank Accounts Violates Articles 19(1)(g) & 21

Background

- Malabar Gold and Diamond Limited, a company engaged in the business of buying and selling gold ornaments, gold items, gold bars, coins, and precious stones, filed a writ petition challenging the Union Government's action of issuing communications to two banks directing that the company's bank accounts be put on hold or frozen.
- In 2024-25, Malabar Gold conducted gold transactions worth approximately Rs. 14.2 crore with a customer called Dallas E-com Infotech Pvt. Ltd.
- Subsequently, certain complaints were registered against Dallas E-com Infotech Pvt. Ltd. by third parties relating to cyber fraud; however, no FIR, complaint, or proceeding was registered against Malabar Gold and Diamond Limited at any stage.
- The company was neither shown as an accused nor even as a suspect in any investigation relating to the alleged fraud.
- Despite the absence of any complaint against the petitioner and without any verification or finding regarding its involvement or complicity, investigating and enforcement agencies of various States and Union Territories issued directions to the respondent banks to freeze certain amounts in the company's accounts, treating them as suspected proceeds of crime.
- By March 28 of the previous year, approximately Rs. 80,10,857 in Malabar Gold's bank accounts had been frozen, and a further sum of Rs. 1,36,53,559 was marked as a disputed amount by bank officials solely in compliance with instructions from law enforcement agencies.
- Due to the freezing action, Malabar Gold stated it was unable to utilise its own funds to pay salaries

Case Details

Case Title: Malabar Gold and Diamond Limited & Ors. v. Union of India & Ors.
Court: Delhi High Court
Citation: W.P.(C) 4198/2025
Bench: Justice Purushendra Kumar Kaurav

Issue Before the Court

- Whether the blanket freezing of bank accounts of an entity that is neither an accused nor a suspect in any offence under investigation is permissible under law.
- Whether such indiscriminate freezing of bank accounts violates the fundamental rights under Articles 19(1)(g) and 21 of the Constitution of India.
- Whether the police have the power to freeze or attach bank accounts under Section 106 of the BNSS, or whether such action requires a Magistrate's order under Section 107 of the BNSS.

to employees or meet daily business expenses, causing significant prejudice to its operations and financial standing.

Judgement of the Court

- The Court held that merely because certain offences may have been committed by a customer of the petitioner cannot by itself constitute a lawful basis for unilateral freezing or withholding of the petitioner's bank accounts, and that the petitioner is entitled to be informed of the reasons for freezing accounts it is otherwise legally entitled to operate.
- The Court found that the respondents' own stand confirmed there was no complaint against the petitioners and they had not been able to demonstrate any complicity on the part of the company; the continued freezing and withholding of funds without any basis caused prejudice to the petitioner and disabled it from meeting operational and salary obligations.
- The Court held that any blanket or disproportionate freezing of bank accounts – particularly where the account holder is neither an accused nor even a suspect – is manifestly arbitrary and violates the fundamental rights under Articles 19(1)(g) and 21 of the Constitution.
- The Court held that such indiscriminate debit freezing, without any finding of complicity, inevitably paralyses day-to-day business operations of an otherwise innocent entity, resulting in loss of commercial goodwill and financial consequences, thereby subjecting a non-complicit account holder to punitive consequences.
- The Court reaffirmed that Section 106 of the BNSS empowers the police only to seize property for evidentiary purposes and does not confer any authority to attach or debit-freeze bank accounts.
- The Court held that attachment or freezing of bank accounts – being measures directed at securing alleged proceeds of crime – can be undertaken only under Section 107 of the BNSS and strictly upon orders of a competent Magistrate after following prescribed procedural safeguards.
- Finding no justification for the unreasoned freezing of accounts, the Court directed the de-freezing of Malabar Gold's bank accounts forthwith, while clarifying that any enforcement or investigating agency remains at liberty to initiate

Key Takeaways for CLAT Aspirants

- **Article 19(1)(g) – Fundamental Right to Carry on Trade and Business:** Article 19(1)(g) of the Constitution guarantees to all citizens the fundamental right to practise any profession or to carry on any occupation, trade, or business. This right encompasses the freedom to conduct legitimate commercial activity without arbitrary State interference. It is not absolute – Article 19(6) permits the State to impose reasonable restrictions in the interest of the general public – but any restriction must be proportionate, non-arbitrary, and backed by legal authority. Blanket freezing of a business entity's accounts without any finding of complicity fails this test and directly impairs the Article 19(1)(g) right.
- **Article 21 – Right to Livelihood as Part of Right to Life:** The Supreme Court has expansively interpreted Article 21's guarantee of "life" to include the right to livelihood, recognising that a person cannot live without the means to sustain themselves. This interpretation extends to business entities in the sense that the right to operate commercially and meet financial obligations – including paying employees' salaries – is an aspect of the broader right to life and dignity. Freezing a company's accounts without legal basis, thereby preventing it from meeting operational and salary obligations, violates this constitutional guarantee.

- **Section 106 of the BNSS – Power of Police to Seize Property:** Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023, empowers police officers to seize property in the course of investigation for evidentiary purposes – to preserve physical evidence that may be relevant to the offence under investigation. This power is limited in nature and scope: it permits seizure of tangible property for evidentiary purposes only. It does not extend to the attachment or freezing of bank accounts, which is a measure directed at securing alleged proceeds of crime rather than preserving evidence. Any exercise of Section 106 to freeze bank accounts is therefore without legal authority.
- **Section 107 of the BNSS – Judicial Authorisation for Freezing of Accounts:** Section 107 of the BNSS provides the legal mechanism for attachment or freezing of bank accounts as measures directed at securing alleged proceeds of crime. Crucially, this power can only be exercised upon an order of a competent Magistrate, after following prescribed procedural safeguards. The requirement of judicial authorisation is a critical safeguard – it ensures that the coercive measure of freezing a party's accounts is not taken unilaterally by the executive or police but is subject to independent judicial scrutiny before being imposed.
- **Doctrine of Proportionality in Exercise of State Power:** The doctrine of proportionality requires that State action – particularly action that restricts fundamental rights – must be proportionate to the legitimate aim being pursued. Where the State seeks to prevent dissipation of proceeds of crime, the proportionate response is to target the accounts of persons who are accused or suspects – not to impose blanket freezing on all persons who may have had commercial dealings with a suspected entity. Disproportionate action that sweeps in innocent parties far beyond what is necessary to achieve the investigative or enforcement objective is constitutionally impermissible.
- **Proceeds of Crime – Concept and Limitations on Seizure:** The concept of "proceeds of crime" refers to any property derived or obtained, directly or indirectly, as a result of criminal activity. Enforcement agencies have powers to identify, trace, freeze, and ultimately forfeit such proceeds to prevent criminals from benefiting from their illegal activities. However, these powers are not unlimited – they must be exercised against persons and property actually connected to the criminal activity. Money received by a legitimate business in an ordinary commercial transaction from a customer who later commits fraud does not automatically transform into proceeds of crime merely because of the customer's subsequent conduct.
- **Blanket Freezing vs. Targeted Freezing – A Critical Distinction:** A blanket freeze immobilises all funds in an account without distinguishing between amounts that may be connected to the alleged offence and amounts that are clearly legitimate business receipts or operating capital. A targeted freeze, by contrast, restricts only the specific amounts that can be identified as potentially connected to the alleged offence, leaving the account holder free to operate with the remainder of their funds. Courts have consistently held that blanket freezing is disproportionate and manifestly arbitrary where the account holder is not complicit in the offence, and targeted freezing – with judicial oversight – is the legally permissible approach.
- **Due Process Before Freezing – Right to Be Heard and to Know Reasons:** A fundamental principle of natural justice is that no adverse action should be taken against a party without giving them an opportunity to be heard – audi alteram partem. Before freezing the accounts of a business entity, authorities must at minimum inform the entity of the reasons for the proposed action and provide it an opportunity to show cause. Unilateral freezing without prior notice, without reasons, and without any opportunity for the account holder to respond is a denial of natural justice that compounds the constitutional violations of Articles 19(1)(g) and 21.



Practice Questions

1. A police officer, investigating a cyber fraud case, issued a written direction to a bank to freeze all accounts of TechServe Pvt. Ltd. — a company that had received a payment from the fraud suspect in an ordinary commercial transaction. No Magistrate's order was obtained. TechServe challenges the freezing. What is the correct legal position?

- (a) The freezing is illegal since freezing of bank accounts requires a Magistrate's order under Section 107 BNSS and cannot be done by police direction alone.
- (b) The freezing is valid since Section 106 BNSS empowers police to freeze bank accounts of parties who received payments from suspects.
- (c) The freezing is valid since police officers have broad powers during investigation to secure any property connected to a suspect's transactions.
- (d) The freezing is valid since preventing dissipation of proceeds of crime justifies immediate executive action without judicial authorisation.

2. The Cyber Crime Unit froze all bank accounts of DataPro Solutions Ltd., a legitimate IT company, on the ground that one of its clients had used DataPro's services while committing fraud. The entire account including salaries payable to employees and operational funds was frozen. DataPro filed a writ petition before the High Court. Which of the following statements is false?

- i. Blanket freezing of DataPro's accounts without establishing its complicity is disproportionate and constitutionally impermissible.
 - ii. Police have powers under Section 106 BNSS to freeze bank accounts for evidentiary purposes during investigation.
 - iii. The right to livelihood under Article 21 includes a company's right to meet its salary and operational obligations.
 - iv. A targeted freeze restricted to amounts connected to the alleged offence is the legally permissible approach where the account holder is not complicit.
- (a) Statement ii only
 - (b) Statements i and iv
 - (c) Statements i and iii
 - (d) Statements ii and iii

3. GlobalPay Ltd., a payment gateway company, received routine transaction fees from a merchant who was later found to have committed cyber fraud. Without any prior notice or opportunity to respond, the Enforcement Directorate froze GlobalPay's entire account, treating all funds in it as proceeds of crime. GlobalPay challenges this before the High Court. Which of the following best describes the legal infirmity in the action taken?

- (a) The action is valid since any funds received from a person who later commits fraud automatically become proceeds of crime liable to freezing.
- (b) The action suffers from violation of natural justice since GlobalPay was given no prior notice or opportunity to be heard before its accounts were frozen.
- (c) The action is valid since enforcement agencies have unrestricted powers to freeze proceeds of crime

without judicial oversight during investigation.

(d) The action is partially valid since GlobalPay's accounts could be frozen for 30 days without notice but must be unfrozen thereafter if no charge is filed

4. FinCorp Ltd. received payments from RealEstate Builders in the ordinary course of business for financial advisory services. RealEstate Builders was subsequently found to have defrauded homebuyers. The investigating agency sought to freeze FinCorp's accounts, arguing that money received from a fraud-accused entity constitutes proceeds of crime. Is this argument correct?

(a) Yes, since any financial transaction with a fraud-accused entity taints all funds received, making them proceeds of crime subject to freezing.

(b) Yes, since enforcement agencies are entitled to freeze accounts of all entities that received money from a suspected fraudster to prevent dissipation.

(c) No, since proceeds of crime must be directly connected to criminal activity, and legitimate business receipts do not become proceeds of crime due to a customer's fraud.

(d) No, since FinCorp is a financial company and financial sector entities are exempt from proceeds-of-crime attachment proceedings under applicable law.

5. The Delhi Police, while investigating an online fraud, froze the accounts of SwiftLogix Pvt. Ltd. — a logistics company that had no knowledge of or involvement in the fraud — solely because a suspect had made a payment to SwiftLogix for courier services. SwiftLogix approached the Delhi High Court under Article 226 seeking de-freezing. Which of the following correctly identifies the constitutional violations?

(a) The freezing violates only Article 19(1)(g) since the company's right to trade is impaired, but Article 21 has no application to business entities.

(b) The freezing violates only Article 21 since it prevents salary payments, but Article 19(1)(g) is not attracted as logistics is a regulated sector.

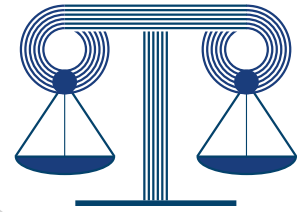
(c) No constitutional violation arises since investigative freezing is a permissible restriction under Article 19(6) regardless of the account holder's complicity.

(d) The freezing violates both Article 19(1)(g) and Article 21 since it arbitrarily impairs SwiftLogix's right to trade and prevents it from meeting operational obligations.



HIGH COURT

Landmark Judgements

**18**

24-Week Abortion Right for Unmarried Women

Background

- The petition was filed by an unmarried woman seeking permission to abort her 22-week pregnancy arising out of a consensual relationship, and additionally challenging the constitutional validity of Section 3(2)(b) of the Medical Termination of Pregnancy Act, 1971.
- Rule 3-B of the Medical Termination of Pregnancy Rules, 2003, which lists categories of women eligible for termination of pregnancy between 20 and 24 weeks, did not expressly include unmarried women or women in live-in relationships.
- The petitioner argued that the exclusion violated her right to live with dignity and free from cruel, inhuman, or degrading treatment as guaranteed under Article 21 of the Constitution, and that being compelled to continue an unwanted pregnancy would cause her physical pain and severe mental trauma.
- During the pendency of the petition, the petitioner obtained the Court's permission and had the foetus aborted.
- On September 29, 2022, the Supreme Court delivered its three-judge bench judgment in *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*, holding that excluding unmarried women who conceive in a live-in relationship from the MTP Rules is unconstitutional, and that such women are entitled to seek termination of pregnancy between 20 and 24 weeks.

Case Details

Case Title: ABC v. State of Maharashtra
Court: Bombay High Court
Citation: 2026 LiveLaw (Bom) 58
Bench: Justice Bharati Dangre and Justice Manjusha Deshpande

Issue Before the Court

- Whether the exclusion of unmarried women from the ambit of Rule 3-B of the MTP Rules, 2003 – denying them the right to seek termination of pregnancy between 20 and 24 weeks arising out of a consensual relationship – is constitutionally valid.
- Whether the Maharashtra Government should be directed to widely circulate the Supreme Court's ruling in *X v. Principal Secretary (2022)* to ensure its scrupulous implementation by all functionaries involved in administering the MTP Act, so that no woman is compelled to approach courts for relief she is already legally entitled to.

- Following the Supreme Court's pronouncement, the constitutional challenge in the petitioner's case became academic; however, the petitioner's counsel pressed for wide circulation of the ruling so that no similarly situated woman would be compelled to approach courts for relief she is already legally entitled to.

Judgement of the Court

- The Court noted that the Supreme Court had already delivered an authoritative three-judge bench verdict on the exact question raised in the petition, settling that unmarried women are entitled to seek termination of pregnancy between 20 and 24 weeks arising from consensual relationships, and that the constitutional challenge in the present petition had therefore become academic.
- The Court observed that by virtue of Article 144 of the Constitution, every civil and judicial authority in the territory of India is duty-bound to act in aid of the Supreme Court, and all functionaries involved in implementing the MTP Act and its Rules are bound by the apex court's pronouncement without exception.
- The Court held that Rule 3-B of the MTP Rules, 2003 had received a purposive interpretation by the Supreme Court, extending its ambit to include unmarried women and those in live-in relationships, and that this interpretation is binding on all implementing authorities.
- The Court directed the Public Health Department of the State of Maharashtra to give wide circulation of the Supreme Court's decision in *X v. Principal Secretary* (2022) to all functionaries involved in the implementation of the MTP Act and Rules, specifically to ensure that no woman – particularly an unmarried woman – is compelled to approach courts for relief she is already legally entitled to. The writ petition was accordingly disposed of.

Key Takeaways for CLAT Aspirants

- **Medical Termination of Pregnancy Act, 1971 – Framework and Evolution:** The MTP Act, 1971 operative from April 1, 1972 provides the legal framework for termination of pregnancies in India. It prescribes the conditions under which abortion is permissible, the gestational limits, and the medical opinion requirements. The Act was significantly amended in 2021, raising the upper gestational limit from 20 weeks to 24 weeks for specified categories of women. Beyond 24 weeks, termination is permitted only on grounds of foetal abnormalities, upon recommendation of a State-level Medical Board. The Act is a legislative balance between a woman's right to reproductive autonomy and the State's interest in regulating medical procedures.
- **Rule 3-B of the MTP Rules, 2003 – Categories Eligible for 20–24 Week Termination:** Rule 3-B specifies the categories of women who may seek termination of pregnancy between 20 and 24 weeks with the opinion of two registered medical practitioners. These include survivors of sexual assault or rape, minors, women whose marital status changed during pregnancy due to widowhood or divorce, women with physical or mental disabilities, cases of foetal malformation incompatible with life, and women in humanitarian settings or declared emergencies. Prior to the Supreme Court's ruling in *X v. Principal Secretary* (2022), unmarried women in consensual relationships were not expressly included a gap the Supreme Court declared unconstitutional.
- ***X v. Principal Secretary, Health and Family Welfare Department, NCT of Delhi* (2022) – Landmark Ruling on Reproductive Rights:** In this three-judge bench judgment, the Supreme Court held that there must be no distinction between married and unmarried women in seeking termination of pregnancy between 20 and 24 weeks arising out of a consensual relationship.

- The Court held that excluding unmarried women from Rule 3-B is unconstitutional as it violates Articles 14 and 21, and applied a purposive interpretation to extend the benefit of the provision to all women married or unmarried in consensual relationships. This judgment is a landmark recognition of women's reproductive autonomy as a constitutional right.
- **Reproductive Autonomy as an Aspect of Article 21:** The right to life and personal liberty under Article 21 has been expansively interpreted by the Supreme Court to include the right to reproductive autonomy – the right of a woman to make decisions about her own body, including whether to continue or terminate a pregnancy. Compelling a woman to continue an unwanted pregnancy against her will is a violation of her bodily autonomy, dignity, and mental health, all of which fall within the protective ambit of Article 21.
- **Article 14 and Equality in Reproductive Rights – No Discrimination Between Married and Unmarried Women:** Article 14 guarantees equality before the law and equal protection of the laws to all persons. Treating married and unmarried women differently for the purpose of accessing abortion allowing married women to terminate pregnancies between 20 and 24 weeks while denying the same right to unmarried women in consensual relationships has no rational basis and constitutes arbitrary discrimination violative of Article 14. The Supreme Court's ruling in *X v. Principal Secretary* eradicated this unconstitutional distinction.
- **Purposive Interpretation of Welfare Legislation:** Purposive interpretation requires courts to go beyond the literal text of a provision and interpret it in a manner that best advances the legislative purpose and constitutional values underlying the enactment. The MTP Act was enacted to promote safe and legal abortion as a public health measure and to protect women's right to reproductive choice. A literal reading of Rule 3-B that excluded unmarried women frustrated this purpose. The Supreme Court's purposive reading – extending the rule to all women in consensual relationships is a classic application of this interpretive approach in the context of welfare legislation.
- **Article 144 of the Constitution – Duty of All Authorities to Act in Aid of the Supreme Court:** Article 144 provides that all civil and judicial authorities throughout the territory of India shall act in aid of the Supreme Court. This means that once the Supreme Court pronounces on a legal question, all authorities – including State governments, administrative officials, hospitals, and medical practitioners – are constitutionally bound to act in accordance with that ruling. The Bombay High Court's direction for wide circulation of the *X v. Principal Secretary* judgment is an enforcement of this constitutional obligation, ensuring that the ruling reaches the ground-level functionaries who implement the MTP Act.
- **Binding Precedent and Article 141 – Law Declared by Supreme Court Binding on All Courts:** Under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India. This means that once the Supreme Court held in *X v. Principal Secretary* (2022) that unmarried women are entitled to seek abortion up to 24 weeks, every court, tribunal, and administrative authority in India is obligated to follow and implement this ruling.
- **Right to Dignity and Freedom from Degrading Treatment – Women's Rights in Reproductive Matters:** The right to live with dignity – a core component of Article 21 as interpreted by the Supreme Court – encompasses freedom from cruel, inhuman, or degrading treatment. Compelling a woman to carry an unwanted pregnancy to term particularly where the pregnancy poses mental health risks and where the woman has a constitutional right to terminate amounts to a form of cruel and degrading treatment that violates her dignity. Courts have recognised that reproductive rights are inseparable from the broader right to live with dignity.



Practice Questions

1. Priya, an unmarried woman in a consensual relationship, was 22 weeks pregnant and sought termination of pregnancy at a government hospital. The hospital refused, citing that Rule 3-B of the MTP Rules only permitted termination between 20 and 24 weeks for married women and specified categories, and that unmarried women in consensual relationships were not covered. Is the hospital's refusal legally sustainable after *X v. Principal Secretary* (2022)?

- (a) No, since the Supreme Court in *X v. Principal Secretary* held that excluding unmarried women from Rule 3-B is unconstitutional and extended its benefit to all women in consensual relationships.
- (b) Yes, since Rule 3-B expressly lists the eligible categories and unmarried women in consensual relationships are not among them.
- (c) Yes, since termination beyond 20 weeks requires a State Medical Board recommendation regardless of the woman's marital status.
- (d) No, since the MTP Act, 1971 has always permitted termination up to 24 weeks for all women without any category-based restriction.

2. Following the Supreme Court's ruling in *X v. Principal Secretary* (2022), a government hospital in Maharashtra continued to deny abortion services to unmarried women between 20 and 24 weeks, citing the unamended text of Rule 3-B. An affected woman filed a writ petition before the Bombay High Court. The Bombay High Court directed wide circulation of the Supreme Court's ruling to all concerned authorities. Which of the following statements is false?

- i. All civil and judicial authorities are constitutionally bound to act in aid of the Supreme Court under Article 144.
 - ii. The law declared by the Supreme Court under Article 141 is binding only on courts and not on administrative authorities like hospitals.
 - iii. The Bombay High Court's direction for circulation reflects the principle that mere existence of a right is insufficient without awareness and implementation.
 - iv. Any hospital that refuses to implement the Supreme Court's ruling in *X v. Principal Secretary* acts in breach of the law as declared under Article 141.
- (a) Statements i and iii
 - (b) Statement ii only
 - (c) Statements ii and iv
 - (d) Statements i, iii, and iv

3. Rekha, a married woman, and Sunita, an unmarried woman in a consensual relationship, both sought termination of pregnancy at 22 weeks at the same government hospital. The hospital terminated Rekha's pregnancy but refused Sunita's solely on the ground of her unmarried status. Sunita challenged this before the High Court. Which constitutional provision is most directly violated by this differential treatment?

- (a) Article 19(1)(a), since denial of abortion amounts to a restriction on Sunita's freedom of expression and personal choice.
- (b) Article 21, since compelling Sunita to continue the pregnancy violates her right to reproductive

autonomy and dignity.

(c) Article 14, since treating married and unmarried women differently for accessing abortion between 20 and 24 weeks has no rational basis.

(d) Article 32, since only the Supreme Court has jurisdiction to enforce fundamental rights in matters of reproductive autonomy.

4. A single judge of a High Court held that unmarried women in consensual relationships are not entitled to terminate pregnancies between 20 and 24 weeks, relying on the literal text of Rule 3-B before its judicial expansion. The affected woman argued that this view was directly overruled by the Supreme Court in *X v. Principal Secretary* (2022). Is the single judge's view legally sustainable?

(a) Yes, since High Court judges are entitled to take a different view from the Supreme Court on questions of statutory interpretation involving welfare legislation.

(b) No, since under Article 141, the law declared by the Supreme Court is binding on all courts in India, and the single judge was bound to follow *X v. Principal Secretary*.

(c) Yes, since *X v. Principal Secretary* was decided by a three-judge bench and is only persuasive authority for single judges of High Courts.

(d) No, since single judges of High Courts cannot interpret welfare legislation and must refer all such questions to a division bench.

5. Meena, a survivor of sexual assault, was 23 weeks pregnant and sought termination of pregnancy. The hospital required her to obtain a recommendation from a State Medical Board before proceeding. Meena argued that the State Medical Board recommendation is required only for terminations beyond 24 weeks on grounds of foetal abnormalities, not for cases falling under Rule 3-B between 20 and 24 weeks. Is Meena's argument correct?

(a) No, since all terminations beyond 20 weeks require a State Medical Board recommendation regardless of the category of the woman seeking termination.

(b) No, since sexual assault survivors are a specified category under the MTP Act but still require two registered medical practitioners and a Medical Board recommendation.

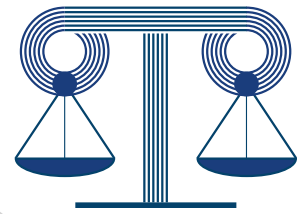
(c) Yes, since terminations between 20 and 24 weeks for categories under Rule 3-B require only the opinion of two registered medical practitioners, not a Medical Board recommendation.

(d) Yes, since sexual assault survivors are exempt from all procedural requirements under the MTP Act and may seek termination at any gestational age without restriction.



HIGH COURT

Landmark Judgements

**19**

Inclusion of Habeas Corpus in Child Custody Disputes

Background

- The petition arose out of a matrimonial dispute between two senior government employees – the parents of a minor girl born in 2019.
- Due to successive service transfers, the parents were posted at different locations before eventually residing together in Kachchh district in 2021, following which marital discord arose between them.
- In August 2023, the mother took the minor daughter to her parental home in Mehsana, where the child continued to reside with the maternal grandparents.
- The father issued a legal notice to the mother in October 2024 – approximately a year after separation – calling upon her to agree to dissolution of marriage by mutual consent.
- In August 2025, the mother filed a complaint against the father alleging domestic violence under Section 498A IPC.
- The father alleged that the child's placement with the maternal grandparents was made against his wishes, pointing to the fact that he had arranged the child's schooling and paid school fees shortly before the child was taken away.
- The mother's case was that since both parents were employed, it was practically difficult to care for a young child without family support, and she therefore sought the assistance of her parents in looking after the child.
- The father filed a habeas corpus petition before the Gujarat High Court alleging illegal detention of the minor child by the mother and maternal relatives, seeking the child's production before the Court and a direction to hand over custody to him.

Case Details

Case Title:	Akulkumra Dineshbhai Rana & Anr. v. State of Gujarat & Ors.
Court	Gujarat High Court
Bench	Justice N.S. Sanjay Gowda and Justice D.M. Vyas

Issue Before the Court

- Whether a mother's arrangement of leaving her minor child with her own parents for care and upbringing – due to work constraints and in the child's best interest – constitutes illegal confinement or unlawful custody warranting the issue of a writ of habeas corpus.
- Whether habeas corpus is the appropriate remedy to resolve questions of child custody and welfare arising in the context of a matrimonial dispute.

- The Court had earlier in September 2025 directed counselling for both parties and granted the father visitation rights with the fond hope of reconciliation, but the father subsequently moved the habeas corpus petition seeking custody.

Judgement of the Court

- The Court held that the custody of a four-year-old girl with her mother, in the absence of any pending custody proceedings or existing custody orders, can never be characterised as unlawful custody or illegal confinement.
- The Court observed that given the tender age of the child, the primary responsibility of meeting the child's needs would naturally rest on the mother rather than the father.
- The Court acknowledged the practical difficulties faced by working couples in raising young children, and held that if a working mother decides to seek the help of her parents to ensure the child is brought up in a secure atmosphere, the father cannot be permitted to label such an arrangement as illegal custody or unlawful confinement.
- The Court firmly held that the father's disagreement with such an arrangement does not render it unlawful – a mother's decision to ensure her daughter is well cared for does not entitle the father to file a habeas corpus petition merely because it was not acceded to by him.
- The Court rejected the habeas corpus petition as not the appropriate remedy to decide questions of child custody or welfare in a matrimonial dispute, and directed that any claim for interim or permanent custody must be pursued before the competent Family Court by leading appropriate evidence on the issue of the child's welfare.
- Noting that both parents were using the child as a weapon in their matrimonial battle, the Court directed either party to approach the Family Court for custody, and dismissed the habeas corpus petition.

Key Takeaways for CLAT Aspirants

- **Writ of Habeas Corpus – Meaning, Nature, and Scope:** Habeas corpus, meaning "you may have the body," is a writ issued by a court directing the person or authority detaining another to produce the detained person before the court and justify the legality of the detention. It is a fundamental remedy to protect personal liberty against unlawful detention. Under Article 32, the Supreme Court, and under Article 226, High Courts have the power to issue this writ. Habeas corpus is a procedural writ, it examines the legality of the detention, not the merits of the case underlying the confinement.
- **Precondition for Habeas Corpus – Existence of Illegal Detention:** The issuance of a writ of habeas corpus presupposes that the person sought to be produced is being held in actual and unlawful detention or confinement by the respondent. Where there is no detention in the legal sense – meaning the person is in the natural and lawful custody of a parent or guardian without any compulsion or restraint amounting to confinement the writ does not lie. A child residing with its mother or maternal relatives under the mother's arrangement is not "detained" or "confined" in the legal sense that the writ is designed to address.
- **Maintainability of Habeas Corpus in Child Custody Disputes:** Courts have consistently held that habeas corpus is not the appropriate remedy to resolve disputes about child custody that arise in the context of matrimonial proceedings. Child custody disputes involve complex questions of the child's welfare, best interests, parental fitness, and long-term arrangements – all of which require evidence and detailed adjudication by a Family Court equipped to handle such matters. Using habeas corpus as

- **Welfare of the Child as the Paramount Consideration in Custody:** In all matters relating to custody of a minor child, the paramount consideration is the welfare of the child – not the rights or preferences of either parent. The court must assess what arrangement best serves the child's physical, emotional, educational, and social development. Neither parent has an absolute right to custody – the question is always what is in the child's best interest, having regard to all relevant circumstances including the child's age, health, the stability of the proposed home environment, and the capacity of each parent to provide care.
- **Natural Guardianship Under Hindu Law – Mother's Primacy for Young Children:** Under the Hindu Minority and Guardianship Act, 1956, the natural guardian of a minor is generally the father – but the Act expressly provides that in the case of a minor child who has not completed the age of five years, the custody shall ordinarily be with the mother. This statutory recognition of the mother's primary role in the early years of a child's life reflects the common understanding that infants and very young children have particular developmental needs that are ordinarily best met by the mother. Courts respect this presumption, though it is not absolute and can be displaced by evidence of the mother's unfitness or conduct contrary to the child's welfare.
- **Family Court as the Appropriate Forum for Custody Disputes:** The Family Courts Act, 1984 established Family Courts specifically to adjudicate matrimonial disputes, including questions of custody, guardianship, and maintenance of children. Family Courts are empowered to receive evidence, hear witnesses, conduct inquiries, and consider reports from welfare agencies – making them far better equipped than High Courts exercising writ jurisdiction to determine complex custody questions. The Gujarat High Court's direction to approach the Family Court reflects the principle that specialised forums must be used for specialised disputes.
- **Article 226 – Writ Jurisdiction of High Courts and Its Limits:** Article 226 confers wide jurisdiction on High Courts to issue writs for enforcement of fundamental rights and for any other purpose. However, this jurisdiction, while broad, must be exercised with restraint – High Courts should not use writ jurisdiction to bypass the specific statutory remedies and forums that Parliament has created. Where an adequate alternative legal remedy exists – such as proceedings before a Family Court for custody – and the matter does not involve a clear violation of fundamental rights, High Courts ordinarily decline to exercise writ jurisdiction and direct parties to the appropriate forum.
- **Section 498A IPC – Cruelty by Husband or His Relatives:** Section 498A of the Indian Penal Code penalises a husband or his relatives for subjecting a woman to cruelty defined to include conduct that drives her to suicide or causes grave injury, and harassment for dowry. The mother's filing of a Section 498A complaint in this case is relevant background context that informed the marital breakdown.
- **Domestic Violence Act, 2005 – Protection of Women in Domestic Settings:** The Protection of Women from Domestic Violence Act, 2005 provides civil remedies – protection orders, residence orders, monetary relief, and custody orders – to women who are victims of domestic violence, which includes not only physical violence but also emotional, verbal, economic, and sexual abuse. The mother's complaint under the DV Act in this case, combined with the Section 498A complaint, reflects the range of legal remedies available to women facing marital discord. Family Courts have jurisdiction under the DV Act to pass interim custody orders for children.



Practice Questions

1. Arvind and Seema are estranged spouses. Their son Rohan, aged three years, is living with Seema at her parents' house following a marital breakdown. Arvind filed a habeas corpus petition before the High Court seeking production of Rohan, alleging that Seema was unlawfully detaining him. Is the habeas corpus petition maintainable?

- (a) Yes, since a father as natural guardian has an absolute right to seek production of his minor child through habeas corpus at any time.
- (b) Yes, since any separation of a child from one parent by the other constitutes unlawful detention justifying a writ of habeas corpus.
- (c) No, since Rohan is in the lawful custody of his mother without any compulsion or confinement, and habeas corpus does not lie in the absence of illegal detention.
- (d) No, since habeas corpus petitions cannot be filed before High Courts and must be filed exclusively before the Supreme Court under Article 32.

2. Priya and Suresh are estranged spouses litigating their divorce. Their four-year-old daughter Meera is living with Priya. Suresh filed a habeas corpus petition in the High Court seeking custody of Meera. The High Court dismissed the petition and directed Suresh to approach the Family Court. Which of the following statements is false?

- i. Habeas corpus is an appropriate remedy to resolve child custody disputes arising out of matrimonial proceedings.
 - ii. Family Courts are better equipped than High Courts exercising writ jurisdiction to adjudicate complex custody questions.
 - iii. The High Court's direction to approach the Family Court reflects the principle that specialised forums must be used for specialised disputes.
 - iv. The welfare of the child, not the rights of either parent, is the paramount consideration in custody matters.
- (a) Statement i only
 - (b) Statements ii and iii
 - (c) Statements i and iv
 - (d) Statements ii, iii, and iv

3. Kavitha, whose marriage broke down following a Section 498A complaint against her husband Rajan, is living with their two-year-old son Dev at her parents' house. Rajan filed a petition for custody of Dev before the Family Court. Kavitha argued that under the Hindu Minority and Guardianship Act, 1956, custody of a child below five years ordinarily vests with the mother. How should the Family Court approach this argument?

- (a) The court must award custody to Kavitha since the statutory presumption in favour of the mother for children below five years is absolute and cannot be displaced.
- (b) The court must award custody to Rajan since the father is the natural guardian under Hindu law and the mother's presumption applies only to girls below five years.
- (c) The court must refer the question of natural guardianship to the High Court before proceeding, since

Family Courts lack jurisdiction to interpret the Hindu Minority and Guardianship Act.

(d) The court should recognise the statutory presumption in favour of the mother but assess whether it is displaced by evidence of her unfitness or conduct contrary to Dev's welfare.

4. Deepak filed a habeas corpus petition before the High Court alleging that his wife Nisha was unlawfully confining their six-year-old daughter Tara at Nisha's sister's house and preventing him from meeting her. The High Court found that Tara was living comfortably with Nisha and her sister under Nisha's arrangement and was attending school regularly. On these facts, which of the following is the most appropriate order for the High Court to pass?

(a) Issue habeas corpus directing Nisha to produce Tara in court and hand her over to Deepak as the natural guardian.

(b) Dismiss the habeas corpus petition since there is no illegal detention, and direct Deepak to approach the Family Court for custody and visitation relief.

(c) Issue habeas corpus directing Nisha to produce Tara in court and thereafter conduct a full inquiry into Tara's welfare before deciding custody.

(d) Admit the petition and stay Tara's school admission until the custody dispute is resolved by the Family Court.

5. During custody proceedings before a Family Court, a welfare officer's report noted that both parents were pressuring their eight-year-old son Arjun to express preferences against the other parent, causing him visible distress and anxiety. Neither parent showed willingness to cooperate or facilitate the child's relationship with the other. How should the Family Court respond to this situation?

(a) Award custody to the parent whose conduct is less harmful to the child and issue directions prioritising Arjun's welfare over both parents' personal grievances.

(b) Award custody to the father since the father is the natural guardian under Hindu law and the mother's conduct of influencing the child forfeits her claim.

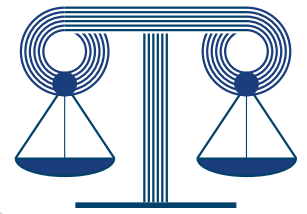
(c) Dismiss the custody petition entirely since both parents are unfit, and refer Arjun to a state-run child welfare institution for his protection.

(d) Adjourn the proceedings indefinitely until both parents demonstrate willingness to cooperate, without making any interim custody arrangement.



HIGH COURT

Landmark Judgements



20 False Promise to Marry Alone Doesn't Constitute Rape

Background

- The complainant alleged that she developed a romantic relationship with the petitioner in 2017, and in March 2018, the petitioner forced her to consume liquor and sexually assaulted her at a hotel in Kolkata when she was not in a conscious state.
- Thereafter, on the petitioner's assurance of marriage, the complainant continued the relationship and accompanied him to several places including Digha, Kharagpur, Park Street, and Goa, spending nights together at various hotels and at the petitioner's residence.
- The complainant subsequently became pregnant, and the pregnancy was terminated in February 2021 with the consent of the complainant – the petitioner signing as her guardian in the medical records.
- Following the termination, the petitioner refused to marry her and threatened to circulate private photographs and videos from his laptop.
- The complainant filed an FIR in February 2022 – approximately five years after the relationship began – following which the petitioner was arrested and subsequently released on bail by the High Court.
- A chargesheet was filed against the petitioner under Sections 417 (cheating), 376 (rape), 313 (causing miscarriage without consent), and 506 (criminal intimidation) of the Indian Penal Code, 1860.
- The petitioner filed a criminal revision petition before the Calcutta High Court seeking quashing of the chargesheet and all consequential proceedings.

Case Details

Case Title:	Anirban Mukherjee v. State of West Bengal & Anr.
Court	High Court at Calcutta
Bench	Justice Chaitali Chatterjee Das

Issue Before the Court

- Whether a consensual romantic and physical relationship spanning nearly five years, followed by the petitioner's refusal to marry, constitutes rape under Section 376 IPC on the ground that consent was vitiated by a false promise of marriage under Section 90 IPC.
- Whether the ingredients of Sections 417, 313, and 506 IPC are established on the facts of the case, and whether continuation of the prosecution would amount to an abuse of the process of court warranting quashing under Section 482 CrPC.

Judgement of the Court

- The Court examined the case diary, statements recorded under Section 164 CrPC, medical records, and travel details, and found that the parties maintained a consensual, intimate relationship from 2017 to 2022 without any contemporaneous complaint or protest from the complainant at any stage.
- The Court held that the essential ingredient for vitiating consent under Section 90 IPC – that the promise to marry was false from the very inception of the relationship, with no intention of fulfilment – was clearly absent, as the relationship developed gradually and no promise of marriage was shown to have been made at its outset in 2017.
- The Court relied on *Pramod Suryabhan Pawar v. State of Maharashtra* (2019) 9 SCC 608, which held that consent given on the basis of a promise to marry is vitiated only where the promise was false at inception; a subsequent refusal to marry cannot retrospectively criminalise consensual intimacy.
- Relying on *Samadhan v. State of Maharashtra* (2025), the Court noted that where a complainant never alleged absence of consent during the subsistence of a long relationship and the case appears to be motivated by the refusal to marry or pay money, the FIR and chargesheet are liable to be quashed.
- The Court rejected the allegation under Section 313 IPC, noting that the pregnancy termination was conducted with the complainant's consent – evidenced by the medical records – with the petitioner signing as guardian, thereby negating the charge of causing miscarriage without consent.
- The Court held that the allegations under Sections 417 and 506 IPC were also unsustainable – Section 417 requires dishonest or fraudulent intention from the very inception of the relationship, which the parties' voluntary travels, cohabitation, and conduct over five years disproved; and the continuation of the prosecution in such circumstances would be a sheer abuse of the process of court.
- The criminal revision petition was allowed and the entire proceedings before the Chief Judicial Magistrate, Paschim Medinipur, were quashed.

Key Takeaways for CLAT Aspirants

- **Section 375 IPC / Section 63 BNS – Rape and the Centrality of Consent:** Section 375 IPC (Section 63 BNS) defines rape as sexual intercourse with a woman against her will or without her consent, or where consent is obtained under specified vitiating circumstances. Consent is the central concept its presence or absence, and the conditions under which it was given, determine whether the act constitutes rape. The law recognises that consent can be real, or it can be invalidated if given under fear, fraud, or misconception of fact but the vitiating circumstance must actually operate on the complainant's mind at the time of the act.
- **Section 90 IPC – Consent Under Misconception of Fact:** Section 90 IPC provides that consent given by a person under a misconception of fact where the person doing the act knows or has reason to believe that the consent was given on the basis of such misconception is not valid consent. In the context of a promise to marry, the "misconception" is the complainant's belief that the accused genuinely intends to marry her. However, the misconception must operate at the time of the act and must be the reason for the consent. A subsequent discovery that the promise will not be fulfilled does not mean the original consent was given under misconception.

- **Section 69 of BNS — Specific Offence of Deceptive Sexual Intercourse:** The Bharatiya Nyaya Sanhita, 2023 introduced Section 69, which specifically penalises sexual intercourse obtained through deceitful means or a false promise of marriage — where the sexual intercourse does not amount to rape. This provision fills a gap in the IPC, which had no explicit offence for this category of conduct. Section 69 requires proof that the accused had no intention of fulfilling the marriage promise from the beginning, and that the complainant consented solely on the basis of that promise. The provision is punishable with up to ten years of imprisonment.
- **Section 376 IPC / Section 64 BNS — Rape and Its Aggravated Forms:** Section 376 IPC (Section 64 BNS) prescribes punishment for rape — rigorous imprisonment for not less than ten years, extendable to life, along with a fine. Section 64(2) of the BNS lists aggravated forms of rape attracting enhanced punishment, including rape of a pregnant woman under Section 64(2)(h). The severity of punishment reflects the legislature's recognition of rape as one of the gravest offences against bodily autonomy and dignity. The high threshold of proof required proof beyond reasonable doubt of absence of consent or its vitiation is accordingly applied with care.
- **Section 313 IPC — Causing Miscarriage Without Consent:** Section 313 IPC penalises causing miscarriage of a woman without her consent — regardless of the duration of the pregnancy. The offence is distinct from causing miscarriage with consent, which is penalised separately. For Section 313 to apply, the pregnancy termination must have been caused against the woman's will. Where medical records establish that the termination was conducted with the complainant's written consent and the accused signed as guardian, the charge under Section 313 cannot be sustained — the documentary evidence directly contradicts the allegation.
- **Section 417 IPC — Cheating and the Requirement of Fraudulent Intent from Inception:** Section 417 IPC penalises cheating — dishonestly or fraudulently deceiving a person and thereby causing them to deliver property or suffer harm. For a charge of cheating to be sustained in the context of a romantic relationship, it must be shown that the accused harboured fraudulent or dishonest intention from the very beginning of the relationship. Where the parties voluntarily engaged in a relationship, travelled together over years, and conducted themselves as a couple, the subsequent breakdown of the relationship cannot be retrospectively characterised as a fraudulent inducement from inception.
- **Section 482 CrPC / Section 528 BNSS — Inherent Power to Quash Proceedings:** Section 482 CrPC (Section 528 BNSS) preserves the inherent power of the High Court to prevent abuse of the process of any court and to secure the ends of justice. As laid down in *State of Haryana v. Bhajanlal* (1992), this power can be exercised where the allegations in the FIR, even if taken at face value, do not prima facie constitute any offence; where the FIR does not disclose a cognisable offence; or where the uncontroverted facts and evidence collected in support of the FIR do not disclose the commission of any offence. Quashing is the appropriate remedy where continuation of prosecution would itself be an abuse of process.
- **Long Subsistence of Consensual Relationship as Evidentiary Factor Against Misconception:** Courts have recognised that where a complainant alleges rape on the basis of a false promise of marriage but continues the relationship voluntarily for several years — travelling with the accused, cohabiting, and conducting themselves as a couple — without lodging any contemporaneous complaint, this conduct raises serious doubts about the claim that consent was given under misconception. The absence of any protest or complaint during the subsistence of the relationship, particularly over an extended period, is a significant evidentiary circumstance that the court must weigh carefully.



Practice Questions

1. Riya and Akash were in a consensual romantic relationship for five years. During this period, they travelled together, cohabited intermittently, and conducted themselves as a couple. Akash had promised to marry Riya, but the relationship eventually broke down and he refused to marry her. Riya filed an FIR alleging rape on the ground that her consent to sexual intercourse was obtained through a false promise of marriage. Akash moved the High Court to quash the FIR. Should the FIR be quashed?

- (a) No, since any promise of marriage that is subsequently broken automatically vitiates consent to sexual intercourse under Section 90 IPC.
- (b) No, since Akash's refusal to marry Riya after a five-year relationship constitutes sufficient evidence of fraudulent intent from inception.
- (c) No, since sexual intercourse during a live-in relationship is presumptively non-consensual unless the parties subsequently marry.
- (d) Yes, since the long consensual relationship, absence of contemporaneous complaint, and breakdown without evidence of initial fraudulent intent indicate that this is a breach of promise, not rape.

2. Deepa and Suraj were in a relationship for three years, during which Suraj consistently promised to marry her. Medical records showed that during this period, Deepa underwent a termination of pregnancy with her written consent, with Suraj signing as guardian. After the relationship broke down, Deepa filed an FIR alleging rape under Section 376 IPC and causing miscarriage without consent under Section 313 IPC. Which of the following statements is false?

- i. The charge under Section 313 IPC cannot be sustained since medical records establish that the termination was conducted with Deepa's written consent.
 - ii. A promise of marriage that is subsequently broken always vitiates consent to sexual intercourse and constitutes rape under Section 376 IPC.
 - iii. For a false promise of marriage to vitiate consent, the accused must have had no intention of fulfilling the promise from the very beginning.
 - iv. Section 313 IPC requires that the miscarriage was caused against the woman's will for the offence to be constituted.
- (a) Statements i and iv
 - (b) Statement ii only
 - (c) Statements ii and iii
 - (d) Statements i, iii, and iv

3. Naina and Rohan were in a relationship for four years. Rohan had promised to marry Naina. After Rohan refused to marry her, Naina filed an FIR alleging cheating under Section 417 IPC, contending that Rohan had fraudulently induced her into the relationship from the very beginning. Rohan argues that the charge of cheating is not made out. Which of the following correctly states the legal position?

- (a) The charge of cheating is made out since any promise of marriage in a romantic relationship that is ultimately broken constitutes fraudulent inducement.
- (b) Rohan's argument is correct since for cheating under Section 417 IPC, fraudulent or dishonest intent must exist from the inception of the relationship, which is not shown here.

(c) The charge of cheating is made out since Naina suffered emotional harm due to the breakdown of the relationship, satisfying the harm requirement under Section 417 IPC.

(d) Rohan's argument is correct since Section 417 IPC does not apply to romantic relationships and is limited to commercial or property-related transactions only.

4. Kamla alleged that her boyfriend Suresh had obtained her consent to sexual intercourse by falsely promising to marry her, knowing from the outset that he had no intention of doing so. She filed an FIR under Section 376 IPC. Suresh argued that even if his promise was false, the offence, if any, falls under Section 69 of the BNS and not Section 376 IPC. Which of the following best describes the legal distinction between the two provisions?

(a) Section 376 IPC and Section 69 BNS are identical provisions — the BNS merely re-enacted Section 376 IPC under a new section number without any substantive change.

(b) Section 376 IPC penalises rape, which requires absence of consent or vitiated consent, while Section 69 BNS specifically addresses sexual intercourse obtained through a false promise of marriage that does not amount to rape.

(c) Section 69 BNS is only applicable where the woman is below 18 years of age, while Section 376 IPC applies to adult women in false promise cases.

(d) Section 376 IPC applies only where force is used, while Section 69 BNS covers all cases of consent obtained by any form of deception regardless of the woman's age.

5. Preethi and Vijay were in a consensual relationship. Vijay had promised to marry Preethi, but later married someone else. Preethi filed an FIR alleging rape. The High Court, while considering Vijay's quashing petition, examined the FIR and found that even taking all the allegations at face value, they did not disclose the essential ingredients of rape. Under which legal provision and on what ground should the High Court quash the FIR?

(a) Under Section 528 BNSS, since the allegations in the FIR, even taken at face value, do not prima facie constitute the offence of rape, and continuation of prosecution would be an abuse of process.

(b) Under Article 226 of the Constitution, since rape allegations in consensual relationships always violate the accused's fundamental right to personal liberty under Article 21.

(c) Under Section 528 BNSS, since the High Court must quash all FIRs filed more than one year after the alleged incident as a matter of limitation.

(d) Under Article 136 of the Constitution, since quashing of FIRs in sexual offence cases falls exclusively within the Supreme Court's special leave jurisdiction.

VOICES VICTORIES



SIDDHANT ROHIT

AIR 4, AILET 2026

"I joined Nishant Prakash Law Classes in Class 11, and from that day, every stage of my preparation was guided by Nishant sir. I didn't just learn how to study—I learned how to stay disciplined, how to believe, and how to keep pushing even when it got overwhelming. I followed exactly what sir told us, gave 150+ mocks, trusted the process, and that belief took me to AIR 4 in AILET. I genuinely don't think I could have reached here without Nishant sir and NPLC."



ARSHNOOR SINGH

(AIR 4, CLAT 2026

I started my CLAT journey without any law background in my family, and everything I know about this exam, I learned under the guidance of Nishant Sir at NPLC. What made the biggest difference for me was the personal attention—Sir knew every student, our strengths, our weaknesses, and our exact mistakes after each mock.

After every test, he would look at my OMR and guide me on how to change my strategy instead of following a one-size-fits-all approach. When the CLAT paper surprised everyone, Sir's constant advice of staying calm and confident helped me push through without panicking. That mindset, combined with consistent practice and guidance, is what helped me secure AIR 4 in CLAT 2026.



DAIWIK AGARWALA

AIR 2, CLAT 2025

I don't think I've ever given so many tests in my life as I did at NPLC in just one year. They made me take so many mocks that I became almost mechanical before the actual exam. The course structure here is such that hard work is non-negotiable. And last, but not least, Nishant Sir would connect with your parents and keep them informed about your every day scores, which added a bit of pressure and made all of us work harder. There were times when my scores didn't meet my expectations, and I felt low, but Sir was always there to motivate me.

"NPLC doesn't shout excellence; it proves it every result season."

VOICES VICTORIES



AIR 2, AILET 2025

CHAITANYA GHOSH

This place is not your regular coaching institute that you see around. They don't just make you work hard—they make you smart. NPLC has been my best choice for both CLAT and AILET preparation. These exams cover general topics that seemed easy to me initially, but it wasn't until I started attending classes at NPLC that I realized the major challenges I would have faced if I solely depended on self-study. The competitive environment and Sir's dedicated guidance have been key in helping me clear every law entrance exam I took. I cleared every law entrance exam I wrote.



AIR 4, CLAT 2025

ADITYA GAUTAM ANKHAD

It's all about AILET and CLAT here. Students eat, drink, and sleep law entrance preparation! I used to go to another institute in XIth, but somehow, I was just an enrollment number there. Initially, when I joined, the competition and pressure from Sir felt overwhelming, but thanks to him, everything became much easier. Here, no one calls you by batch number or enrollment ID. All of us studying together were very good friends, but we competed intensely. Since they have a limited intake, we received a lot of personalized attention. I recall most of my batchmates at NPLC making it to the top NLUs. This place is even better than you can imagine!



AIR 6, AILET 2025

DHRUV KAMATH

I had never experienced such intense competition in any classroom before I did my first class at NPLC. It was a bit horrifying initially however it got better with time. If you can't work hard, I do not feel this is the place for you. Nishant sir is simply amazing. I never liked him till I was at the center as there was too much pressure from his side unlike my school, However, I can tell you, that I could make it to NLU Delhi, and only because of him. I recall almost everyone with me in the class who got through either of the top 5 NLUs.

"At NPLC, branding isn't on T-shirts — it's in the AIRs."

VOICES VICTORIES



AIR 10, AILET 2025

VIDISHA SINGH

Nishant Sir's classes are the complete package. While there's a great deal of hard work expected, he creates an environment where you can ease your way into cracking the exam. Unlike the rigid and monotonous teaching methods of many other coaching institutions, his classes are a perfect blend of learning and fun. His approach is practical, reliable, and tailored to real exam scenarios, which is reflected in his incredible track record of sending most of his students to the top 5 NLUs. Even after completing his classes, you'll find yourself wanting to go back for more (I still do).



**AIR 24 AILET 2025
& OXFORD**

SAMYUKTHA KOVILAKATH

People often ask me how I managed to prepare for Indian law entrances and the Oxford Law entrance at the same time. My answer is simple: NPLC gave me the discipline, perspective, and clarity to handle both. Nishant Sir's classroom isn't just a place where laws are taught - it's where ambition is refined and sharpened. What stood out to me most was how the training here doesn't chase trends - it builds fundamentals. I never felt like I was preparing for just one exam - I was preparing to think like a lawyer.

This journey hasn't just taken me to AILET AIR 24—it's also taken me across continents. And for that, I credit the environment, the mentorship, and the unwavering standards at NPLC.

"Mentorship isn't a model here — it's a method."



Answers & Explanations

1. Parity-Based Relief

1. Correct Answer: (a) No, since Rajan is a fence-sitter who waited for Suresh's outcome before filing his claim.

Reference Line: "A person who does not challenge an adverse order within the prescribed time but waits to see whether similarly situated persons succeed in their challenge before approaching the court is termed a 'fence-sitter.' Courts consistently refuse to extend parity-based relief to fence-sitters, as allowing such claims would undermine the law of limitation, encourage opportunistic litigation, and prejudice parties who defended the original proceedings."

Explanation: (a) is correct because Rajan is a classic fence-sitter — he chose not to challenge the adverse order when Suresh did, waited to observe Suresh's outcome, and only then approached the court. Courts consistently refuse parity-based relief to fence-sitters as it encourages opportunistic litigation and undermines the law of limitation.

(b) is incorrect because though Rajan and Suresh are similarly situated on facts, identical factual position alone does not guarantee parity relief. The fence-sitter doctrine operates as a recognised exception to parity, and Rajan's deliberate inaction disqualifies him regardless of his similarity with Suresh.

(c) is incorrect because Article 14's guarantee of equal treatment is not absolute in parity claims. Delay, laches, acquiescence, and fence-sitting are recognised exceptions under which parity relief is denied even to similarly situated persons, making this an overstatement of the constitutional guarantee.

(d) is incorrect because parity-based relief is not categorically unavailable in service matters. It can and regularly is granted where the claimant is similarly situated and has not been guilty of delay, laches, or fence-sitting. The denial here is specific to Rajan's conduct, not a blanket rule against parity in service matters.

2. Correct Answer: (b) Statements ii and iii

Reference Line: "Even where two persons are identically situated, parity-based relief can be denied if the claimant has been guilty of delay, laches, or acquiescence." / "The doctrine of finality holds that once a dispute has been adjudicated and the judgment has attained finality — meaning all available avenues of challenge have been exhausted or foregone — the same dispute cannot be re-agitated between the same parties."

Explanation: (a) is incorrect because while Statement i contains a factual observation — both were dismissed under the same order — similarity of dismissal order alone does not sustain a parity claim where the claimant has acquiesced for six years. Statement iv is incorrect because Article 14 does not create an absolute right to parity; delay, laches, and acquiescence are recognised exceptions.

(b) is correct because Statement ii is correct — Priya's six-year silence without protest constitutes acquiescence, which bars parity-based relief. Statement iii is also correct — the doctrine of finality prevents re-agitation of the same dispute that Priya allowed to become final by not challenging it in 2010.

(c) is incorrect because while Statement ii is correct, Statement i is only partially accurate and insufficient to sustain relief given Priya's acquiescence, and Statement iv is squarely wrong since Article 14 does not create an absolute parity entitlement. Combining these three overstates Priya's legal position.

(d) is incorrect because Statement i, as explained, does not by itself support Priya's claim given her acquiescence, and Statement iv is entirely wrong as Article 14 parity is not absolute. Statement iii alone from this combination is correct, making this grouping inaccurate.

3. Correct Answer: (c) The officer's petition is unsustainable since the tribunal's order had attained finality and the same dispute cannot be re-agitated.

Reference Line: "The doctrine of finality holds that once a dispute has been adjudicated and the judgment has attained finality — meaning all available avenues of challenge have been exhausted or foregone — the same dispute cannot be re-agitated between the same parties."

Explanation: (a) is incorrect because the passage of time does not generate a fresh cause of action or entitle a party to reopen a concluded dispute. The doctrine of finality holds that once a judgment has attained finality — all avenues of challenge having been foregone — the same dispute cannot be re-agitated regardless of how much time has elapsed.

(b) is incorrect because this is a factually and legally wrong proposition. High Courts possess writ jurisdiction under Article 226 to examine service matters even after tribunal adjudication. The ground for rejecting the petition is finality of the tribunal's order, not absence of the High Court's jurisdiction.

(c) is correct because the doctrine of finality bars re-agitation of a dispute once the judgment has attained finality. The officer chose not to appeal the tribunal's 2012 order, allowing it to attain finality. The same dispute on identical grounds cannot be raised again through a fresh writ petition a decade later.

(d) is incorrect because the doctrine of finality applies universally across categories of claims, including service reinstatement matters. There is no principle limiting finality only to money claims. Once a judgment attains finality, it binds the parties across all categories of relief sought in the original proceeding.

4. Correct Answer: (d) No enforceable remedy, since her underlying claim was stale and incapable of yielding any workable relief.

Reference Line: "If the underlying claim is stale, dead, or incapable of resulting in workable relief, the court must decline to issue directions and close the matter. Issuing mechanical directions on stale claims only generates avoidable subsequent rounds of litigation without producing any meaningful relief."

Explanation: (a) is incorrect because while citizens generally have a right to reasoned orders on representations, this right is not enforceable in isolation where the underlying claim is stale. Courts are obligated to examine the liveness of the issue before issuing even procedural directions, and a mechanical direction on a dead claim only generates avoidable subsequent rounds of litigation.

(b) is incorrect because Article 136 is a discretionary special leave jurisdiction of the Supreme Court against judgments of courts and tribunals — it is not a remedy available to a litigant to bypass High Court

jurisdiction where no judgment of a court or tribunal is under challenge. Kamla has no order to challenge under Article 136 at this stage.

(c) is incorrect because no principle entitles a litigant to compensation solely on the ground that an authority failed to assign reasons in an order, especially where the claimant took no steps to challenge that order for over a decade. Compensation is not an automatic consequence of procedural deficiency absent a live and timely claim.

(d) is correct because a court must first satisfy itself that a claim is live and capable of resulting in workable relief before issuing any direction. Kamla's original rejection was in 2008, her representation was rejected in 2010, and she took no action for thirteen years. The underlying claim is stale, and no meaningful relief can flow from directing the authority to reconsider it in 2023.

5. Correct Answer: (b) The High Court's direction was improper since it failed to examine whether the underlying 2006 claim was live and capable of workable relief.

Reference Line: "Before issuing any direction – even a procedural direction such as 'consider the representation' – a court is obligated to satisfy itself that the claim before it relates to a live and subsisting issue. If the underlying claim is stale, dead, or incapable of resulting in workable relief, the court must decline to issue directions and close the matter."

Explanation: (a) is incorrect because while citizens generally have a right to reasoned orders on representations, this right is not enforceable in isolation where the underlying claim is stale. Courts are obligated to examine the liveness of the issue before issuing even procedural directions, and a mechanical direction on a dead claim only generates avoidable subsequent rounds of litigation.

(b) is correct because the principle governing stale claims requires courts to examine whether the underlying issue is live and capable of yielding workable relief before issuing any direction. Here, the original claim dated to 2006, the representation to 2011, and the High Court's direction came in 2024. Issuing a direction without examining the liveness of the 2006 claim was improper and predictably generated a fresh round of litigation.

(c) is incorrect because procedural directions are not exempt from the obligation to examine the liveness of the underlying claim. The principle specifically holds that before issuing any direction – even one framed as merely procedural – a court must satisfy itself that the claim is capable of resulting in workable relief. The characterisation of a direction as "procedural" does not insulate it from this requirement.

(d) is incorrect because no constitutional or legal principle restricts High Courts from issuing directions on older claims as such – the bar is not temporal jurisdiction but the obligation to examine liveness and workability of relief. There is no rule confining directions on decade-old claims exclusively to the Supreme Court.

2. Court's Permission Necessary for Further Investigation

1. Correct Answer: (b) No, since further investigation after an accepted Closure Report requires prior Magistrate permission, which was not obtained.

Reference Line: "NHRC recommendations do not by themselves confer legal authority on the police to conduct further investigation in a criminal case where the court has already accepted a Closure Report. Compliance with NHRC directions must still conform to the procedural requirements of criminal law, including the requirement of obtaining Magistrate's permission before conducting further investigation."

Explanation: (a) is incorrect because the NHRC does have the power to inquire into violations of human rights and make recommendations to authorities in criminal matters. The invalidity of the further investigation does not arise from the NHRC's lack of jurisdiction but from the failure to obtain Magistrate's permission before acting on the NHRC's recommendation.

(b) is correct because once a Closure Report has been accepted by the Magistrate and the complainant has not challenged it, any further investigation requires prior judicial permission. An administrative order by the Superintendent of Police acting on an NHRC recommendation does not substitute for this mandatory judicial sanction, and the DNA samples collected during such unauthorised investigation are liable to be rendered inadmissible.

(c) is incorrect because the Superintendent of Police's administrative authority over investigating officers does not extend to authorising further investigation in a case where a Closure Report has been judicially accepted. The power to sanction further investigation in such circumstances vests in the Magistrate, not in the police hierarchy.

(d) is incorrect because NHRC recommendations do not carry statutory force equivalent to a court order and do not independently authorise further investigation in criminal cases. The police must still comply with the procedural requirements of criminal law, including obtaining Magistrate's permission, even when acting pursuant to NHRC recommendations.

2. Correct Answer: (c) Statements ii and iii

Reference Line: "Section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is the corresponding provision and introduces an important addition through a proviso: further investigation during trial may be conducted only with the permission of the Court trying the case, and must be completed within ninety days, extendable with court permission." / "Further investigation is additive – it seeks to uncover additional evidence to supplement what has already been collected, and the results are submitted to the Magistrate through a supplementary report."

Explanation: (a) is incorrect because Statement i is wrong – submission of a charge sheet does not permanently bar further investigation. Section 173(8) CrPC and Section 193(9) BNSS both explicitly contemplate further investigation after the final report, subject to the requirement of court permission. Statement iv is also wrong as BNSS expressly requires court permission during trial.

(b) is incorrect because while Statement ii is correct, Statement iv is squarely wrong. Section 193(9) BNSS explicitly requires the permission of the court trying the case before further investigation can be conducted during trial. The claim that BNSS does not restrict police powers directly contradicts the express proviso of Section 193(9).

(c) is correct because Statement ii accurately reflects Section 193(9) BNSS, which permits further investigation during trial with the court's permission – which Inspector Verma duly obtained. Statement iii is also correct because a supplementary report is the prescribed procedural mechanism for placing additional evidence before the Magistrate following further investigation.

(d) is incorrect because Statement i is wrong for reasons explained above, and Statement iv directly contradicts the express language of Section 193(9) BNSS. Including these incorrect statements alongside Statement ii makes this grouping unsustainable.

2. Correct Answer: (c) Statements ii and iii

Reference Line: "Section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is the

corresponding provision and introduces an important addition through a proviso: further investigation during trial may be conducted only with the permission of the Court trying the case, and must be completed within ninety days, extendable with court permission." / "Further investigation is additive – it seeks to uncover additional evidence to supplement what has already been collected, and the results are submitted to the Magistrate through a supplementary report."

Explanation: (a) is incorrect because Statement i is wrong – submission of a charge sheet does not permanently bar further investigation. Section 173(8) CrPC and Section 193(9) BNSS both explicitly contemplate further investigation after the final report, subject to the requirement of court permission. Statement iv is also wrong as BNSS expressly requires court permission during trial.

(b) is incorrect because while Statement ii is correct, Statement iv is squarely wrong. Section 193(9) BNSS explicitly requires the permission of the court trying the case before further investigation can be conducted during trial. The claim that BNSS does not restrict police powers directly contradicts the express proviso of Section 193(9).

(c) is correct because Statement ii accurately reflects Section 193(9) BNSS, which permits further investigation during trial with the court's permission – which Inspector Verma duly obtained. Statement iii is also correct because a supplementary report is the prescribed procedural mechanism for placing additional evidence before the Magistrate following further investigation.

(d) is incorrect because Statement i is wrong for reasons explained above, and Statement iv directly contradicts the express language of Section 193(9) BNSS. Including these incorrect statements alongside Statement ii makes this grouping unsustainable.

3. Correct Answer: (c) The police officer's action is impermissible since once a Closure Report is accepted, further investigation requires prior judicial permission and cannot be initiated by executive action alone.

Reference Line: "Where the Magistrate accepts the Closure Report and the complainant does not challenge it, the closure attains judicial sanctity and cannot be undone by executive action of the police alone." / "Once a final report is submitted and accepted, any further investigation requires judicial sanction. The police or executive authorities cannot bypass this judicial check by issuing administrative communications directing further investigation."

Explanation: (a) is incorrect because the existence of new evidence does not independently empower the police to conduct further investigation after a Closure Report has been judicially accepted. New evidence may be a ground for seeking judicial permission for further investigation, but it cannot substitute for that permission or render the investigation valid without it.

(b) is incorrect because while the Magistrate's acceptance of a final report does not permanently extinguish all investigative powers, it does impose a mandatory requirement of prior judicial permission before any further investigation can be undertaken. The officer's action of proceeding without that permission is impermissible regardless of the investigative power that otherwise exists.

(c) is correct because once a Closure Report attains judicial sanctity through the Magistrate's acceptance, it cannot be undone by unilateral executive action of the police. The separation of executive and judicial functions in criminal investigation requires that any further investigation after this stage must receive prior judicial sanction, which was entirely absent here.

(d) is incorrect because subsequent ratification by the Magistrate is not a recognised remedy for unauthorised further investigation. The requirement is one of prior permission, not post-facto approval.

Evidence collected and arrests made during unauthorised further investigation are liable to be rendered invalid regardless of subsequent judicial acknowledgement.

4. Correct Answer: (d) A direction for further investigation under judicial supervision, not reinvestigation, since reinvestigation cannot displace the earlier inquiry entirely.

Reference Line: "Reinvestigation involves wiping out the earlier investigation entirely and starting afresh, which can only be ordered by a court – not by the police. Further investigation, on the other hand, is an additive process that supplements the earlier investigation without displacing it. Even further investigation, however, requires prior judicial permission after the final report has been submitted."

Explanation: (a) is incorrect because Article 21 does not override procedural requirements governing investigation even in human rights cases. While Article 21 may necessitate further investigation in appropriate cases, it does not authorise reinvestigation that entirely displaces the earlier inquiry, nor does it suspend the requirement of judicial supervision over such investigation.

(b) is incorrect because Article 21's right to fair investigation is not confined to protecting only the accused. The Supreme Court has recognised that it also ensures victims receive a thorough inquiry. Restricting Article 21 exclusively to the accused misrepresents the scope of this right as recognised in Vinubhai Haribhai Malaviya.

(c) is incorrect because this option conflates the available remedy with an absolute bar on reinvestigation. Reinvestigation is not absolutely impermissible – it can be ordered by a court. The distinction is that it cannot be initiated by the police themselves. The correct remedy is court-directed further investigation, which is additive and supplements rather than displaces the earlier inquiry.

(d) is correct because the petition seeks a remedy amounting to reinvestigation – entirely displacing the earlier inquiry – which is impermissible except by court order and is conceptually distinct from further investigation. The available remedy is a court direction for further investigation, which is additive and conducted under judicial supervision without wiping out the earlier inquiry.

5. Correct Answer: (c) The investigating officer's conduct was unbecoming of his office, and the evidence collected and the supplementary report are liable to be rendered inadmissible and quashed.

Reference Line: "Investigating officers who proceed with further investigation in defiance of the requirement of judicial permission not only act without legal basis but also risk having the entire subsequent investigation – including evidence collected, such as the DNA samples in this case – being rendered inadmissible and liable to be quashed."

Explanation: (a) is incorrect because forensic evidence is not automatically admissible regardless of the procedure followed to collect it. Where evidence is collected during unauthorised further investigation conducted without prior judicial permission, the entire investigation and its results – including forensic samples – are liable to be rendered inadmissible and quashed.

(b) is incorrect because the requirement of prior judicial permission for further investigation after charge sheet submission is not absent under CrPC. The Supreme Court held, following Vinay Tyagi, that this requirement must be read into Section 173(8) CrPC as a necessary implication. The claim that no permission is required directly contradicts this settled legal position.

(c) is correct because the principle governing conduct of investigating officers holds that proceeding with further investigation without judicial permission is not merely a procedural irregularity but an act unbecoming of the officer's position that undermines judicial authority. The consequence is that all

evidence collected and the supplementary report itself are liable to be rendered inadmissible and quashed.

(d) is incorrect because procedural irregularities of this nature – where the fundamental requirement of prior judicial permission is entirely bypassed – are not treated as mere technicalities curable at the court's discretion. The unauthorised nature of the investigation strikes at the root of the evidence's admissibility, and discretionary admission would defeat the purpose of the judicial oversight requirement.

3. Trial Courts Must Record Free Legal Aid Offer Before Witness Examination

1. Correct Answer: (a) Yes, since the Trial Court's failure to inform Ramu of his right to legal aid and record the offer constitutes a serious procedural lapse that undermines the fairness of the trial.

Reference Line: "Failure to discharge this duty by not informing the accused and not recording the offer and response constitutes a serious procedural lapse that can vitiate the fairness of the entire trial."

Explanation: (a) is correct because Trial Courts bear an affirmative duty to inform accused persons of their right to legal aid and to record the offer and the accused's response. The failure to discharge this duty is not a minor technicality but a serious procedural lapse capable of vitiating the fairness of the entire trial, particularly where the accused faced the entire proceedings without counsel as a direct consequence of not being informed.

(b) is incorrect because while Article 39A is a Directive Principle, courts have treated compliance with it as essential to the meaningful realisation of rights under Articles 14 and 21, effectively elevating legal aid from a directive principle to a judicially enforceable right in the context of criminal trials. The right to free legal aid is therefore enforceable in criminal proceedings and cannot be dismissed as a mere directive.

(c) is incorrect because the ground for setting aside the conviction is not Ramu's economic status as a daily wage labourer per se but the Trial Court's procedural failure to inform him of his right to legal aid and to record the offer and response. Economic disability is the basis of eligibility for legal aid, not an independent ground of appeal.

(d) is incorrect because procedural fairness in criminal trials is not subordinate to the sufficiency of evidence. A trial conducted without informing the accused of their right to legal aid – resulting in the accused facing proceedings without counsel – directly undermines the constitutional guarantee of a fair trial under Article 21 regardless of the strength of the prosecution's evidence.

2. Correct Answer: (c) Statements ii and iii

Reference Line: "The Supreme Court has consistently held that an accused who has undergone incarceration for an extended period – particularly where trial is not proceeding expeditiously – may be entitled to bail on the ground of prolonged detention, as indefinite pre-trial incarceration itself amounts to a violation of the right to personal liberty under Article 21. In NDPS cases where bail is ordinarily difficult to obtain due to Section 37, prolonged incarceration remains a recognised ground for the Court to exercise its jurisdiction and grant relief."

Explanation: (a) is incorrect because Statement i overstates the effect of Section 37 – while it imposes stringent conditions, it does not create an absolute bar to bail under all circumstances. Prolonged incarceration remains a recognised exception even in NDPS commercial quantity cases. Statement iv is

factually wrong as Section 37's stringent conditions apply specifically to commercial quantity cases, not small quantity cases.

(b) is incorrect because Statement i, as explained above, is wrong since Section 37 does not absolutely bar bail in all circumstances. While Statement iii is correct, combining it with the incorrect Statement i makes this grouping unsustainable.

(c) is correct because Statement ii accurately states the settled legal position that prolonged incarceration without expeditious trial is a recognised ground for bail even in NDPS commercial quantity cases. Statement iii is equally correct as indefinite pre-trial detention violates the right to personal liberty under Article 21, which the Supreme Court has consistently recognised as a basis for bail relief.

(d) is incorrect because Statement iv is factually wrong – Section 37's stringent bail conditions apply to commercial quantity offences, not small quantity ones. While Statement ii is correct, pairing it with the incorrect Statement iv makes this combination inaccurate.

3. Correct Answer: (c) The District Court committed a serious procedural lapse by failing to inform Govind of his right to legal aid, offer DLSA assistance, and record its actions, vitiating the fairness of the trial.

Reference Line: "Trial Courts bear an affirmative duty – not merely a passive one – to ensure that accused persons are aware of their rights, including the right to legal aid. Failure to discharge this duty by not informing the accused and not recording the offer and response constitutes a serious procedural lapse that can vitiate the fairness of the entire trial."

Explanation: (a) is incorrect because the duty to inform the accused of their right to legal aid is an affirmative obligation of the Trial Court, not a personal responsibility of the accused. The principle explicitly rejects a passive approach by courts and requires them to proactively ensure the accused is informed and connected to legal aid services before trial commences.

(b) is incorrect because merely allowing the accused to attend hearings without obstruction does not satisfy the Trial Court's affirmative duty. The duty is not discharged by passive non-interference – it requires the court to actively inform the accused of their rights, offer legal aid, record the offer and response, and connect the accused to the DLSA where applicable.

(c) is correct because the District Court's complete failure to inform Govind of his right to legal aid, to offer DLSA assistance, and to record any of these actions across every hearing of a serious trial constitutes a comprehensive breach of the affirmative procedural duty cast on Trial Courts. This directly vitiated the fairness of the trial and renders the conviction procedurally vulnerable.

(d) is incorrect because procedural fairness obligations under Articles 21, 14, and 39A, as interpreted by the Supreme Court, apply to all courts exercising criminal jurisdiction, including subordinate Trial Courts. There is no basis in law or constitutional interpretation for confining these obligations to High Courts alone.

4. Correct Answer: (b) The Supreme Court's power under Article 142 to pass orders necessary to do complete justice and address systemic lapses.

Reference Line: "This reflects the Court's power and responsibility under Article 142 of the Constitution to pass orders necessary to do complete justice, and its broader role in addressing systemic lapses in the criminal justice system. Such directions, once issued, are binding on all subordinate courts and create enforceable procedural obligations across the country."

Explanation: (a) is incorrect because Article 136 confers on the Supreme Court the discretionary power to grant special leave to appeal from judgments of courts and tribunals. It is an appellate jurisdiction that operates between parties to a specific dispute and does not empower the Court to issue sweeping systemic directions to courts across the country beyond the facts of the case before it.

(b) is correct because Article 142 empowers the Supreme Court to pass such orders as are necessary to do complete justice in any matter pending before it. This provision enables the Court to go beyond deciding the immediate dispute between parties and issue systemic directions addressing structural lapses – such as the nationwide failure to inform accused persons of their right to legal aid – binding all subordinate courts through the Chief Justices of High Courts.

(c) is incorrect because Article 32 jurisdiction is available only on individual petitions for enforcement of fundamental rights and operates between the petitioner and the respondent State. While Article 32 empowers the Court to issue writs, it does not by itself authorise the issuance of prospective systemic directions to all Trial Courts in the country beyond the individual petition before the Court.

(d) is incorrect because Article 143 relates to the Supreme Court's advisory jurisdiction, under which the President may refer a question of law or fact of public importance to the Court for its opinion. This is a separate and distinct jurisdiction that is not triggered by pending litigation and has no connection to the Court's power to issue systemic directions in a criminal appeal.

5. Correct Answer: (c) Yes, since Article 22(1) read with Article 39A and judicial interpretation extends the right to include specifically informing the accused of free legal aid when they cannot afford counsel.

Reference Line: "Article 22(1) guarantees the right of every arrested person to consult and be defended by a legal practitioner, which extends to the right to free legal aid for those who cannot afford counsel." "Article 39A is a Directive Principle of State Policy... Courts have treated compliance with Article 39A as essential to the meaningful realisation of rights under Articles 14 and 21, effectively elevating legal aid from a directive principle to a judicially enforceable right in the context of criminal trials."

Explanation: (a) is incorrect because Article 22(1)'s guarantee is not confined to informing the accused of their right to retain a lawyer of their choice. Through judicial interpretation, it has been extended to encompass the right to free legal aid for those who cannot afford counsel, meaning the Magistrate's partial information was constitutionally insufficient for an accused of limited means.

(b) is incorrect because courts have not treated Article 39A as an unenforceable directive that cannot be read alongside other fundamental rights provisions. On the contrary, Article 39A has been treated as essential to the meaningful realisation of Articles 14 and 21, and courts have elevated the right to legal aid to a judicially enforceable standard in criminal proceedings by reading these provisions together.

(c) is correct because the constitutional framework – Article 22(1) read with Article 39A and the judicial interpretation elevating legal aid to an enforceable right – requires that an accused who cannot afford counsel be specifically informed of their entitlement to free legal aid. Informing Arjun only of his right to retain counsel of his choice, without disclosing the free legal aid scheme, was constitutionally insufficient and directly denied him meaningful access to legal representation.

(d) is incorrect because automatic acquittal is not the prescribed consequence of every failure to provide complete legal information to an accused. The consequence of a failure to inform of legal aid rights is that the trial proceedings may be vitiated on grounds of procedural unfairness – the matter is typically remanded or the conviction set aside for fresh trial, not that the accused is automatically acquitted regardless of evidence.

4. Properties Acquired by Karta Presumed to be Joint Family Property

1. Correct Answer: (c) Ramesh, since once Suresh establishes the ancestral nucleus, the burden shifts to Ramesh to prove self-acquisition.

Reference Line: "Once a plaintiff establishes that such a nucleus existed at the time of the subsequent acquisitions, the law presumes that those acquisitions were made from or with the aid of the nucleus and therefore constitute joint family property. This presumption is rebuttable – the person claiming self-acquisition must prove by cogent evidence that the property was acquired entirely from independent sources unconnected to the family nucleus."

Explanation: (a) is incorrect because the burden of proof in partition suits is not static. While the party asserting joint family character bears the initial burden, once an income-yielding ancestral nucleus is established, the burden shifts to the person claiming self-acquisition. The statement that the initial burden remains throughout entirely ignores this reversal.

(b) is incorrect because a purchase deed in the Karta's name does not raise a presumption of self-acquisition in the presence of an established ancestral nucleus. On the contrary, acquisitions by the Karta during the subsistence of the joint family are presumed – in the presence of an ancestral nucleus – to be made on behalf of the family, reversing the logic of this option entirely.

(c) is correct because Suresh, by establishing that the ancestral orchards constituted an income-yielding nucleus at the time of purchase, has discharged his initial burden and triggered the legal presumption of joint acquisition. The burden now shifts to Ramesh to prove by cogent evidence that the land was acquired entirely from independent sources unconnected to the ancestral nucleus.

(d) is incorrect because there is no principle under Hindu law that the Karta is presumed to act independently of the joint family in property matters. The position is precisely the opposite – acquisitions by the Karta in the presence of an ancestral nucleus are presumed to be for the benefit of the family and constitute joint family property.

2. Correct Answer: (a) Statements i and iii

Reference Line: "The 2005 amendment to Section 6 conferred upon daughters the same rights as sons in coparcenary property, giving them birthright interests equal to male coparceners. This amendment applies to daughters regardless of whether their father was alive at the time of the amendment, as clarified by the Supreme Court in Vineeta Sharma v. Rakesh Sharma (2020)."

Explanation: (a) is correct because Statement i accurately reflects the position that daughters' coparcenary rights under the 2005 amendment are not contingent on their father being alive at the time of the amendment. Statement iii correctly identifies that this position was authoritatively clarified by the Supreme Court in Vineeta Sharma v. Rakesh Sharma, making both statements legally sound.

(b) is incorrect because Statement ii directly contradicts the settled legal position established in Vineeta Sharma – daughters' rights do not depend on the father surviving the amendment. Statement iv is equally wrong as the amendment confers rights based on birth as a daughter, not on being born after 2005.

(c) is incorrect because while Statement i and iii are correct, Statement ii is squarely wrong as explained above. Including the incorrect Statement ii alongside two correct statements makes this combination unsustainable.

(d) is incorrect because Statement ii is wrong for reasons already explained, and Statement iv misreads

the amendment entirely – it confers coparcenary rights on daughters born before 2005 as well, not exclusively on those born after. Only Statement iii from this grouping is correct.

3. Correct Answer: (c) The plot is self-acquired since Govind has discharged the shifted burden with cogent evidence of independent funding.

Reference Line: "This presumption is rebuttable – the person claiming self-acquisition must prove by cogent evidence that the property was acquired entirely from independent sources unconnected to the family nucleus."

Explanation: (a) is incorrect because the presumption of joint acquisition is not automatic and irrebuttable merely by reason of joint family membership. The presumption arises only when an ancestral nucleus is established, and even then it is rebuttable. Where the person claiming self-acquisition produces cogent evidence of entirely independent funding, the presumption is successfully displaced.

(b) is incorrect because the presumption of joint acquisition is explicitly rebuttable, not irrebuttable. The principle makes clear that once the burden shifts to the person claiming self-acquisition, they can discharge it by proving independent sources of funding through cogent evidence which is precisely what Govind has done here.

(c) is correct because while the existence of an ancestral nucleus shifts the burden to Govind, the principle allows him to rebut the presumption by proving through cogent evidence that the acquisition was entirely independent of the family nucleus. Govind's clear documentary proof of personal savings predating both his marriage and joint family involvement satisfies this standard, successfully rebutting the presumption.

(d) is incorrect because there is no rule of Hindu law that prohibits a coparcener from holding self-acquired property while the family remains undivided. A coparcener can hold both self-acquired property which they own independently and an undivided share in joint family property simultaneously. The two categories coexist and carry different legal consequences.

4. Correct Answer: (b) Hari's actions do not constitute partition since separate enjoyment and improvements alone are insufficient to sever joint status.

Reference Line: "Separate enjoyment of portions of joint property, installation of improvements such as irrigation facilities, individual borrowings, or separate management of portions do not by themselves constitute partition in law. Partition must be evidenced by a definite act such as a partition deed, mutation of revenue records, or an unambiguous oral declaration followed by accepted conduct reflecting the intention to divide."

Explanation: (a) is incorrect because continuous separate enjoyment, however prolonged, does not constitute a partition in law. The principle is explicit that separate enjoyment of portions of joint property does not by itself sever the joint status. Partition requires a clear, unequivocal, and unambiguous intention to divide, evidenced by a definite act, none of which is present here.

(b) is correct because all three of Hari's actions separate cultivation, installation of irrigation facilities, and individual borrowings are specifically identified in the governing principle as acts that do not constitute partition in law. Partition requires a definite act reflecting unambiguous intention to sever joint status, such as a partition deed or mutation of revenue records, which is entirely absent on these facts.

(c) is incorrect because individual borrowings using joint family property as security are also explicitly listed among the acts that do not constitute partition. Borrowings reflect individual financial dealings but do not communicate an unambiguous intention to sever the joint status of the family, which is the essential requirement for partition.

(d) is incorrect because the installation of an irrigation pump is specifically cited in the principle as an example of an improvement that does not constitute partition. Improvements to portions of joint property reflect individual investment but not an unambiguous intention to divide the property, which is the legal threshold for partition under Hindu law.

5. Correct Answer: (c) Arun's claim partially succeeds since the Will is effective only to the extent of Vikram's own definite share, not the entire property.

Reference Line: "An unregistered Will purporting to transfer joint family property is of limited evidentiary value, as the testator being merely a coparcener or Karta cannot unilaterally bequeath joint family property that belongs to all coparceners. The Will can only be effective to the extent of the testator's own definite share upon partition, not the entire property."

Explanation: (a) is incorrect because while an unregistered Will can be valid under the Registration Act, a Karta does not have the power to bequeath the entire joint family property through a Will. Joint family property belongs to all coparceners collectively, and the Karta's testamentary power extends only to his own definite share – not to the shares of the other coparceners.

(b) is incorrect because under the Registration Act, 1908, a Will is not compulsorily registrable and an unregistered Will can be valid. The issue with Vikram's Will is not its unregistered character but the substantive limitation that a Karta or coparcener cannot bequeath property that belongs to all coparceners through a unilateral testamentary act.

(c) is correct because the governing principle explicitly provides that a Will by a Karta or coparcener can only be effective to the extent of the testator's own definite share upon partition. Since no partition had taken place, Vikram's Will can operate only over what would have been his share had partition occurred. It cannot defeat the coparcenary rights of Arun's brothers over their respective undivided shares.

(d) is incorrect because the Karta's Will does not override the coparcenary rights of other family members. A coparcener acquires an interest in joint family property by birth, and this right cannot be extinguished by the unilateral testamentary act of the Karta. The Will's reach is confined to the Karta's own share, leaving the other coparceners' interests unaffected.

5. Arrest under Section 35(6) BNSS

1. Correct Answer: (b) No, since for offences up to seven years, issuing a notice is mandatory and arrest without notice is impermissible.

Reference Line: "Section 35(3) provides that for cognizable offences punishable with imprisonment up to seven years, the police officer shall, instead of arresting the accused, issue a notice directing the person to appear. The Supreme Court held that this notice is mandatory – it is the rule, not a discretion."

Explanation: (a) is incorrect because Section 35(3) BNSS expressly removes discretion from the officer in cases involving offences up to seven years. The notice is mandatory and the officer cannot bypass it by exercising discretion to arrest directly. The cognizable nature of the offence does not restore that discretion once the mandatory notice requirement applies.

(b) is correct because Section 35(3) BNSS makes issuance of notice the rule — not an option — for offences punishable up to seven years. The Supreme Court affirmed that this is a mandatory provision reflecting the legislature's intent to restrict pre-trial detention for relatively less serious offences. Inspector Dinesh's failure to issue a notice renders the arrest impermissible at the threshold.

(c) is incorrect because Sunil's cooperation, while not a statutory condition, is a relevant circumstance that an officer applying their mind to the necessity of arrest must consider. More fundamentally, the arrest fails independently of this consideration because the mandatory notice requirement under Section 35(3) was entirely bypassed, which alone vitiates the arrest.

(d) is incorrect because arrest without warrant is not unconstitutional per se. Article 21 requires that deprivation of personal liberty follow procedure established by law, and the BNSS provides such procedure for cognizable offences. The arrest is unlawful not because all warrantless arrests violate Article 21 but because the specific mandatory procedure under Section 35(3) was not followed.

2. Correct Answer: (c) No, since compliance with a Section 35(3) notice is a complete shield against arrest for that offence.

Reference Line: "So long as a person who has been served a notice under Section 35(3) complies with its terms and appears before the police officer as directed, they cannot be arrested for that offence. The accused's compliance with the notice is thus a complete shield against arrest, and any arrest in such circumstances would be unlawful."

Explanation: (a) is incorrect because Section 35(5) BNSS does not create any exception for the seriousness of the allegation. Once a notice is issued and complied with, the bar on arrest is absolute for that offence. The investigating officer's subjective assessment of seriousness cannot override the statutory protection afforded by compliance with the notice.

(b) is incorrect because the notice mechanism under Section 35(3) is not merely a preliminary step that keeps the door to arrest open. It is a genuine alternative to arrest, and the accused's compliance with it creates a complete legal bar. Treating compliance as merely procedural while preserving arrest as an available subsequent step directly contradicts the protective purpose of Section 35(5).

(c) is correct because Section 35(5) BNSS explicitly provides that compliance with a Section 35(3) notice is a complete shield against arrest for that offence. Pradeep appeared as directed and cooperated fully, satisfying the notice's requirements. Constable Rekha's arrest of him in these circumstances was wholly unlawful regardless of the original allegation.

(d) is incorrect because the requirement of a warrant applies to non-cognizable offences, not to cognizable offences where the BNSS regime of notice and conditional arrest applies. The correct basis for challenging the arrest is Pradeep's compliance with the notice under Section 35(5), not the absence of a warrant.

3. Correct Answer: (b) Meena's arrest is unlawful since both conditions under Section 35(1)(b) must coexist and satisfaction of one alone is insufficient.

Reference Line: "Even in cases where arrest is permissible for offences up to seven years, it requires satisfaction of two cumulative conditions under Section 35(1)(b)... Both conditions must coexist; satisfaction of one alone is insufficient."

Explanation: (a) is incorrect because credible information satisfies only the first condition under Section 35(1)(b)(i) — that the officer has reason to believe the accused committed the offence. The second

condition under Section 35(1)(b)(ii), requiring satisfaction that arrest is necessary for a specified purpose, was never addressed. Since both conditions are cumulative, satisfaction of one alone cannot validate the arrest.

(b) is correct because Section 35(1)(b) imposes twin cumulative conditions for arrest in offences up to seven years. Sub-Inspector Karan addressed only the first condition by relying on credible information. He never applied his mind to whether arrest was necessary for any of the specified purposes under Section 35(1)(b)(ii). The failure to satisfy the second condition independently vitiates the arrest.

(c) is incorrect because there is no provision under BNSS that automatically justifies arrest based on the quantum of punishment alone without satisfying the twin conditions. The twin-condition requirement under Section 35(1)(b) applies to all offences up to seven years, and the punishment of six years does not create any exception to this framework.

(d) is incorrect because credible information is in fact a recognised basis for the first condition under Section 35(1)(b)(i). The principle does not exclude credible information as a valid ground – it only requires that this first condition be accompanied by the second condition regarding necessity of arrest. The statement as framed misrepresents the law by treating credible information as wholly insufficient.

4. Correct Answer: (b) Statements ii and iii

Reference Line: "The Supreme Court held that such arrest under Section 35(6) cannot be based on the same circumstances that existed when the notice was issued. It must be founded on fresh material – new facts or circumstances that have come to light after the issuance of the notice and were not available to the officer at that stage. This prevents the police from using the notice mechanism as a mere formality before proceeding to arrest on pre-existing grounds."

Explanation: (a) is incorrect because Statement i is wrong – non-compliance with a notice does not authorise arrest on any available grounds. The Supreme Court has placed a clear condition that arrest under Section 35(6) must rest on fresh material. Statement iv compounds the error by suggesting non-compliance creates an automatic and unconditional authorisation to arrest, which directly contradicts the fresh material requirement.

(b) is correct because Statement ii accurately states the Supreme Court's holding that Section 35(6) arrest must be founded on fresh material that was unavailable when the notice was issued. Statement iii is equally correct as relying on pre-existing grounds after non-compliance would reduce the notice to a procedural formality, which is precisely the outcome the fresh material rule is designed to prevent.

(c) is incorrect because Statement i is wrong for reasons explained above, and Statement iv is also wrong since non-compliance does not create an unconditional arrest power. Only Statement iii from this combination is correct, making this grouping inaccurate.

(d) is incorrect because while Statements ii and iii are correct, Statement iv is wrong as established above. Non-compliance triggers the power to consider arrest under Section 35(6) but does not remove the requirement of fresh material. Including Statement iv makes this combination unsustainable.

5. Correct Answer: (c) Yes, since Section 35 requires recording reasons both for arresting and for choosing not to issue a notice instead.

Reference Line: "Section 35 of the BNSS imposes a mandatory obligation on police officers to record reasons in writing for making an arrest, and equally for choosing not to arrest when conditions for arrest exist."

Explanation: (a) is incorrect because Section 35 BNSS imposes dual documentation obligations – recording reasons for believing the accused committed the offence is only one part. The officer must also record reasons for choosing arrest over the notice alternative. Inspector Harpal's failure to document the second obligation is a distinct and independent procedural lapse that renders the arrest challengeable.

(b) is incorrect because the decision to arrest over notice is not an unreviewable operational matter left to the officer's exclusive discretion. Section 35 expressly requires reasons to be recorded for this choice, precisely because personal liberty under Article 21 cannot be curtailed by arbitrary or undocumented decisions. Judicial review of this choice is built into the statutory framework.

(c) is correct because Section 35 BNSS mandates recording of reasons both for making the arrest and for choosing not to issue a notice instead. Inspector Harpal recorded reasons for believing Sunita committed the offence but entirely omitted to record why arrest was preferred over notice. This failure to discharge the full documentation obligation under Section 35 makes Sunita's challenge legally maintainable.

(d) is incorrect because a procedural defect in recording does not automatically result in immediate release and acquittal. The consequence of such a defect is that the legality of the arrest becomes challengeable before a Magistrate or High Court, which may then examine whether the arrest was justified. Automatic acquittal is not the prescribed remedy for documentation failures under Section 35.

6. Quasi-Judicial Authorities Lack Review Power

1. Correct Answer: (a) No, since quasi-judicial authorities have no inherent review power and the Motor Vehicles Act conferred none expressly.

Reference Line: "For all other authorities, including quasi-judicial bodies, the power of review is not inherent and must be specifically conferred by statute, either expressly or by necessary implication."

Explanation: (a) is correct because the power of review is not inherent in quasi-judicial bodies – it must be specifically conferred by the parent statute either expressly or by necessary implication. Since the Motor Vehicles Act contained no such provision, the State Transport Authority had no jurisdiction to review its own order, and the review order is therefore void ab initio regardless of the merits of the changed circumstances cited.

(b) is incorrect because quasi-judicial bodies have no inherent power to correct their own errors in the absence of statutory authority. The principle that distinguishes quasi-judicial bodies from civil courts is precisely this absence of inherent jurisdiction. The interest of justice cannot substitute for the legislature's conferment of review power upon a statutory authority.

(c) is incorrect because while Ramesh's failure to appeal is relevant to the finality of the original cancellation order, it is not the basis on which the review order must be struck down. The review order fails independently because the State Transport Authority lacked jurisdiction to review at all – the absence of statutory review power is the operative ground, not Ramesh's procedural default.

(d) is incorrect because review of one's own orders is not an inherent power available to all adjudicatory bodies. This power belongs to courts of record such as the Supreme Court and High Courts by virtue of Articles 137 and 226 respectively, and to civil courts through Section 151 CPC. Statutory quasi-judicial bodies are entirely creatures of statute and possess no such inherent jurisdiction.

2. Correct Answer: (b) Statements ii and iii

Reference Line: "An executive direction or government order is an instruction issued by the executive branch of government to an authority under its administrative control. Such a direction cannot confer substantive legal powers upon a quasi-judicial authority that the parent statute has not granted." / "When a quasi-judicial authority exercises review jurisdiction without statutory authority, the resulting order is not merely voidable – capable of being set aside on appeal – but is void ab initio, as if it never existed."

Explanation: (a) is incorrect because Statement i is wrong – an executive direction is not a valid source of jurisdiction for a quasi-judicial body. Only the parent statute can confer substantive powers, and an executive direction operates only in the administrative sphere. Statement iv is also wrong as administrative control does not translate into the power to vest judicial jurisdiction through executive instructions.

(b) is correct because Statement ii accurately states that the Revenue Officer's review is void ab initio – the WBEA Act conferred no review power and the matter had attained finality through the proviso to Section 57B(3). Statement iii correctly identifies the fundamental principle that executive directions cannot confer substantive judicial powers that the parent statute has withheld.

(c) is incorrect because Statement i is wrong for reasons explained above, and Statement iv is also wrong since administrative control over officers does not empower the State Government to direct quasi-judicial bodies to reopen concluded adjudications. This would amount to executive override of a judicial determination, which is constitutionally impermissible.

(d) is incorrect because while Statements ii and iii are correct, Statement iv is wrong as established above. Including the incorrect Statement iv makes this grouping inaccurate and unsustainable as the correct answer.

3. Correct Answer: (c) The review is invalid since quasi-judicial bodies have no inherent powers and can only act within expressly or impliedly conferred statutory authority.

Reference Line: "Quasi-judicial authorities are bodies that perform functions similar to courts – they adjudicate disputes, hear evidence, apply law to facts, and issue binding orders – but are not courts of record in the strict sense. They derive their jurisdiction entirely from the statute that creates them and can exercise only those powers that the statute expressly confers or necessarily implies."

Explanation: (a) is incorrect because the inherent power to correct errors apparent on the face of the record belongs to civil courts by virtue of Section 151 CPC and their status as courts of record – it does not extend to statutory tribunals. The Tribunal's adjudicatory functions do not transform it into a court of record capable of exercising inherent jurisdiction.

(b) is incorrect because necessary implication as a source of power requires that the implied power be essential to give effect to the statute's express provisions – it is not established merely by pointing to the body's adjudicatory character. The Income Tax Act's silence on review, combined with the absence of any provision that would be rendered unworkable without review power, does not support a finding of necessary implication.

(c) is correct because the doctrine of statutory conferment of power holds that quasi-judicial bodies can only exercise powers expressly conferred or necessarily implied by their parent statute. The Tribunal is entirely a creature of statute, possesses no inherent powers, and cannot derive review jurisdiction from its general adjudicatory character. The absence of any express or necessarily implied review power

under the Income Tax Act renders the review invalid.

(d) is incorrect because the taxpayer's failure to appeal is relevant only to the finality of the original order – it does not create or revive jurisdiction in the Tribunal to review its own order. Jurisdiction must flow from the statute, not from a party's procedural default. The Tribunal's review power cannot be implied from the taxpayer's omission to challenge the order before the High Court.

4. Correct Answer: (b) Statements i and iv

Reference Line: "Quasi-judicial authorities are bodies that perform functions similar to courts – they adjudicate disputes, hear evidence, apply law to facts, and issue binding orders – but are not courts of law in the strict sense. They derive their jurisdiction entirely from the statute that creates them and can exercise only those powers that the statute expressly confers or necessarily implies." / "An act or order that is void ab initio is void from the very beginning – it has no legal existence or effect whatsoever."

Explanation: (a) is incorrect because Statements ii and iii are both correct, not false. Statement ii accurately states that the Tribunal acted ultra vires since no review power was conferred upon it, and Statement iii correctly identifies that the resulting review order is void ab initio and has no legal existence. These are true statements and cannot be the answer to a question asking for false ones.

(b) is correct because Statement i is false – the Tribunal has no power to correct its own errors in the absence of statutory review jurisdiction, and a general invocation of justice cannot substitute for conferred power. Statement iv is equally false since silence of a statute on review power implies precisely that no review power exists, not that review is permissible as a general principle.

(c) is incorrect because this combination includes Statements ii and iii alongside Statement i. As explained, Statements ii and iii are true – the Tribunal did act ultra vires and the order is void ab initio. Including them in a combination of false statements is legally inaccurate.

(d) is incorrect because Statement iii is true, not false – an order passed without jurisdiction is void ab initio and has no legal existence or effect. Including Statement iii in a combination of false statements directly contradicts the established principle governing void orders in administrative law.

5. Correct Answer: (c) The government circular cannot confer review jurisdiction since only the parent statute can vest powers in a quasi-judicial body.

Reference Line: "An executive direction or government order is an instruction issued by the executive branch of government to an authority under its administrative control. Such a direction cannot confer substantive legal powers upon a quasi-judicial authority that the parent statute has not granted."

Explanation: (a) is incorrect because government oversight over a tribunal in the administrative sense does not empower the government to expand the tribunal's adjudicatory jurisdiction through a circular. The distinction between administrative control and statutory conferment of judicial power is fundamental – the former does not subsume the latter, and a circular operating in the administrative sphere cannot vest review jurisdiction.

(b) is incorrect because changed circumstances – including revised contribution rates – are grounds for seeking appropriate relief through the prescribed legal mechanism, not grounds for a quasi-judicial body to reopen a concluded order without statutory review power. Changed circumstances cannot substitute for the absence of jurisdiction to review.

(c) is correct because the principle of statutory conferment of power holds that only the parent statute

through express provision or necessary implication — can vest powers in a quasi-judicial body. A government circular is an executive instrument that operates in the administrative sphere and cannot perform the legislative function of conferring judicial jurisdiction. The Tribunal's reconsideration founded on the circular is therefore without jurisdiction and void.

(d) is incorrect because locus standi is a threshold question of whether a party can approach a forum, not a determinant of whether the forum had jurisdiction to act. The employees' union's standing to challenge is a separate issue from the Tribunal's jurisdiction to review. Even if the union's standing were questionable, the Tribunal's jurisdictional defect independently renders the reconsideration order invalid.

7. Grant of Bail Should Not Be Subject to Deposit of Money

1. Correct Answer: (c) No, since the condition effectively converts bail jurisdiction into a debt recovery mechanism, which is impermissible and violates Article 21.

Reference Line: "Conditioning bail on payment of alleged dues blurs this boundary, effectively allowing complainants to use the threat of arrest and detention to coerce payment — a use of criminal process that is contrary to law and liable to be set aside."

Explanation: (a) Incorrect. While courts do have wide discretion to impose conditions on bail, this discretion is not unlimited or unconstrained. Permissible conditions are those that serve the legitimate purposes of bail — securing the accused's appearance, preventing evidence tampering, and protecting the public. Requiring the accused to deposit a sum of money owed to the complainant serves none of these purposes and instead converts the bail jurisdiction into a debt recovery mechanism. Wide discretion cannot be exercised in a manner that contradicts the fundamental purpose of bail jurisdiction and violates Article 21.

(b) Incorrect. Requiring deposit of disputed dues as a bail condition does not serve the interests of justice in the legally recognised sense — it serves only the complainant's financial interest in recovering alleged dues. The interests of justice in bail jurisprudence refer to securing the accused's presence at trial, preventing evidence tampering, and protecting witnesses — not ensuring that civil debts are paid. Protecting the complainant's financial interest is the function of civil courts through suits for recovery, not of criminal bail jurisdiction.

(c) Correct. The condition requiring Ramesh to deposit ₹5,00,000 as alleged dues to the complainant has no connection to any legitimate bail purpose — it does not secure his appearance at trial, prevent evidence tampering, or protect any witness. It is in substance a coercive debt recovery mechanism disguised as a bail condition. Such a condition converts the criminal bail jurisdiction into a civil recovery tool, which is impermissible. Furthermore, by imposing a financial burden that effectively continues the deprivation of liberty through economic compulsion, the condition violates Article 21's guarantee that deprivation of liberty must be according to fair, just, and reasonable procedure.

(d) Incorrect. The law does not restrict the imposition of bail conditions to cases involving offences punishable with life imprisonment or death alone. Courts regularly impose conditions on bail in cases involving all categories of non-bailable offences — the nature and extent of conditions vary with the facts and circumstances of each case. The legal error in this case is not the imposition of conditions generally but the specific nature of the condition — requiring payment of civil dues — which is impermissible regardless of the category of offence involved.

2. Correct Answer: (a) Statement iii only

Reference Line: "For serious offences punishable with death, life imprisonment, or imprisonment exceeding ten years, the time limit is ninety days; for other offences, it is sixty days."

Explanation:

(a) Correct. Statement iii is false because it claims default bail arises after sixty days regardless of the offence. In serious offences punishable with death, life imprisonment, or imprisonment exceeding ten years, the limit is ninety days. Since the offence here carries imprisonment exceeding ten years, the charge sheet filed within sixty-five days is within time.

(b) Incorrect. Statements i and iv are correct. Default bail is an indefeasible right once accrued, and sixty days applies only to offences not falling in the serious category.

(c) Incorrect. Statement ii is correct as the ninety-day limit applies to serious offences. Only statement iii is false.

(d) Incorrect. Statements i, ii, and iv are correct; therefore identifying them as false is incorrect.

3. Correct Answer: (b)

Reference Line: "Anticipatory bail is a pre-arrest remedy available to a person who apprehends arrest for a non-bailable offence."

Explanation:

(a) Incorrect. Anticipatory bail is meant to be sought before arrest. Requiring arrest or a warrant defeats the very purpose of the remedy.

(b) Correct. Anticipatory bail protects personal liberty in anticipation of arrest. Therefore, non-arrest does not make the application premature; it is precisely the stage at which such relief is sought.

(c) Incorrect. Both the Sessions Court and the High Court have jurisdiction to grant anticipatory bail under Section 482 BNSS.

(d) Incorrect. Anticipatory bail is discretionary and not an automatic right in commercial disputes.

4. Correct Answer: (b) The Supreme Court acted under Article 141 read with Article 136, since High Courts are constitutionally bound to follow Supreme Court precedent and persistent non-compliance warrants institutional correction.

Reference Line: "Under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India... The Jharkhand High Court's failure to follow the clear ruling in *Gajanan Dattatray Gore v. State of Maharashtra* (2025) was not merely an error of judgment but a breach of constitutional obligation, warranting the Supreme Court's strong disapproval."

Explanation:

(a) Incorrect. The Supreme Court did not act under Article 32 in this case — Article 32 provides the right to move the Supreme Court directly for enforcement of fundamental rights and is a petitioner's remedy, not a supervisory jurisdiction exercised by the Supreme Court over High Courts. While the impermissible bail condition did violate Article 21, the constitutional basis for the Supreme Court's corrective action in setting aside the High Court's order and communicating displeasure to the Chief Justice is Article 136 read with Article 141 — the supervisory and precedent-binding framework — not Article 32.

(b) Correct. The constitutional basis for the Supreme Court's action is twofold. Article 141 makes the law declared by the Supreme Court binding on all courts in India — including High Courts — and the Jharkhand High Court's imposition of a condition directly contrary to the binding ruling in *Gajanan*

Dattatray Gore constituted a breach of this constitutional obligation. Article 136 confers on the Supreme Court the supervisory and corrective jurisdiction to set aside such orders on appeal. The communication of displeasure to the Chief Justice reflects the institutional accountability mechanism the Supreme Court employs to ensure that binding precedent is consistently followed throughout the judicial hierarchy.

(c) Incorrect. Article 226 confers writ jurisdiction on High Courts – it does not require High Courts to refer bail matters to the Supreme Court before passing orders. There is no such procedural requirement in the Constitution or in any statute. High Courts exercise independent jurisdiction in bail matters, subject to the obligation under Article 141 to follow binding Supreme Court precedent. The Supreme Court's role is corrective and appellate – not one of prior approval before High Court orders are passed.

(d) Incorrect. The Supreme Court's action was not based on Article 32 and did not involve criminal action against the judges of the Jharkhand High Court. Judicial error – even a serious one involving non-compliance with binding precedent – does not constitute a criminal offence under the IPC. The Supreme Court's expression of institutional disapproval and communication to the Chief Justice is a supervisory measure directed at systemic compliance, not a punitive action against individual judges. Framing judicial error as criminal conduct has no basis in law.

5. Correct Answer: (c) The Sessions Court erred since bail in non-bailable cases requires merits-based adjudication examining flight risk, evidence tampering, criminal antecedents, and other relevant factors – not a mechanical rejection based on offence gravity alone.

Reference Line: "Bail jurisdiction is a judicial function that must be exercised on the basis of established legal criteria relating to the accused's liberty, the nature of the offence, and the interests of justice. Courts must assess the specific factors relevant to bail – such as flight risk, evidence tampering, and the accused's past conduct – and either grant or refuse bail based on those considerations."

Explanation:

(a) Incorrect. Seriousness of the offence is not irrelevant to bail adjudication – it is one of several factors that courts must consider when deciding bail in non-bailable cases. The legal error in this case is not that the Sessions Court considered gravity at all, but that it treated gravity as the sole and conclusive factor and mechanically rejected the application without examining any other relevant bail criteria. The principle is that gravity is one consideration among several – it cannot, by itself, be the exclusive basis for refusal without any merits-based examination of the other factors.

(b) Incorrect. Bail in non-bailable offences is not a matter of statutory right – it is a matter of judicial discretion under Section 480 BNSS. The right to bail as a matter of course applies only to bailable offences under Section 479 BNSS. In non-bailable cases, the court must exercise its discretion judicially – examining all relevant factors – but the accused has no automatic statutory right to bail merely because they apply for it. Stating that all non-bailable offences must result in bail is a direct misstatement of the governing legal framework.

(c) Correct. The Sessions Court's error was methodological – it substituted a mechanical single-factor assessment for the merits-based multi-factor adjudication that bail jurisdiction requires. Under Section 480 BNSS, courts must evaluate flight risk, likelihood of evidence tampering, criminal antecedents, threat to witnesses, the strength of the evidence, and the nature and gravity of the offence together – giving due weight to each factor in light of the specific facts. Rejecting bail solely because the offence is serious, without examining any other relevant consideration, is a failure to exercise judicial discretion properly and constitutes a legal error warranting interference by a superior court.

(d) Incorrect. Gravity of the offence is a relevant factor in bail adjudication but it is neither the sole nor the conclusive factor – particularly in non-bailable cases. The principle is explicit that courts must conduct a comprehensive, multi-factor assessment. If gravity alone were the decisive criterion, it would effectively exclude bail for all serious offences regardless of the accused's individual circumstances – a result inconsistent with the presumption of innocence and the principle that pre-trial detention must be the exception, not the rule.

8. Motive Becomes Insignificant with Dying Declaration

1. Correct Answer: (a) No, since Ramesh is a Central Government servant governed by the CCS Pension Rules and falls within the exclusionary clause of Section 2(e) of the PG Act.

Reference Line: "The definition contains an exclusionary clause – it specifically excludes any person who holds a post under the Central Government or a State Government and is governed by any other Act or rules providing for payment of gratuity."

Explanation: (a) is correct because Ramesh is a Central Government servant employed in a unit directly under the Department of Atomic Energy and is governed by the CCS (Pension) Rules, 1972 – a statutory scheme providing gratuity. He falls squarely within the exclusionary clause of Section 2(e), which removes such persons from the definition of "employee" under the PG Act. His claim is therefore not maintainable at the threshold.

(b) is incorrect because the principle of beneficial interpretation of labour welfare statutes does not override clear and unambiguous exclusionary clauses. Where the legislature has expressly carved out a category of persons from the Act's protection, courts must give effect to that exclusion. The beneficial interpretation principle operates within the statute's framework and cannot be used to nullify an express exclusion.

(c) is incorrect because the PG Act's exclusion is not a blanket bar on all government-linked establishments – it is specifically targeted at persons holding posts under the Central or State Government. Employees of autonomous bodies or statutory corporations that are not directly part of the government are not covered by this exclusion, as the MCD precedent itself demonstrates. The option overstates the scope of the exclusion.

(d) is incorrect because completion of five years of continuous service is a condition for eligibility under the PG Act – it establishes when gratuity accrues. It does not independently override the exclusionary clause of Section 2(e), which operates at the definitional level to remove certain persons from the Act's coverage entirely before questions of eligibility arise.

2. Correct Answer: (a) Statements i and iii

Reference Line: "A statutory corporation is a body created by a statute – such as the Municipal Corporation of Delhi – that has a separate legal identity distinct from the Central or State Government. Its employees are not government servants in the strict sense... This distinction is critical in determining whether the exclusionary clause of Section 2(e) of the PG Act applies, as it only covers persons holding posts under the Central or State Government, not employees of autonomous bodies or statutory corporations."

Explanation: (a) is correct because Statement i accurately reflects the legal position established in MCD v. Dharam Prakash Sharma – MCD employees are not Central Government servants and therefore the exclusionary clause of Section 2(e) does not bar their claims under the PG Act. Statement iii correctly

identifies the critical legal distinction between a statutory corporation and a Central Government department, which determines the applicability of the exclusionary clause.

(b) is incorrect because Statement ii overstates the exclusion – the exclusionary clause applies only to persons holding posts under the Central or State Government governed by another gratuity scheme, not to all employees who have received gratuity under any scheme. Statement iv is wrong as MCD is a statutory corporation with a separate legal identity and its employees are not Central Government servants despite MCD being established under a Central statute.

(c) is incorrect because while Statement i and iii are correct, Statement ii is wrong for reasons explained above. The exclusion is not triggered merely by receipt of gratuity under any scheme – it requires the specific status of a Central or State Government servant governed by a statutory gratuity scheme. Including the incorrect Statement ii makes this combination inaccurate.

(d) is incorrect because Statement iv is wrong – MCD's establishment under a Central statute and its location in the national capital do not make its employees Central Government servants. The test is the substantive character of the employing body, not its geographic location or the legislative source of its creation. Statement ii is also wrong as explained above.

3. Correct Answer: (b) Arvind's claim succeeds since the PG Act is a mandatory statutory scheme that cannot be displaced by a less beneficial contractual arrangement.

Reference Line: "The Payment of Gratuity Act, 1972 is a Central legislation... It mandates payment of gratuity at the rate of fifteen days' wages for each completed year of service... The Act was designed primarily to extend gratuity protection to employees in the private and quasi-public sector who had no other statutory guarantee of post-retirement benefits."

Explanation: (a) is incorrect because the PG Act is a mandatory social security statute – its protections cannot be contracted out. An employment contract that provides lower benefits than the statutory minimum cannot displace the employee's right to the statutory floor. The voluntary nature of the contractual arrangement does not override the mandatory character of the legislation.

(b) is correct because the PG Act establishes a mandatory statutory minimum for gratuity in establishments covered by it. A contractual scheme offering lower benefits cannot displace the statutory entitlement. Arvind's employer is a covered establishment, he has completed the requisite service, and he falls within the definition of "employee" – none of the exclusionary conditions apply since he is not a government servant governed by a separate statutory gratuity scheme.

(c) is incorrect because the exclusionary clause of Section 2(e) covers only persons holding posts under the Central or State Government governed by another statutory gratuity scheme. It does not extend to private sector employees with contractual gratuity arrangements. Arvind is a private sector employee and the exclusionary clause has no application to his case.

(d) is incorrect because the PG Act's protection is not conditional on the contractual scheme offering benefits below the PG Act ceiling. The statutory entitlement arises independently of any comparison with the contractual scheme – Arvind is entitled to PG Act benefits because he meets all statutory conditions, not because his contract happens to offer less than the ceiling amount.

4. Correct Answer: (b) Govind's claim fails since the substantive character of the establishment – BARC being an adjunct of the Department of Atomic Energy – determines his status as a Central Government servant.

Reference Line: "The Court determined this by examining the constitution, establishment, and continuation of HWP – finding it to be an adjunct of the Department of Atomic Energy – rather than relying on appointment orders or circulars. This approach of examining the substantive character of an establishment, rather than its formal designations, is an important tool in service law adjudication."

Explanation: (a) is incorrect because appointment orders are not the definitive or conclusive source for determining the character of an employee's service in jurisdictional fact determinations. The court looks to the substantive character of the establishment – its constitution, structure, and relationship to the government – rather than the formal designations used in appointment documents. Formal designations cannot alter the substantive legal character of the employment relationship.

(b) is correct because the jurisdictional fact approach requires examining the substantive character of the establishment rather than relying on formal designations in appointment orders. BARC, like HWP, is a constituent unit of the Department of Atomic Energy – a Central Government department. The substantive examination reveals Govind to be a Central Government servant regardless of how his appointment order describes him, bringing him within the exclusionary clause of Section 2(e).

(c) is incorrect because beneficial interpretation operates within the framework of the statute and cannot override a clear jurisdictional determination. Where the substantive character of the establishment conclusively establishes that an employee is a Central Government servant governed by a statutory gratuity scheme, beneficial interpretation cannot be invoked to nullify the express exclusionary clause. The principle assists in resolving genuine ambiguity, not in overriding settled jurisdictional facts.

(d) is incorrect because there is no separate categorical exclusion for scientists in nuclear establishments under the PG Act. The exclusion of Govind flows from the general exclusionary clause of Section 2(e) as applied to his status as a Central Government servant – not from any occupation-specific or establishment-specific provision targeting nuclear sector scientists.

5. Correct Answer: (b) Statements ii and iv

Reference Line: "The doctrine of approbate and reprobate – also known as the principle of election – holds that a party cannot simultaneously accept and reject the same instrument, transaction, or status... the appellants could not claim Central Government employee status and the corresponding CCS Pension Rules benefits for all purposes, while simultaneously seeking the higher gratuity benefits under the PG Act." / "This principle of beneficial interpretation does not override clear and unambiguous exclusionary clauses."

Explanation: (a) is incorrect because Statements i and iii are both true, not false. Statement i correctly reflects the doctrine of approbate and reprobate as applied to Priya's situation, and Statement iii accurately states the doctrine's operation. Including two true statements as the answer to a question asking for false ones is incorrect.

(b) is correct because Statement ii is false – the doctrine of approbate and reprobate does not permit Priya to accept CCS Pension Rules benefits for pension purposes while rejecting the limitation it imposes through the PG Act's exclusionary clause. The distinctness of pension and gratuity as benefits does not dissolve the unity of the legal status from which both flow. Statement iv is equally false since beneficial interpretation cannot override a clear and unambiguous exclusionary clause.

(c) is incorrect because Statements i and iii are true as explained above, and Statement ii is false. Including two true statements alongside the false Statement ii makes this an inaccurate answer to a

question asking which statements are false.

(d) is incorrect because Statements i and iii are true as established, and Statement iv is false. However, this combination includes the true Statements i and iii alongside the false Statement iv, making it an inaccurate identification of which statements are false.

9. Anticipatory Bail Cannot Be Restricted till Filing of Chargesheet Ordinarily

1. Correct Answer: (a) No, since the chargesheet's filing is not a change in circumstance justifying termination of bail and the arrest required a court order.

Reference Line: "Filing of a chargesheet does not alter the accused's entitlement to bail – it is a step in the investigative and pre-trial process, not a ground for withdrawing bail already granted. Courts have consistently held that the filing of a chargesheet is not a change in circumstance sufficient to justify cancellation or termination of bail."

Explanation:

(a) is correct because the filing of a chargesheet is settled to be not a change in circumstance sufficient to justify termination of bail. The automatic expiry clause in the Sessions Court's order is unsustainable as it circumvents the requirement of judicial application of mind at the point of termination. The investigating officer's unilateral arrest without a court order compounds the illegality – an accused on bail can only be taken into custody pursuant to a court order, not by executive action of the police.

(b) is incorrect because an automatic expiry clause inserted at the inception of a bail order is impermissible under settled law. Such clauses convert a judicial determination into a mechanical, time-bound relief that terminates without any assessment of whether circumstances have changed. The condition is therefore not binding – it is itself contrary to the Sushila Aggarwal principle and cannot validate the subsequent arrest.

(c) is incorrect because there is no rule confining the power to terminate anticipatory bail granted by the Sessions Court exclusively to the Supreme Court. The Sessions Court itself, as well as the High Court in its supervisory jurisdiction, can modify or cancel anticipatory bail on changed circumstances. The option misstates the jurisdictional position entirely.

(d) is incorrect because filing of a chargesheet does not transform the legal nature of the bail remedy or extinguish anticipatory bail already granted. Anticipatory bail, once granted, continues beyond the chargesheet stage unless modified or cancelled by a court on the basis of changed circumstances. The chargesheet is a procedural milestone in investigation, not a legal event that extinguishes prior bail protection.

2. Correct Answer: (b) Statements ii and iii

Reference Line: "Anticipatory bail should not invariably be limited to a fixed period and ordinarily continues until the trial is concluded, unless special reasons exist to restrict it... once anticipatory bail is granted, it does not automatically expire upon filing of the chargesheet, taking of cognizance, or issuance of summons."

Explanation:

(a) is incorrect because Statement i is wrong – inserting an automatic expiry clause upon cognizance directly contradicts the Sushila Aggarwal principle, which prohibits mechanical time-bound restrictions on anticipatory bail. Statement iv is also wrong as taking of cognizance is not recognised as a change in circumstance sufficient to justify automatic termination of anticipatory bail.

(b) is correct because Statement ii accurately reflects the Sushila Aggarwal principle that anticipatory bail ordinarily endures until conclusion of trial unless modified or cancelled by a court on changed circumstances. Statement iii correctly states that the investigating agency cannot unilaterally arrest a person on bail merely because a pre-fixed condition has been triggered – a court order is required for any such arrest.

(c) is incorrect because Statement i is wrong for reasons explained above, and Statement iv is also wrong since cognizance is not a recognised ground for automatic termination. Including these incorrect statements alongside the correct Statement ii makes this combination inaccurate.

(d) is incorrect because while Statements ii and iii are correct, Statement iv is wrong as established above. Taking of cognizance does not constitute a sufficient change in circumstance to automatically terminate anticipatory bail, and including this incorrect statement makes the combination unsustainable.

3. Correct Answer: (d) No, since bail conditions adequately address investigative risks and cancellation requires stronger justification than refusal at inception.

Reference Line: "Conditions such as regular reporting to the police station, surrender of passport, restrictions on travel, availability for interrogation, and prohibition on contacting witnesses are legitimate tools of risk management... The power of cancellation or modification is distinct from the power of refusal at inception: cancellation requires a stronger justification, as it entails taking away a liberty that has already been judicially granted."

Explanation:

(a) is incorrect because ongoing investigation is not itself a ground for cancelling anticipatory bail. The investigation was ongoing when bail was granted, and its continuation does not constitute a change in circumstance. Cancellation requires material justification grounded in specific changed circumstances – such as violation of conditions, tampering with evidence, or threat to witnesses – none of which the prosecution has demonstrated here.

(b) is incorrect because while the conclusion is right – bail should not be cancelled – the reasoning is incomplete. The principle goes further than mere insufficiency of apprehension: it specifically identifies conditions as the proper mechanism to address ongoing investigative risk. The correct answer captures both the standard for cancellation and the role of conditions as an alternative, making option (b) a less complete statement of the legal position.

(c) is incorrect because anticipatory bail does not automatically lose force upon substantial completion of investigation. The Sushila Aggarwal principle holds that anticipatory bail ordinarily continues until conclusion of trial, and there is no principle under which it expires when investigation reaches an advanced stage short of trial conclusion.

(d) is correct because conditions imposed at the time of bail – regular reporting, passport surrender, availability for interrogation – are precisely the mechanism designed to address investigative risks including evidence tampering. Since Ramesh has complied with all conditions and the prosecution has produced no material showing changed circumstances, cancellation is not warranted. The higher threshold for cancellation compared to refusal at inception further supports maintaining the bail.

4. Correct Answer: (c) The arrest is invalid since the investigating agency cannot unilaterally arrest an accused on bail for new offences without a court order.

Reference Line: "Critically, the investigating agency cannot unilaterally arrest an accused already on bail

merely because new offences have been added — a court order is required."

Explanation:

(a) is incorrect because addition of graver offences does not automatically invalidate existing bail orders. The legal position is that the accused should surrender and apply for bail in respect of newly added offences, and the court may grant or refuse bail afresh. Automatic invalidation of existing bail without judicial determination would amount to a mechanical deprivation of liberty contrary to Article 21.

(b) is incorrect because the investigating agency has no inherent power to arrest a person already on bail merely because new offences have been added. The power to arrest a person already protected by a bail order must be exercised pursuant to a court order — the investigating agency cannot unilaterally override a judicial determination of bail by executive action.

(c) is correct because the settled legal position is that the investigating agency cannot unilaterally arrest an accused already on bail on the ground that graver offences have been added. A court order is required — either through an application by the investigating agency to the court that granted bail or through surrender and fresh bail application by the accused. Priya's arrest without any court order is therefore invalid.

(d) is incorrect because it misstates the legal position. Added offences during investigation are not required to be adjudicated entirely separately from the accused's existing bail status — courts can and do consider the effect of newly added graver offences on bail. The correct principle is not that bail status is unaffected by new offences, but that any change in that status must be effected through a court order, not unilateral police action.

5. Correct Answer: (b) Statements i and iii

Reference Line: "Courts granting anticipatory bail can and should impose appropriate conditions to manage the risks that bail is designed to address... Conditions such as regular reporting to the police station, surrender of passport, restrictions on travel, availability for interrogation, and prohibition on contacting witnesses are legitimate tools of risk management."

Explanation:

(a) is incorrect because Statements ii and iv are both true, not false. Statement ii correctly identifies conditions as the proper mechanism for risk management in bail matters, and Statement iv correctly states that conditions are legitimate alternatives to artificial time limits. Including two true statements as the answer to a question asking for false ones is incorrect.

(b) is correct because Statement i is false — courts granting anticipatory bail not only have the power to impose conditions but are encouraged to do so as the appropriate mechanism for managing risk. The absence of conditions reflects a lapse in the court's exercise of discretion, not a constitutional limitation on its powers. Statement iii is equally false — absence of conditions does not render the bail order void; it merely makes the order incomplete from a risk-management perspective and is a ground for modification, not for setting aside the order entirely.

(c) is incorrect because Statement ii is true as explained above, and the combination includes it alongside the two false statements. The presence of the correct Statement ii makes this grouping inaccurate as an identification of false statements.

(d) is incorrect because Statements ii and iv are both true as established above. Including them in a combination of false statements directly contradicts the governing principles on conditions as risk management tools in bail jurisprudence.

10. Principle of Parity

1. Correct Answer: (b) No, since an absconder who evaded investigation for five years is not similarly situated to a co-accused who cooperated and stood trial.

Reference Line: "An absconder who deliberately evades investigation and trial is not similarly situated to co-accused who cooperated with the process of law and stood trial. The acquittal of co-accused is the product of evidence led against them specifically – evidence that the prosecution was never required to lead against the absconder. Parity cannot bridge this fundamental factual and procedural distinction."

Explanation:

(a) is incorrect because being named in the same FIR does not by itself establish that co-accused are similarly situated for the purpose of parity. Parity must be assessed in light of the individual circumstances of each accused, including their conduct during investigation and trial. Ramesh's five-year evasion creates a fundamental distinction from Suresh's cooperation, which parity cannot bridge.

(b) is correct because the principle of parity requires true similarity of situation, which is absent here. Suresh cooperated with investigation, stood trial, and was acquitted on evidence led against him. Ramesh absconded for five years, depriving the prosecution of the opportunity to lead evidence against him. These are fundamentally different procedural positions, and Ramesh cannot claim the benefit of an outcome arising from a trial in which he had no meaningful participation.

(c) is incorrect because Suresh's acquittal reflects only the prosecution's failure to prove the case against Suresh on the evidence led against him specifically. It cannot be extended to Ramesh as a general conclusion about the FIR, because the prosecution was never required to and never did lead evidence against Ramesh. Applying trial findings to an absconder would create a perverse incentive to evade trial.

(d) is incorrect because the filing of a chargesheet does not bar anticipatory bail applications categorically. Anticipatory bail remains available even after chargesheet, and the ground for refusing Ramesh's application is his status as an absconder and the consequent absence of parity with Suresh – not the stage of investigation.

2. Correct Answer: (c) Statements i, iii, and iv

Reference Line: "An absconding accused is not a party to those proceedings in any meaningful sense; the prosecution was under no obligation to and did not lead evidence against them. Therefore, findings in such a trial are wholly irrelevant for assessing the bail application of the absconder – applying them would create a perverse incentive to evade trial."

Explanation:

(a) is incorrect because while Statement i is correct, Statement ii is wrong. The claim that the prosecution cannot lead fresh evidence against Kavita once the trial against co-accused has concluded misrepresents the legal position – the prosecution will lead evidence against Kavita in her own separate trial, which has not yet commenced. The conclusion of one accused's trial does not foreclose prosecution against another.

(b) is incorrect because Statement ii is wrong for reasons explained above, and Statement iv, while correct, is paired with the incorrect Statement ii. The prosecution is not barred from leading evidence against Kavita merely because it has concluded the trial against co-accused.

(c) is correct because Statement i accurately reflects that trial findings against Meena and Priya are wholly irrelevant to Kavita's bail application since the prosecution led no evidence against Kavita.

Statement iii correctly states the principle that an absconder cannot benefit from trial findings against co-accused in whose proceedings evidence was specifically led and tested. Statement iv correctly identifies the institutional concern that extending such benefit would create a perverse incentive to evade trial.

(d) is incorrect because Statement ii is wrong as established above. Including the incorrect Statement ii alongside the correct Statements i and iii makes this combination inaccurate.

3. Correct Answer: (b) The Sessions Court's reasoning is flawed since a separate FIR for threatening a witness is strong direct evidence of the risk of intimidation.

Reference Line: "The presence of a separate FIR for threatening an eyewitness, as in this case, is strong direct evidence of precisely this risk. The court must be especially reluctant to grant anticipatory bail where the accused has demonstrated by concrete conduct that they pose a threat to the safety and integrity of witnesses."

Explanation:

(a) is incorrect because witness intimidation as a ground against bail is not confined to cases where the witness has been physically harmed. The risk of intimidation – including threats, coercion, and pressure – is itself a sufficient ground for caution in bail matters. The Sessions Court's reasoning that no irreversible harm occurred because the witness is still alive fundamentally misunderstands the nature of the risk that the principle is designed to address.

(b) is correct because a separate FIR for threatening an eyewitness is not a speculative or theoretical risk – it is concrete, direct evidence that the accused has already demonstrated willingness to intimidate witnesses. The Sessions Court's focus on the continued availability of the witness misses the point entirely – the concern is the accused's demonstrated propensity to interfere with witnesses, which is a strong ground for refusing anticipatory bail regardless of whether the intimidation was ultimately successful.

(c) is incorrect because the continued availability of a witness does not neutralise the risk of future intimidation – particularly where the accused has already been found to have threatened that witness and a separate FIR exists to that effect. The risk is ongoing and prospective, not cured by the current availability of the witness.

(d) is incorrect because witness intimidation does not automatically result in cancellation of bail without further inquiry. It is a factor to be weighed in the bail determination – a significant and weighty one – but courts must still apply their mind to the specific facts. The principle requires reluctance and caution, not an automatic rule of cancellation or refusal.

4. Correct Answer: (c) The High Court's decision is correct since the exception to the general rule permits anticipatory bail to an absconder where no case whatsoever is made out on prima facie examination.

Reference Line: "Where, upon a prima facie examination of the FIR, case diary, and all relevant materials, the court is of the opinion that no case whatsoever is made out against the absconding accused – meaning the allegations are ex facie false, frivolous, or wholly unsupported – the court retains its discretionary power to grant anticipatory bail even to an absconder."

Explanation: (a) is incorrect because the bar against anticipatory bail for absconders is a general rule, not

an absolute one. The Court recognised a narrow exception precisely to preserve judicial flexibility in preventing manifest injustice. Where allegations are ex facie false and wholly unsupported, even an absconder may be granted anticipatory bail. Treating the general rule as absolute would convert a discretionary remedy into a categorical bar, which the Court expressly rejected.

(b) is incorrect because the exception to the general rule is not triggered by the seriousness of the allegations – it is triggered by the absence of any case whatsoever on prima facie examination. The statement inverts the legal position: prolonged evasion is not excused by serious allegations, it is the genuinely false and unsupported nature of the allegations that justifies the exception, regardless of how long the evasion lasted.

(c) is correct because the High Court examined the FIR, case diary, and all relevant materials and concluded that the allegations were ex facie false and wholly unsupported. This is precisely the factual predicate for the narrow exception recognised by the Supreme Court. The High Court's decision falls squarely within this exception and is therefore legally sustainable despite Govind's prolonged evasion.

(d) is incorrect because there is no principle confining anticipatory bail jurisdiction over proclaimed absconders exclusively to the Supreme Court. Both the High Court and the Sessions Court have jurisdiction to grant anticipatory bail under Section 482 BNSS, and this jurisdiction extends to the narrow exception for absconders where no case whatsoever is made out. The option misstates the jurisdictional position entirely.

5. Correct Answer: (b) Statements i and iv

Reference Line: "The principle of parity has well-recognised limitations. It cannot be invoked where the accused persons are not truly similarly situated. An absconder who deliberately evades investigation and trial is not similarly situated to co-accused who cooperated with the process of law and stood trial."

Explanation:

(a) is incorrect because Statements ii and iii are both true, not false. Statement ii correctly states the limitation on parity where accused persons are not truly similarly situated due to differences in conduct, and Statement iii correctly identifies that an absconder forfeits the standing to claim parity-based indulgence. Including two true statements as the answer to a question asking for false ones is incorrect.

(b) is correct because Statement i is false – being named in the same FIR and facing the same allegations does not establish that co-accused are similarly situated for parity purposes. Deepak's two-year evasion and Vikram's cooperation create a fundamental distinction that parity cannot bridge. Statement iv is equally false – Vikram's grant of bail establishes nothing beyond Vikram's individual entitlement to bail on his own facts; it cannot be mechanically extended to all co-accused as a matter of right.

(c) is incorrect because Statements ii and iii are true as explained above. Including two true statements alongside the false Statement i makes this an inaccurate identification of false statements.

(d) is incorrect because Statements ii and iii are true as established above. Including them in a combination of false statements directly contradicts the governing principles on parity and the consequences of absconding.

11. Mandatory Injunction not Maintainable where Title is Disputed

1. **Correct Answer:** (b) No, since the fact discovered must not have been previously known to the police and prior police knowledge defeats the discovery requirement.

Reference Line: "The discovery must be deposed to – meaning the fact must not have been previously

known to the police."

Explanation: (a) is incorrect because physical recovery of an object in consequence of a statement is necessary but not sufficient for Section 27 to apply. One of the four essential conditions is that the discovered fact must not have been previously known to the police. Where the location of the weapon had already come to the police's knowledge through a third party, the discovery requirement is not satisfied and the statement cannot be admitted under Section 27.

(b) is correct because the second condition for invoking Section 27 requires that the discovery be of a fact not previously known to the police – this is what gives the statement its confirmatory value under the doctrine of confirmation by subsequent events. Since the weapon's location had come to the sub-inspector's knowledge two days earlier through a local resident, there is no true discovery and the statement is inadmissible under Section 27.

(c) is incorrect because Section 27 does not apply to all statements made by an accused in custody. All four conditions must be cumulatively satisfied, including the requirement that the discovered fact was not previously known to the police. Prior police knowledge of the fact defeats the discovery condition regardless of custody.

(d) is incorrect because Section 27 is precisely an exception to the general rule of inadmissibility of statements made to police. Where all four conditions are satisfied, so much of the information as relates distinctly to the fact discovered is admissible. The statement is not inadmissible merely because it was made to a police officer – inadmissibility under Section 25 operates subject to the Section 27 exception.

2. Correct Answer: (b) Statements ii and iv

Reference Line: "The requirement of 'custody' under Section 27 does not necessarily demand a formal arrest. Courts have held that custody can include situations of actual restraint, surveillance, or control by the police – even without a formal arrest memo. However, custody is not a fiction; there must be actual and effective control by the police over the accused's movements at the time of making the statement."

Explanation: (a) is incorrect because Statement i is wrong – formal arrest is not always necessary to satisfy the custody requirement under Section 27. Courts have held that actual restraint or control by the police is sufficient. Statement iii is conditionally correct as a general proposition but does not apply on these facts since Rajan was at the police station when he made the statement, making his presence there relevant to whether effective control existed.

(b) is correct because Statement ii accurately states the legal position that custody under Section 27 encompasses actual restraint or control even without formal arrest. Statement iv correctly applies this principle to the facts – Rajan was at the police station, which constitutes a situation of effective police control over his movements, satisfying the custody requirement even in the absence of a formal arrest at that point.

(c) is incorrect because Statement i is wrong as established above – formal arrest is not the only way to satisfy the custody requirement. Including the incorrect Statement i alongside the correct Statements ii and iii makes this combination inaccurate, and Statement iii's application to these facts is also questionable since Rajan was under effective police control at the station.

(d) is incorrect because Statement iii, while correct as an abstract proposition, does not apply on these facts since Rajan was at the police station and therefore subject to effective police control. Its inclusion alongside the correct Statements ii and iv creates a combination that misapplies a correct legal principle

to the wrong factual scenario, making this grouping unsustainable.

3. Correct Answer: (b) No, since conduct evidence under Section 8 is only corroborative and cannot by itself form the foundation of a conviction.

Reference Line: "Evidence admitted under Section 8 as conduct is only corroborative – it can support and supplement other evidence but cannot by itself form the foundation of a conviction. Where the prosecution's case rests substantially or exclusively on conduct evidence, without independent corroboration through other reliable circumstances, the conviction cannot be sustained."

Explanation:

(a) is incorrect because the act of leading the police to a location, while admissible as conduct under Section 8, does not independently establish guilt. Conduct evidence has corroborative value only – it can strengthen a case built on other evidence but cannot, standing alone, prove that the accused committed the offence. Knowledge of the location of a relevant object does not prove commission of the crime.

(b) is correct because the principle firmly establishes that Section 8 conduct evidence is merely corroborative. Where the prosecution's entire case rests on the accused leading police to the location of the victim's belongings – without any independent corroboration through other reliable circumstances – the conviction cannot be sustained. The conduct evidence here is the whole of the prosecution's case, which is legally insufficient.

(c) is incorrect because Section 8 and Section 27 do not operate as alternative independent bases for conviction. Section 27 evidence and Section 8 conduct evidence are both corroborative tools – neither can independently sustain a conviction without sufficient independent evidence of guilt. The proposition that either alone can sustain conviction misrepresents the evidentiary hierarchy in criminal law.

(d) is incorrect because conduct evidence under Section 8 is not inadmissible merely because the accompanying statement is inadmissible. The two operate independently at the level of admissibility – Section 8 conduct is admissible on its own basis as conduct relevant to the facts in issue. The limitation on conduct evidence is not its admissibility but its sufficiency – it is corroborative only and cannot independently sustain a conviction.

4. Correct Answer: (b) Statements i and iv

Reference Line: "The last-seen theory does not operate in a vacuum – its evidentiary value depends on the proximity of time between the last-seen and the discovery of death, the reliability of the witness who deposes to the last-seen fact, and the absence of explanations that break the chain. Significant delays in reporting, lack of promptness in the witness coming forward, and contradictions in the timeline all substantially weaken the last-seen theory."

Explanation:

(a) is incorrect because Statements ii and iii are both true, not false. Statement ii correctly states that significant delay in a witness coming forward substantially weakens the last-seen theory, and Statement iii accurately identifies the factors governing the evidentiary value of the last-seen theory. Including two true statements as the answer to a question asking for false ones is incorrect.

(b) is correct because Statement i is false – the last-seen theory does not operate in a vacuum and is not sufficient by itself to sustain a conviction regardless of other circumstances. It is one circumstance in a chain that must collectively be complete and inconsistent with any other reasonable hypothesis. Statement iv is equally false – the fifteen-day delay in the witness coming forward is directly relevant to

the reliability and evidentiary weight of the last-seen evidence, as the principle expressly identifies lack of promptness as a weakening factor.

(c) is incorrect because Statement ii is true as explained above. Including it alongside the false Statement i makes this combination an inaccurate identification of false statements. Statement iv is false but Statement ii being true disqualifies this grouping.

(d) is incorrect because Statement iii is true as established above – it correctly states the governing factors for assessing the last-seen theory's evidentiary value. Including a true statement alongside the false Statement i makes this combination inaccurate as an identification of false statements.

5. Correct Answer: (b) No, since in circumstantial evidence cases the chain must be complete and inconsistent with any reasonable hypothesis except guilt.

Reference Line: "In cases based entirely on circumstantial evidence, the law requires that the chain of circumstances must be so complete and conclusive that it is inconsistent with any other reasonable hypothesis except the guilt of the accused. Each circumstance must be established beyond reasonable doubt, and collectively they must point solely and exclusively to the accused's guilt. If any link in the chain is missing or any proved circumstance is consistent with innocence, the accused is entitled to the benefit of doubt and must be acquitted."

Explanation:

(a) is incorrect because suspicion, however strong, is not a substitute for proof beyond reasonable doubt in criminal law. The standard for conviction in circumstantial evidence cases is not whether the circumstances create strong suspicion but whether they form a complete and conclusive chain inconsistent with any reasonable hypothesis of innocence. The trial court's reasoning conflates suspicion with proof, which is a fundamental error.

(b) is correct because the complete chain requirement in circumstantial evidence cases demands that every circumstance be established beyond reasonable doubt and that collectively they exclude every reasonable hypothesis except guilt. Here, three of the five alleged circumstances were not proved, leaving the chain incomplete. An incomplete chain cannot sustain a conviction regardless of how strong the proved circumstances appear individually.

(c) is incorrect because partial proof of multiple circumstances does not cumulatively satisfy the standard of proof beyond reasonable doubt. The principle requires each individual circumstance to be proved beyond reasonable doubt – partial establishment of circumstances leaves those links in the chain unproved, rendering the chain incomplete. Cumulative effect cannot compensate for the individual insufficiency of each unproved circumstance.

(d) is incorrect because circumstantial evidence can form the basis of a murder conviction – the absence of direct eyewitness testimony does not preclude conviction. The requirement is that the chain of circumstances be complete, conclusive, and inconsistent with any other reasonable hypothesis. Where this standard is met entirely through circumstantial evidence, a conviction is sustainable. The option overstates the limitation on circumstantial evidence.

12. Mandatory Injunction not Maintainable where Title is Disputed

1. **Correct Answer:** (b) No, since the penalty under Section 4A(3)(b) is a personal liability of the employer for their default and cannot be shifted to the insurer.

Reference Line: "The penalty under Section 4A(3)(b) is a punitive consequence specifically directed at the employer for their personal default in complying with the statutory obligation to pay compensation within the prescribed time. Being a consequence of personal fault and negligence of the employer, it is a liability that attaches personally to the employer and cannot be shifted to a third party such as an insurer."

Explanation:

(a) is incorrect because the insurer's liability is co-extensive with the employer's liability to pay compensation – not with every financial consequence arising from the employer's post-event conduct. The penalty does not arise from the employment casualty itself but from the employer's personal default in failing to pay within the prescribed period. This distinction takes the penalty outside the scope of the insurer's indemnification obligation.

(b) is correct because the penalty under Section 4A(3)(b) is not a component of compensation but a sanction for the employer's personal default. The doctrine of personal fault and non-transferability of penal liability holds that liability arising from the personal fault of a party cannot be transferred to an indemnifier. The insurer covers the risk of employment-related casualty – not the risk of the employer's own statutory default.

(c) is incorrect because the insurance policy covers the employer's liability to pay compensation – the primary insurable risk arising from employment casualties. It does not automatically extend to all liabilities arising under the Act, including penalties that flow from the employer's personal default. Treating the policy as covering all Act-based liabilities without exception would permit the employer to use insurance as a shield against the consequences of their own breach of statutory duty.

(d) is incorrect because insurers are indeed liable for the primary compensation payable under the Employees' Compensation Act – this is precisely the risk that the policy covers. The bar on insurer liability is specific to penalties arising from the employer's personal default, not a blanket exclusion of all insurer liability under the Act.

2. Correct Answer: (c) Statements i, iii, and iv

Reference Line: "Section 4A(3)(b) requires that before imposing a penalty on an employer for delayed payment, the Commissioner must give the employer a reasonable opportunity to show cause – that is, to explain the reasons for the delay. This procedural requirement is an application of the principles of natural justice, specifically the principle of audi alteram partem. The employer's failure to respond to the show-cause notice in this case was treated as an absence of justification for the delay, resulting in the imposition of a 35% penalty."

Explanation:

(a) is incorrect because Statement ii is wrong – the show-cause notice is not a mere formality but a substantive procedural requirement rooted in natural justice. The employer's response – or absence thereof – directly affects whether justification for delay is established, which in turn determines whether and at what rate the penalty is imposed. Including the incorrect Statement ii alongside the correct Statement i makes this combination inaccurate.

(b) is incorrect because Statement ii is wrong for reasons explained above. The penalty under Section 4A(3)(b) is not mechanically mandatory – the Commissioner must consider the employer's explanation if one is offered, and the show-cause notice is the mechanism for receiving that explanation. Only Statement iii from this combination is correct.

(c) is correct because Statement i accurately identifies the show-cause notice as a natural justice requirement. Statement iii correctly states that the employer's failure to respond was treated as the absence of justification, which led to the penalty. Statement iv correctly identifies audi alteram partem as the specific natural justice principle requiring the employer to be heard before penalty is imposed.

(d) is incorrect because Statement ii is wrong as established above. Including the incorrect Statement ii alongside the correct Statements i and iv makes this combination unsustainable as the correct answer.

3. Correct Answer: (c) The insurer's argument partially succeeds since the penalty alone is the employer's personal liability while compensation and interest are covered by the insurer.

Reference Line: "A crucial distinction must be drawn between the employer's primary liability to pay compensation – which is an insurable risk and which the insurer is obligated to cover – and the employer's secondary liability to pay a penalty for defaulting on that payment – which is a consequence of personal default and is not an insurable risk."

Explanation:

(a) is incorrect because interest and penalty do not arise from the same source and cannot be treated identically. Interest under Section 4A(3)(a) is a consequence of delayed payment of the compensation amount and is directly connected to the primary liability – it compensates for the time value of money. The penalty under Section 4A(3)(b) is a punitive consequence of personal default. Their different characters mean they attract different treatment in terms of insurer liability.

(b) is incorrect because the insurer is liable for amounts beyond the principal compensation – specifically, interest under Section 4A(3)(a) is connected to the compensation liability and falls within the insurer's indemnification obligation. The bar on insurer liability is confined to the penalty under Section 4A(3)(b) as a consequence of personal default. Categorically excluding the insurer from all amounts beyond principal compensation misstates the legal position.

(c) is correct because the distinction between compensation liability and penalty liability is the operative principle. The insurer's obligation covers the compensation and the interest arising from delay – both are directly connected to the primary insurable risk of employment casualty. The penalty under Section 4A(3)(b), being a consequence of the employer's personal default in failing to pay, is the employer's personal liability and falls outside the insurer's indemnification obligation.

(d) is incorrect because not all consequences of an employment accident are indemnifiable risks under an insurance policy. The insurer covers the risk of the employment casualty – not the risk of the employer's subsequent personal default in discharging their statutory obligation. Extending indemnification to post-event personal defaults would allow employers to use insurance as a shield against consequences of their own statutory breaches, which the law does not permit.

4. Correct Answer: (b) The High Court was bound by the Supreme Court's binding precedent under Article 141 and could not follow a contrary single-judge decision.

Reference Line: "The Supreme Court's reliance on *Ved Prakash Garg v. Premi Devi* (1997) illustrates the doctrine of binding precedent under Article 141 of the Constitution. The 1997 judgment had already settled the question that the penalty under Section 4A(3)(b) is the personal liability of the employer and cannot be transferred to the insurer. The Delhi High Court's failure to follow this binding precedent – and its direction to the insurer to pay the penalty – was directly contrary to settled law."

Explanation: (a) is incorrect because there is no categorical rule barring High Courts from relying on

single-judge bench decisions in insurance disputes. The error of the High Court was not the source of the decision it relied upon per se, but its failure to recognise and apply the binding Supreme Court precedent that had already settled the legal question. The bar flows from Article 141, not from any restriction on citation of single-judge decisions.

(b) is correct because Article 141 of the Constitution declares that the law declared by the Supreme Court shall be binding on all courts within the territory of India. *Ved Prakash Garg v. Premi Devi* (1997) had conclusively settled that the Section 4A(3)(b) penalty is the employer's personal liability. The High Court was bound to follow this precedent and could not depart from it by relying on a contrary single-judge bench decision, which itself was inconsistent with binding Supreme Court authority.

(c) is incorrect because there is no general practice or rule by which the Supreme Court automatically overrules single-judge bench decisions in insurance matters. The Supreme Court's intervention here was specific to the legal error of the High Court in failing to follow binding precedent – not a general principle about single-judge decisions in insurance disputes.

(d) is incorrect because High Courts are not entitled to follow their own precedents over binding Supreme Court decisions on any question of law. Article 141 makes Supreme Court decisions binding on all courts in India without exception. The High Court's entitlement to develop its own jurisprudence operates only in areas not covered by binding Supreme Court authority.

5. Correct Answer: (b) Statements ii and iv

Reference Line: "Sub-section (2) requires the employer to make a provisional payment of the undisputed portion even where liability is disputed." / "If the employer fails to pay within one month from the due date, the Commissioner shall direct payment of 12% simple interest on the arrears."

Explanation:

(a) is incorrect because Statements i and iii are both true, not false. Statement i correctly reflects Section 4A(2)'s requirement of provisional payment of the undisputed portion, and Statement iii accurately states that failure to pay within one month attracts interest under Section 4A(3)(a). Including two true statements as the answer to a question asking for false ones is incorrect.

(b) is correct because Statement ii is false – a genuine dispute about quantum does not exempt the employer from making provisional payment of the undisputed portion. Section 4A(2) specifically addresses this situation and requires provisional payment regardless of the overall dispute. Statement iv is equally false – withholding even the undisputed portion pending dispute resolution is a default under the Act and attracts interest and potentially penalty under Section 4A(3).

(c) is incorrect because Statements i and iii are true as explained above. Including them alongside the false Statement ii makes this an inaccurate identification of false statements.

(d) is incorrect because Statement iii is true as established above – failure to pay within one month does attract interest under Section 4A(3)(a). Including a true statement alongside the false Statements ii and iv makes this combination inaccurate as an identification of false statements.

12. Inclusion of Section 17A of Prevention of Corruption Act, 1988

1. Correct Answer: (b) No, since the penalty under Section 4A(3)(b) is a personal liability of the employer for their default and cannot be shifted to the insurer.

Reference Line: "The penalty under Section 4A(3)(b) is a punitive consequence specifically directed at the employer for their personal default in complying with the statutory obligation to pay compensation within the prescribed time. Being a consequence of personal fault and negligence of the employer, it is a liability that attaches personally to the employer and cannot be shifted to a third party such as an insurer."

Explanation:

(a) is incorrect because the insurer's liability is co-extensive with the employer's liability to pay compensation – not with every financial consequence arising from the employer's post-event conduct. The penalty does not arise from the employment casualty itself but from the employer's personal default in failing to pay within the prescribed period. This distinction takes the penalty outside the scope of the insurer's indemnification obligation.

(b) is correct because the penalty under Section 4A(3)(b) is not a component of compensation but a sanction for the employer's personal default. The doctrine of personal fault and non-transferability of penal liability holds that liability arising from the personal fault of a party cannot be transferred to an indemnifier. The insurer covers the risk of employment-related casualty – not the risk of the employer's own statutory default.

(c) is incorrect because the insurance policy covers the employer's liability to pay compensation – the primary insurable risk arising from employment casualties. It does not automatically extend to all liabilities arising under the Act, including penalties that flow from the employer's personal default. Treating the policy as covering all Act-based liabilities without exception would permit the employer to use insurance as a shield against the consequences of their own breach of statutory duty.

(d) is incorrect because insurers are indeed liable for the primary compensation payable under the Employees' Compensation Act – this is precisely the risk that the policy covers. The bar on insurer liability is specific to penalties arising from the employer's personal default, not a blanket exclusion of all insurer liability under the Act.

2. Correct Answer: (c) Statements i, iii, and iv

Reference Line: "Section 4A(3)(b) requires that before imposing a penalty on an employer for delayed payment, the Commissioner must give the employer a reasonable opportunity to show cause – that is, to explain the reasons for the delay. This procedural requirement is an application of the principles of natural justice, specifically the principle of audi alteram partem. The employer's failure to respond to the show-cause notice in this case was treated as an absence of justification for the delay, resulting in the imposition of a 35% penalty."

Explanation:

(a) is incorrect because Statement ii is wrong – the show-cause notice is not a mere formality but a substantive procedural requirement rooted in natural justice. The employer's response – or absence thereof – directly affects whether justification for delay is established, which in turn determines whether and at what rate the penalty is imposed. Including the incorrect Statement ii alongside the correct Statement i makes this combination inaccurate.

(b) is incorrect because Statement ii is wrong for reasons explained above. The penalty under Section 4A(3)(b) is not mechanically mandatory – the Commissioner must consider the employer's explanation if one is offered, and the show-cause notice is the mechanism for receiving that explanation. Only Statement iii from this combination is correct.

(c) is correct because Statement i accurately identifies the show-cause notice as a natural justice requirement. Statement iii correctly states that the employer's failure to respond was treated as the absence of justification, which led to the penalty. Statement iv correctly identifies audi alteram partem as the specific natural justice principle requiring the employer to be heard before penalty is imposed.

(d) is incorrect because Statement ii is wrong as established above. Including the incorrect Statement ii alongside the correct Statements i and iv makes this combination unsustainable as the correct answer.

3. Correct Answer: (a) The insurer's argument partially succeeds since the penalty alone is the employer's personal liability while compensation and interest are covered by the insurer.

Reference Line: "A crucial distinction must be drawn between the employer's primary liability to pay compensation – which is an insurable risk and which the insurer is obligated to cover – and the employer's secondary liability to pay a penalty for defaulting on that payment – which is a consequence of personal default and is not an insurable risk."

Explanation:

(a) is correct because the distinction between compensation liability and penalty liability is the operative principle. The insurer's obligation covers the compensation and the interest arising from delay – both are directly connected to the primary insurable risk of employment casualty. The penalty under Section 4A(3)(b), being a consequence of the employer's personal default in failing to pay, is the employer's personal liability and falls outside the insurer's indemnification obligation.

(b) is incorrect because the insurer is liable for amounts beyond the principal compensation – specifically, interest under Section 4A(3)(a) is connected to the compensation liability and falls within the insurer's indemnification obligation. The bar on insurer liability is confined to the penalty under Section 4A(3)(b) as a consequence of personal default. Categorically excluding the insurer from all amounts beyond principal compensation misstates the legal position.

(c) is incorrect because interest and penalty do not arise from the same source and cannot be treated identically. Interest under Section 4A(3)(a) is a consequence of delayed payment of the compensation amount and is directly connected to the primary liability – it compensates for the time value of money. The penalty under Section 4A(3)(b) is a punitive consequence of personal default. Their different characters mean they attract different treatment in terms of insurer liability.

(d) is incorrect because not all consequences of an employment accident are indemnifiable risks under an insurance policy. The insurer covers the risk of the employment casualty – not the risk of the employer's subsequent personal default in discharging their statutory obligation. Extending indemnification to post-event personal defaults would allow employers to use insurance as a shield against consequences of their own statutory breaches, which the law does not permit.

4. Correct Answer: (b) The High Court was bound by the Supreme Court's binding precedent under Article 141 and could not follow a contrary single-judge decision.

Reference Line: "The Supreme Court's reliance on Ved Prakash Garg v. Premi Devi (1997)

illustrates the doctrine of binding precedent under Article 141 of the Constitution. The 1997 judgment had already settled the question that the penalty under Section 4A(3)(b) is the personal liability of the employer and cannot be transferred to the insurer. The Delhi High Court's failure to follow this binding precedent – and its direction to the insurer to pay the penalty – was directly contrary to settled law."

Explanation:

(a) is incorrect because there is no categorical rule barring High Courts from relying on single-judge bench decisions in insurance disputes. The error of the High Court was not the source of the decision it relied upon per se, but its failure to recognise and apply the binding Supreme Court precedent that had already settled the legal question. The bar flows from Article 141, not from any restriction on citation of single-judge decisions.

(b) is correct because Article 141 of the Constitution declares that the law declared by the Supreme Court shall be binding on all courts within the territory of India. *Ved Prakash Garg v. Premi Devi* (1997) had conclusively settled that the Section 4A(3)(b) penalty is the employer's personal liability. The High Court was bound to follow this precedent and could not depart from it by relying on a contrary single-judge bench decision, which itself was inconsistent with binding Supreme Court authority.

(c) is incorrect because there is no general practice or rule by which the Supreme Court automatically overrules single-judge bench decisions in insurance matters. The Supreme Court's intervention here was specific to the legal error of the High Court in failing to follow binding precedent – not a general principle about single-judge decisions in insurance disputes.

(d) is incorrect because High Courts are not entitled to follow their own precedents over binding Supreme Court decisions on any question of law. Article 141 makes Supreme Court decisions binding on all courts in India without exception. The High Court's entitlement to develop its own jurisprudence operates only in areas not covered by binding Supreme Court authority.

5. Correct Answer: (d) The employer's argument fails since both interest and penalty under Section 4A are payable to the employee as additional compensation for the prejudice caused by delay.

Reference Line: "Under Section 4A(3A) of the Employees' Compensation Act, both the interest for delayed payment and the penalty amount are payable to the employee or their dependent – not to the State. This reflects the welfare-oriented character of the legislation: the financial consequences of the employer's default are not treated as a revenue measure for the government but as additional compensation to the victim of the employer's dilatory conduct."

Explanation:

(a) is incorrect because the penalty under the Employees' Compensation Act is not payable to the State. Section 4A(3A) expressly directs both interest and penalty to the employee or their dependent. The characterisation of penalties as revenue measures payable to the State is incorrect in the context of this welfare legislation, which treats all financial consequences of the employer's default as additional compensation for the affected worker.

(b) is incorrect because the punitive character of a payment does not determine whether it is payable to the State or to a private party. Multiple statutes provide for punitive amounts payable to private parties as compensation for the prejudice caused to them by another's default or wrongdoing. The Employees' Compensation Act is a clear example – the penalty is punitive towards the employer but compensatory towards the employee, and Section 4A(3A) expressly directs it to the employee.

(c) is incorrect because Section 4A(3A) does not distinguish between interest and penalty in terms of the recipient – both are payable to the employee. The option incorrectly bifurcates the two amounts and directs the penalty to the State, which is contrary to the express provision and the welfare philosophy underlying the Act.

(d) is correct because Section 4A(3A) makes both interest and penalty payable to the employee or their dependent – not to the State. This reflects the welfare-oriented character of the Act, under which the financial consequences of the employer's default are treated as additional compensation to the victim rather than as a revenue measure. The employer's argument that the penalty should go to the State misreads both the provision and the legislative purpose behind it.

13. Non-Traceability in Public Records Alone Does Not Render a Document Forged

1. Correct Answer: (a) No, since the deposit was adjustable against sale proceeds and was never held in trust by Ramesh.

Reference Line: "Where the nature of the arrangement – as in this case, where the security deposit was adjustable against sale proceeds – shows that the amount was not held in trust but was a contractual payment, non-refund does not constitute misappropriation and falls within the domain of civil breach of contract."

Explanation:

(a) Correct. The principle establishes that for criminal breach of trust under Section 405 IPC, two elements are essential – entrustment and dishonest misappropriation. Since the deposit was adjustable against future sale proceeds, it was a contractual payment and was never held in a trust capacity. The element of entrustment is therefore absent, and non-refund cannot constitute misappropriation. The appropriate remedy lies before a civil court.

(b) Incorrect. Mere failure to refund a deposit despite demand does not establish criminal breach of trust. The law requires the property to have been entrusted to the accused in a trust capacity before non-refund can be characterised as misappropriation. A deposit adjustable against sale proceeds is part of the commercial arrangement, not a sum held in trust. Repeated demand and non-refund are features of a civil recovery dispute, not a criminal one.

(c) Incorrect. This is a sweeping and legally unsupportable proposition. Non-refund of a security deposit does not automatically amount to dishonest misappropriation. The legal character of the deposit – whether it was entrusted in a trust capacity or was simply a contractual obligation – must be examined in every case individually. Applying an automatic presumption of misappropriation would eliminate the critical distinction between civil and criminal liability entirely.

(d) Incorrect. A Joint Venture Agreement is not a blanket immunity from criminal liability. Criminal liability can legitimately arise from a JVA if the ingredients of the offence are genuinely established on the facts. The reason criminal liability fails in this case is not the existence of a JVA but rather the specific nature of the deposit arrangement, which was contractual and not fiduciary.

2. Correct Answer: (d) The court must quash the FIR since the dispute is essentially civil and criminal ingredients are absent.

Reference Line: "Courts must scrutinise such FIRs carefully and quash them where the

criminal ingredients are absent, to prevent the criminal justice machinery from being used as a tool of coercion or harassment."

Explanation:

(a) Incorrect. Courts have well-established inherent jurisdiction under Section 482 CrPC to quash an FIR at the threshold stage itself, without waiting for a charge sheet. If the allegations in the FIR even accepted entirely at face value do not disclose a cognizable offence, compelling the accused to await a charge sheet would itself be an abuse of process. The High Court is empowered and duty-bound to intervene at the earliest stage where it is clear no offence is made out.

(b) Incorrect. Rajan's refusal to pay the balance after a quality dispute is a contractual disagreement, not fraud. For cheating under Section 415 IPC to be established, it must be shown that fraudulent intent existed from the very inception of the transaction – that Meena never intended to honour the contract when she entered it. A post-performance dispute about quality leading to non-payment is squarely within the domain of civil law and cannot be characterised as cheating merely because one party is dissatisfied with the outcome.

(c) Incorrect. A deliberate breach of contract does not independently constitute cheating. The essential ingredient of cheating is dishonest or fraudulent intention existing at the time of entering the agreement not an intention that develops subsequently due to a dispute. Allowing every deliberate contractual breach to be treated as cheating would completely destroy the conceptual boundary between civil breach of contract and criminal cheating, which courts have consistently guarded against.

(d) Correct. Since Meena entered the contract honestly and performed it by delivering goods, there is no evidence of fraudulent intent at inception. The dispute over quality and the balance payment is fundamentally civil. The principle mandates that courts carefully scrutinise such FIRs and quash them where criminal ingredients are absent specifically to prevent the criminal justice machinery from being weaponised as a tool of coercion in commercial disputes.

3. Correct Answer: (c) No, since Section 471 IPC presupposes that the foundational allegation of forgery under Section 464 is first established.

Reference Line: "All three provisions presuppose that the underlying document is indeed a forged document – established through proof of the ingredients of Section 464 IPC. Where the foundational allegation of forgery itself is not made out, charges under Sections 467, 468, and 471 also cannot be sustained."

Explanation:

(a) Incorrect. Section 471 IPC does not operate independently of Section 464 IPC. It is a derivative provision whose very subject matter is the use of a document that has been established as forged. Without the foundational proof of forgery under Section 464, there is nothing for Section 471 to attach to. Allowing Section 471 to function independently would produce the absurd result of convicting a person for using a forged document even when it has never been proved that the document is forged at all.

(b) Incorrect. Using a document as genuine is a necessary element of Section 471, but it is not sufficient on its own to attract liability. Section 471 additionally requires that the person knew the document to be forged – and crucially, the document must actually be established as forged through proof of Section 464's ingredients. Satisfying one element of a provision while the foundational requirement remains

unproved is not enough to sustain the charge.

(c) Correct. The principle is unambiguous: Sections 467, 468, and 471 all presuppose that the underlying document is a forged document, established through proof of the ingredients of Section 464 IPC. Since the prosecution here failed to prove that the document was made with dishonest or fraudulent intent – the critical mental element of Section 464 – the entire foundation for the Section 471 charge collapses. A superstructure cannot stand without its foundation.

(d) Incorrect. Section 471 IPC has not been repealed in the manner this option suggests. The principle discusses it as a live and applicable provision. Even setting that aside, the reason the charge fails in this case is the absence of foundational proof of forgery – not any question of legislative repeal or replacement by the BNS. This option arrives at a technically similar conclusion through a factually incorrect and legally irrelevant premise, and is therefore wrong.

4. Correct Answer: (d) No, since non-traceability is a neutral fact and does not by itself establish fabrication or fraudulent intent.

Reference Line: "Non-traceability is a neutral fact and does not establish that the document was never issued or that it was fabricated."

Explanation:

(a) Incorrect. The principle directly and expressly rejects this inference. A document may be untraceable in official records for a wide range of entirely innocent reasons – administrative lapses, inadequate filing systems, routine destruction of old records, passage of time, or loss during office shifting. None of these circumstances have any connection to whether the document was legitimately issued. Presuming fabrication from non-traceability alone would place an impossible and fundamentally unfair burden on persons who obtained documents legitimately years ago.

(b) Incorrect. The principle does not support any shifting of the burden of proof on the basis of non-traceability alone. Establishing forgery requires positive proof of dishonest or fraudulent intent at the time of making the document. Non-traceability is a negative fact – the mere absence of a record – and courts are specifically cautioned against allowing such unverifiable negative evidence to substitute for the affirmative proof of criminal intent required under Section 464 IPC.

(c) Incorrect. The principle expressly acknowledges the opposite – that records are not maintained in perpetuity, that filing systems in public offices are often inadequate, and that loss or destruction of documents during routine record management is a well-recognised practical reality. There is no law imposing an obligation of permanent record preservation on government offices, and courts are expected to factor this practical reality in rather than treat absence of records as evidence of forgery.

(d) Correct. The principle explicitly characterises non-traceability as a neutral fact that leads to no adverse inference regarding fabrication or fraudulent intent. Courts must take judicial notice of the practical realities of document management in public offices. Applying a strict evidentiary standard that treats an untraceable document as a forged one – especially after fifteen years – would unfairly penalise persons who legitimately obtained documents and cannot now produce independent corroboration simply because an office has lost its records.

5. Correct Answer: (a) Statements i and iii

Reference Line: "The filing of a criminal complaint eleven years after the execution of the underlying transaction raises a significant concern about the bona fides of the complainant... The long delay

between the transaction and the FIR, in the absence of a satisfactory explanation, is a circumstance that courts weigh while deciding whether to quash proceedings."

Explanation: (a) Correct. Statement i is false because while criminal law does not prescribe a rigid statutory limitation period as civil law does, this does not mean delay is legally irrelevant in all circumstances. Courts actively treat unexplained delay as a relevant circumstance bearing on bona fides and on the decision to quash proceedings. Statement iii is equally false because the principle explicitly states that the long gap between the transaction and the FIR is a circumstance courts weigh in quashing decisions – directly contradicting the claim that it has no bearing on the matter.

(b) Incorrect. Statement ii is fully supported by the principle, which warns that stale complaints may be motivated by collateral purposes such as pressurising the other party in a civil dispute. It is therefore a true statement, not a false one. Statement iv is also true – the principle explicitly acknowledges that a complaint filed without explanation for a long delay raises legitimate concerns about bona fides. Since both statements in this option are true, this option wrongly identifies them as false.

(c) Incorrect. Statement iv is entirely true – the principle expressly states that a stale complaint without a satisfactory explanation raises concerns about the complainant's bona fides. Identifying it as the false statement is incorrect. Only statements i and iii are false.

(d) Incorrect. Statement i is indeed false, but statements ii and iv are both true. Statement ii correctly reflects the principle's warning about collateral motives behind stale complaints, and statement iv correctly reflects the principle's acknowledgment that unexplained delay raises bona fide concerns. Including true statements in a list of false ones makes this option incorrect.

14. Limitation Period Starts from Date When Offender's Identity is Known

1. Correct Answer: (a) No, since cognisance was taken within three years of April 18, 2006, when the identity of the accused first became known to the competent authority.

Reference Line: "In this case, cognisance was taken on January 29, 2009, which was within three years of April 18, 2006, the date the identity of the accused became known, making the prosecution within limitation."

Explanation:

(a) Correct. Under Section 469(1)(c) CrPC, where the identity of the offender is unknown, limitation runs from the date the identity first becomes known to the aggrieved person or competent authority – whichever is earlier. The Drugs Inspector, being the competent authority, came to know the identity of Pharma Solutions Pvt. Ltd. on April 18, 2006. Cognisance was taken on January 29, 2009 – which falls within three years of that date. The prosecution is therefore within limitation and the accused's argument fails.

(b) Incorrect. This option applies Section 469(1)(a) – the general rule that limitation runs from the date of the offence – to a situation that is expressly governed by Section 469(1)(c). The identity of the accused was unknown on March 5, 2003 when the offence was detected. Running limitation from that date would deprive the prosecuting authority of adequate time to investigate and identify the accused, which is precisely the mischief Section 469(1)(c) was enacted to prevent. The detection date is therefore not the relevant starting point here.

(c) Incorrect. Pharmaceutical offences under Section 27(d) of the Drugs and Cosmetics Act do fall within the three-year limitation bracket under Section 468(2)(c) CrPC, but the special rule under Section 469(1)

(c) regarding unknown offenders applies equally to regulatory offences. There is no legal basis for excluding pharmaceutical offences from the benefit of Section 469(1)(c). The claim that no special exception exists is factually and legally incorrect.

(d) Incorrect. The public servant status of a Drugs Inspector does not create an exemption from limitation in criminal proceedings. The relevance of the Drugs Inspector being a public servant is limited to procedural aspects – such as the Section 200 CrPC examination requirement – and does not affect the applicability of limitation provisions. The correct basis for defeating the limitation argument is Section 469(1)(c), not the Inspector's status as a public servant.

2. Correct Answer: (b) Statements i and iii

Reference Line: "The Supreme Court has held that this requirement must be applied with reference to the nature of the complaint – complaints by public servants acting in official capacity occupy a distinct position, and omission to conduct a Section 202 inquiry does not automatically render the summoning order invalid in such cases."

Explanation:

(a) Incorrect. Statements ii and iv are both true. Statement ii correctly reflects the principle that public servant complaints occupy a distinct position under Section 202 CrPC. Statement iv accurately states the Supreme Court's holding that omission of a Section 202 inquiry does not automatically invalidate a summoning order in such cases. Identifying these as false statements is directly contrary to the principle.

(b) Correct. Statement i is false because the principle expressly rejects the proposition that omission of a Section 202 inquiry automatically renders a summoning order invalid – this position has been overruled in the context of public servant complaints. Statement iii is false because Section 202 CrPC was designed to protect accused persons residing outside the court's jurisdiction from harassment by frivolous complaints – not to protect courts from workload. Its purpose is accused-centric, not court-centric, making statement iii a factual misstatement of the provision's objective.

(c) Incorrect. Statement iv is entirely true – it accurately reproduces the Supreme Court's position as stated in the principle. Identifying it alone as the false statement is incorrect. The false statements are i and iii, not iv.

(d) Incorrect. As established above, statement ii is true – public servant complaints do occupy a distinct position under Section 202 CrPC. Including it in a list of false statements makes this option wrong. Only statements i and iii are false, and this option incorrectly bundles a true statement alongside them.

3. Correct Answer: (c) Within three years of the relevant starting date, since the offence is punishable with imprisonment up to three years.

Reference Line: "Section 468 CrPC prescribes the period of limitation for taking cognisance of offences based on the maximum punishment prescribed – six months for offences punishable with fine only, one year for offences punishable with imprisonment up to one year, and three years for offences punishable with imprisonment up to three years."

Explanation:

(a) Incorrect. The six-month limitation period under Section 468 CrPC applies exclusively to offences punishable with fine only. An offence under Section 27(d) of the Drugs and Cosmetics Act carries a maximum punishment of imprisonment up to three years – it is not a fine-only offence. Applying the six-





MEDIA COVERAGE

BUREAUCRATS INDIA

Date: December 18, 2025

With a 90% strike rate, Delhi-based Nishant Prakash's students secure top ranks in CLAT and AILET



New Delhi: With both CLAT and AILET 2026 going to the students, corporate-professional-turned-mentor Nishant Prakash on Thursday announced that 70 of his 78 students had qualified in India's premier law entrance examinations, with nine securing positions in the top 100.

The declaration of CLAT 2026 and AILET 2026 results has set off the next phase of admissions to India's premier law universities, once again underscoring the intense national competition among aspirants.

Against this backdrop, students trained at Nishant Prakash Law Classes (NPLC) started the next phase of their preparation, with a strong focus on mock testing and adaptability.

India's Top Revolutionary Educationist: Talks About His Journey From Working In Premier Law Firm To Become The Most Sought After Educationist In Country Imparting Legal Education



Nishant Prakash Law Classes
CLAT Consortium has recently changed the pattern for CLAT. How do you see this?

Hindustan Times

Date: December 31, 2025

CLAT and AILET 2026: How two AIR 4 rankers prepared, handled pressure and adapted when the paper changed



SIDDHANT
(AILET AIR 4)

ARSHNOOR SINGH
CLAT (AIR 4)

Arshnoor Singh, who secured All India Rank 4 in CLAT 2026 and AIR 202 in AILET, and Siddhant Rohit, who secured ...

Arshnoor Singh and Siddhant Rohit successfully navigated CLAT and AILET by prioritising adaptability and mock testing in preparation.

For law aspirants, entrance exams such as CLAT and AILET are as much a test of temperament as of preparation. That lesson comes through clearly in the journey of Arshnoor Singh, who secured All India Rank 4 in CLAT 2026 and Siddhant Rohit, who secured All India Rank 4 in AILET 2026.

Both students began preparing ...
let ultimately ...
imposed.

Nishant Prakash students secure top ranks in CLAT, AILET

PIONEER NEWS SERVICE
New Delhi

With both CLAT and AILET Rank 4 going to his students, corporate-professional-turned-mentor Nishant Prakash on Thursday announced that 70 of his 78 students had qualified in India's two toughest law entrance examinations, with nine securing positions in the top 100.

The declaration of CLAT 2026 and AILET 2026 results has set off the next phase of admissions to India's premier law universities, once again underscoring the intense national competition among aspirants.

Against this backdrop, students trained at Nishant Prakash Law Classes (NPLC) posted a strong, widely dis-



Arshnoor



Siddhant Rohit AILET (AIR 4)

month bracket to this offence reflects a fundamental misreading of the limitation framework under Section 468 CrPC.

(b) Incorrect. The one-year limitation period under Section 468 CrPC applies to offences punishable with imprisonment up to one year. Section 27(d) carries a maximum punishment of imprisonment up to three years – placing it squarely in the three-year bracket, not the one-year bracket. There is no legal basis for characterising pharmaceutical offences as minor regulatory violations deserving a reduced limitation period.

(c) Correct. Section 468(2)(c) CrPC prescribes a three-year limitation period for offences punishable with imprisonment up to three years. Since Section 27(d) of the Drugs and Cosmetics Act falls within this category, cognisance must be taken within three years of the relevant starting date – which, given the unknown identity of the accused, would be calculated from the date of identification under Section 469(1)(c) CrPC.

(d) Incorrect. There is no blanket exemption from Chapter XXXVI CrPC for offences under special Acts. The limitation framework under Sections 468 and 469 CrPC applies to regulatory offences under the Drugs and Cosmetics Act unless the special Act itself provides otherwise. The principle makes no mention of any such exemption, and the facts of the case are premised on the applicability of the CrPC limitation framework to this very offence.

4. Correct Answer: (c) From June 20, 2007, since that is when the identity of the offender first became known to the competent authority.

Reference Line: "Section 469(1)(c) provides that where the identity of the offender is unknown, limitation runs from the date the identity of the offender first becomes known to the aggrieved person or the competent authority – whichever is earlier."

Explanation:

(a) Incorrect. February 10, 2005 is the date the offence came to Sunita's knowledge – which is the starting point under Section 469(1)(b), applicable where the offence itself was unknown. In this case, the offence – sale of adulterated drugs – was known from that date. What remained unknown was the identity of the supplier. Since the identity was unknown, Section 469(1)(c) governs, and limitation runs from the date of identification, not from the date of detection of the offence.

(b) Incorrect. The date of manufacture is not a recognised starting point under Section 469 CrPC in circumstances where the offence and the offender's identity both become known only later. Section 469 provides specific rules for when limitation begins – from the date of the offence, from the date of knowledge of the offence, or from the date of knowledge of the offender's identity. The date of manufacture, which may be entirely unknown and irrelevant to the investigation, is not among them.

(c) Correct. Since Sunita knew about the offence but not the identity of the supplier, Section 469(1)(c) CrPC applies. This provision expressly states that where the identity of the offender is unknown, limitation runs from the date the identity first becomes known to the aggrieved person or competent authority – whichever is earlier. Sunita, as the Drugs Inspector and competent authority, came to know the supplier's identity on June 20, 2007. Limitation therefore commences from that date.

(d) Incorrect. The date of filing the complaint before the Magistrate is not a starting point for limitation under Section 469 CrPC. Limitation governs the period within which cognisance must be taken – and the starting point is determined by the circumstances under Section 469(1)(a), (b), or (c), none of which refer to the date of filing the complaint. Tying limitation to the complaint-filing date would allow investigators

to manipulate the limitation period simply by delaying the complaint, which is contrary to the legislative framework.

5. Correct Answer: (a) No, since Section 200 CrPC exempts public servants acting in discharge of official duties from being examined on oath before a Magistrate takes cognisance.

Reference Line: "The provision contains an important exception: where the complainant is a public servant acting in the discharge of their official duties, the Magistrate is not required to examine them on oath."

Explanation:

(a) Correct. Section 200 CrPC contains an express exception for public servants acting in the discharge of official duties. A Drugs Inspector filing a complaint in their official capacity falls squarely within this exception. The Magistrate is therefore not required to examine the Drugs Inspector on oath before taking cognisance. The accused's argument that the cognisance order is vitiated by this omission is legally unsound and must fail.

(b) Incorrect. This option incorrectly presents Section 200 CrPC as imposing a universal and absolute requirement of examination on oath for every complainant. The provision itself contains a clear and well-established exception for public servants acting in official capacity. Stating that there is "no exception" is a direct misstatement of the law and is contradicted by the express text of Section 200 CrPC as explained in the principle.

(c) Incorrect. The exception under Section 200 CrPC is not limited to police officers alone. It applies to all public servants acting in the discharge of their official duties – a category that expressly includes Drugs Inspectors, who are designated officials under the Drugs and Cosmetics Act empowered to investigate and prosecute pharmaceutical offences. Restricting the exception to police officers has no basis in the text of Section 200 CrPC or in the principle.

(d) Incorrect. The Magistrate's power to waive examination on oath is not an exercise of absolute discretion applicable to any complainant deemed credible. It is a specific statutory exception available only in the defined category of public servants acting in official capacity. Framing it as general Magisterial discretion mischaracterises the nature of the exception and would, if accepted, render the specific statutory language meaningless by converting a targeted exception into an unlimited judicial prerogative.

15. Forgery Allegation Renders Dispute Non-Arbitrable

1. Correct Answer: (a) No, since the arbitration agreement itself is disputed at a foundational level, making invocation of Section 11(6) premature.

Reference Line: "This power is contingent on the prior existence of a valid arbitration agreement. If the agreement itself is disputed at a foundational level, invoking Section 11(6) is premature, as appointment of an arbitrator presupposes that the parties had consented to arbitration in the first place."

Explanation:

(a) Correct. Section 11(6) empowers courts to appoint an arbitrator where the agreed procedure for appointment fails or a party defaults. However, this power is not unconditional – it presupposes the prior existence of a valid arbitration agreement reflecting genuine consent. Where the entire contract, including the arbitration clause, is alleged to be forged, there is no established agreement on which Section 11(6) can operate. Appointing an arbitrator in such circumstances would be premature and would

prejudge a foundational question that must first be resolved by a civil court.

(b) Incorrect. Section 11(6) does not grant courts an unconditional power to appoint arbitrators irrespective of whether a valid arbitration agreement exists. The existence of a valid agreement is a jurisdictional prerequisite for Section 11(6). A court cannot appoint an arbitrator when the very agreement that would confer jurisdiction on the arbitrator is itself the subject of a serious foundational dispute. Accepting this option would allow arbitration to proceed even in the complete absence of consent, which contradicts the consensual nature of arbitral jurisdiction.

(c) Incorrect. The doctrine of separability holds that an arbitration clause is treated as independent from the main contract – meaning that if the main contract is void or voidable, the arbitration clause may still survive. However, the principle expressly carves out a critical limitation: where the allegation of forgery or invalidity targets the entire document as a whole – including the arbitration clause itself – separability cannot save the clause, as it has no independent existence apart from the fabricated document. Since Meera's allegation is that the entire contract is forged, separability has no application here.

(d) Incorrect. There is no legal rule restricting Section 11(6) applications to the party who drafted the arbitration agreement. Either party to an arbitration agreement may invoke Section 11(6) where the agreed appointment procedure fails or a party defaults. This option introduces a condition that has no basis in the Arbitration and Conciliation Act, 1996 or in the principles provided.

2. Correct Answer: (c) Yes, since fraud in the performance of a contract – where the agreement itself is genuine – remains arbitrable under the Avitel distinction.

Reference Line: "Fraud in the performance of a contract – where the underlying contract is genuine but one party alleges fraudulent conduct during its execution – remains arbitrable."

Explanation:

(a) Incorrect. Not every allegation of fraud renders a dispute non-arbitrable. The Avitel distinction and the Ayyasamy test both establish that the nature and character of the fraud must be examined. Fraud in the performance of a contract – where the agreement itself is valid and undisputed – remains arbitrable. An automatic exclusion of all fraud-related disputes from arbitration would be contrary to both the statutory framework and established judicial precedent.

(b) Incorrect. The proposition that all fraud allegations require court adjudication without exception is legally incorrect. The Ayyasamy test specifically holds that fraud simpliciter does not automatically render a dispute non-arbitrable. Furthermore, the Avitel distinction expressly confirms that fraud during the performance of a genuine contract – as opposed to fraud vitiating the agreement itself – is arbitrable. The blanket rule stated in this option has no support in the principles provided.

(c) Correct. The Avitel distinction draws a clear line between two categories of fraud. In this case, the underlying distribution contract and its arbitration clause are both genuine and undisputed – Priya's allegation is that Karan committed fraud during the performance of the contract by falsifying delivery records. This is precisely the category of fraud in performance that the Avitel distinction identifies as remaining arbitrable. The arbitrator derives jurisdiction from a valid, undisputed agreement and can adjudicate the fraud allegation.

(d) Incorrect. Arbitration agreements do not override all fraud-related objections simply because both parties have signed the contract. Where fraud vitiates the arbitration agreement itself, or where the fraud alleged is serious enough to meet the Ayyasamy threshold, the dispute becomes non-arbitrable

notwithstanding the parties' signatures. The existence of a signed arbitration agreement is a necessary but not always sufficient condition for compelling arbitration.

3. Correct Answer: (d) No, since arbitration is consensual and a party cannot be compelled to arbitrate a dispute it never agreed to arbitrate.

Reference Line: "A party cannot be compelled to arbitrate a dispute it never agreed to arbitrate. This principle means that the existence and validity of the arbitration agreement is always a threshold question that must be resolved before arbitration can proceed."

Explanation:

(a) Incorrect. The commercial nature of a dispute does not create a presumption of arbitrability. Arbitration is a creature of consent — jurisdiction arises exclusively from the agreement of the parties, not from the subject matter of the dispute. A court cannot refer parties to arbitration merely because their dispute is commercial in nature, in the absence of a valid arbitration agreement between them. Accepting this option would fundamentally distort the consensual basis of arbitral jurisdiction.

(b) Incorrect. A long-standing commercial relationship between parties does not cure the absence of a written arbitration agreement. The principle expressly requires that an arbitration agreement must be in writing, and its existence must be established before arbitral proceedings can commence. Prior dealings between parties cannot be treated as a substitute for a written agreement, nor can they supply consent that was never given in the legally required form.

(c) Incorrect. The Arbitration and Conciliation Act, 1996 does not contain a closed list of disputes that may be referred to arbitration. The Act operates on the basis of party consent — if parties have agreed to arbitrate, and the dispute is not otherwise non-arbitrable on grounds of public policy or statutory exclusion, arbitration can proceed. The reason Vikram's argument fails is not the absence of a statutory list but the absence of a consensual arbitration agreement with Ananya.

(d) Correct. Arbitration is entirely consensual in nature. Unlike courts, which derive jurisdiction from statute, an arbitral tribunal derives its authority exclusively from the agreement of the parties. Where a party denies having ever entered into an arbitration agreement, the threshold question of the existence of that agreement must first be resolved. Vikram cannot compel Ananya to arbitrate simply because the dispute is commercial — without a valid, binding arbitration agreement, no arbitral tribunal has jurisdiction over Ananya.

4. Correct Answer: (d) Decline reference since the fraud alleged is serious, amounts to a criminal offence, and the document itself is alleged to be fabricated.

Reference Line: "Where the fraud alleged is serious in nature, amounts to a criminal offence, or is so complicated that it requires voluminous and detailed evidence for adjudication, the dispute becomes non-arbitrable and the court may refuse to refer it to arbitration."

Explanation:

(a) Incorrect. The arbitration clause cannot be honoured regardless of the nature of the fraud alleged. The Ayyasamy test draws a clear distinction between fraud simpliciter — which does not affect arbitrability — and serious fraud amounting to a criminal offence requiring voluminous evidence, which renders the dispute non-arbitrable. Where the fraud is serious and the very document containing the arbitration clause is alleged to be fabricated, the court is not only entitled but required to decline

reference. Blind deference to the arbitration clause in such circumstances would allow a forged document to confer jurisdiction on an arbitrator.

(b) Incorrect. This option correctly invokes the Ayyasamy test but misapplies it to the facts. The Ayyasamy test holds that fraud simpliciter does not affect the arbitration clause – but Sundar's allegation is not one of simple fraud. He alleges fabrication of the entire document, forged signatures, and a criminal conspiracy requiring examination of voluminous evidence. This is precisely the category of serious fraud that Ayyasamy identifies as rendering a dispute non-arbitrable. Applying the fraud simpliciter rule to a case of serious fraud is a misapplication of the test.

(c) Incorrect. The doctrine of separability does not always protect the arbitration clause from fraud allegations. The principle expressly states that where the allegation of forgery or invalidity targets the entire document – including the arbitration clause – separability cannot save the clause because it has no independent existence apart from the fabricated document. Since Sundar alleges that the entire document is fabricated, separability is inapplicable and cannot serve as a basis for referring the dispute to arbitration.

(d) Correct. Sundar's allegations meet all three criteria that the Ayyasamy test identifies as rendering a dispute non-arbitrable – the fraud is serious in nature, it amounts to a criminal offence, and it requires voluminous and detailed evidence. Additionally, since the very document containing the arbitration clause is alleged to be fabricated, the arbitrator's jurisdiction would itself rest on the contested document – a situation the principle identifies as requiring civil court adjudication. The court must decline to refer the dispute to arbitration.

5. Correct Answer: (c) The court must decline to refer the dispute to arbitration since even prima facie doubt about the agreement's existence is sufficient to refuse reference.

Reference Line: "If the court finds, even prima facie, that the arbitration agreement does not exist or is seriously disputed, it must decline to refer the dispute to arbitration or appoint an arbitrator."

Explanation:

(a) Incorrect. No legal rule presumes a document valid merely because it contains an arbitration clause. The principle requires courts to conduct a prima facie examination of the existence and validity of the arbitration agreement at the Section 8 stage – precisely to guard against forged or non-existent agreements being used to compel arbitration. Presuming validity until an arbitral tribunal rules otherwise would be circular, since the arbitrator's jurisdiction derives from the very document whose validity is in question.

(b) Incorrect. Appointing an arbitrator under Section 11(6) to decide the question of forgery as a preliminary issue is legally impermissible. An arbitrator derives authority from the arbitration agreement – if that agreement is alleged to be forged, the arbitrator would be deciding the very question of their own jurisdiction based on a contested foundation. The principle makes clear that such foundational disputes must be adjudicated by a civil court through a full-fledged trial, not delegated to an arbitrator appointed under the disputed agreement.

(c) Correct. The prima facie examination at the Section 8 or Section 11 stage is a jurisdictional threshold check. It does not require a full adjudication on merits – but if the court finds, even at this prima facie level, that the arbitration agreement is seriously disputed or does not exist, it must decline to refer the dispute. In this case, the court has already conducted the prima facie examination and found the agreement to be seriously disputed. The refusal to refer is therefore not only justified but legally

mandated.

(d) Incorrect. The doctrine of separability does not operate as an absolute shield for the arbitration clause in all circumstances. As the principle expressly states, where the allegation of forgery or invalidity targets the entire document as a whole – including the arbitration clause – separability cannot save the clause, since it has no independent existence apart from the fabricated document. Nalini's allegation is that the entire agreement is forged, which means the arbitration clause is itself part of the disputed document. Separability has no application in such a case.

16. Simultaneous Recovery & Arrest Warrants Illegal

1. Correct Answer: (c) The Family Court acted illegally since arrest is a last resort and can only follow after the recovery warrant has been executed and arrears remain unpaid.

Reference Line: "Only after this recovery warrant has been executed and arrears still remain unpaid, or if the warrant cannot be executed at all, can the court proceed to impose imprisonment. Arrest is a last resort, not a simultaneous or primary remedy."

Explanation:

(a) Incorrect. Speed of compliance is not a legally recognised justification for bypassing the mandatory statutory sequence under Section 125(3) CrPC. The provision establishes a clear two-step framework – recovery first, imprisonment only upon failure of recovery. Convenience or efficiency cannot override a mandatory statutory prescription, particularly where personal liberty is at stake. A court that bypasses the prescribed procedure in the name of faster enforcement is acting outside its statutory authority.

(b) Incorrect. Arrest is not an equally valid primary remedy alongside recovery in maintenance enforcement proceedings. The statutory scheme under Section 125(3) CrPC is explicitly sequential – recovery through the fine-levy mechanism must be attempted first, and imprisonment is available only as a subsequent and last resort upon failure of that attempt. Treating arrest as a co-equal primary remedy fundamentally distorts the statutory hierarchy and transforms a civil enforcement proceeding into a quasi-criminal one.

(c) Correct. Section 125(3) CrPC establishes a mandatory sequential enforcement mechanism. The court must first issue a recovery warrant directing recovery in the manner provided for levying fines under Section 421 CrPC. Only after this process has been completed – and arrears still remain unpaid or the warrant cannot be executed – may the court proceed to imprisonment. Simultaneously issuing both recovery and arrest warrants bypasses this statutory sequence entirely and is therefore illegal, regardless of the amount of arrears or the duration of default.

(d) Incorrect. Section 18(2) of the Family Courts Act does not grant Family Courts discretion to adopt any enforcement mechanism they deem appropriate. It does the opposite – it prescribes that orders under Chapter IX of the CrPC, including maintenance orders under Section 125, shall be executed in the manner prescribed by the CrPC. This makes the CrPC enforcement framework exhaustive and binding on Family Courts. The provision removes discretion rather than conferring it.

2. Correct Answer: (b) Statement ii only

Reference Line: "The petitioner successfully invoked this provision to challenge the Family Court's illegal order – demonstrating that inherent jurisdiction is available not only to quash FIRs but also to correct procedurally illegal orders passed by subordinate courts in the course of enforcement proceedings."

Explanation:

- (a) Incorrect. Both statements i and iii are true. Statement i correctly reflects the principle that issuing non-bailable warrants in maintenance proceedings is entirely outside the statutory scheme, which prescribes a graduated enforcement mechanism culminating in imprisonment only as a last resort. Statement iii accurately describes the effect of a non-bailable warrant – immediate arrest without any right to bail at the police station. Neither is a false statement, making this option wrong.
- (b) Correct. Statement ii is false because it incorrectly restricts the scope of Section 528 BNSS to the quashing of FIRs alone. The principle expressly states that the High Court's inherent jurisdiction under Section 528 BNSS – corresponding to Section 482 CrPC – is available not only to quash FIRs but also to correct procedurally illegal orders passed by subordinate courts in enforcement proceedings. The petitioner in this very case successfully invoked Section 528 BNSS to challenge the Family Court's illegal enforcement order, confirming that the provision has a wider scope than this statement suggests.
- (c) Incorrect. Statement ii is the only false statement, as established above. Statement iv is entirely true – the High Court's inherent jurisdiction under Section 528 BNSS is expressly available to correct procedurally illegal orders of subordinate courts. Grouping a true statement with a false one and presenting them together as the false statements makes this option incorrect.
- (d) Incorrect. Statements i, iii, and iv are all true. Statement i is true because non-bailable warrants are outside the statutory scheme. Statement iii is true because non-bailable warrants result in immediate arrest without bail at the police station. Statement iv is true because the High Court's inherent jurisdiction extends to correcting illegal enforcement orders. Identifying all three as false statements is entirely incorrect – only statement ii is false.

3. Correct Answer: (a) Recovery through arrest and detention of Dinesh in prison while executing the recovery warrant.

Reference Line: "The proviso to Section 421 contains a critical prohibition – no such warrant shall be executed by the arrest or detention in prison of the offender."

Explanation:

- (a) Correct. The proviso to Section 421 CrPC contains an express and unambiguous prohibition – no warrant issued under that section for recovery of fines shall be executed by the arrest or detention in prison of the offender. Since Section 125(3) CrPC expressly incorporates the fine-recovery mechanism of Section 421 for enforcement of maintenance arrears, this prohibition applies equally to recovery warrants in maintenance proceedings. Arrest at the recovery warrant stage is therefore expressly prohibited by statute.
- (b) Incorrect. Authorising the Collector to recover the amount as arrears of land revenue is the second expressly permitted mode of recovery under Section 421 CrPC. Like attachment and sale of movable property, this mode is specifically provided for in the section and is entirely consistent with the statutory scheme. It is not prohibited by the proviso and may be validly used to enforce maintenance arrears.
- (c) Incorrect. Attachment and sale of the defaulter's movable property is one of the two expressly permitted modes of recovery under Section 421 CrPC. The proviso to Section 421 prohibits arrest and detention – it does not restrict attachment and sale of movable property. This is a lawful and recognised mode of executing a recovery warrant in maintenance enforcement proceedings and is therefore not the prohibited mode referred to in the question.
- (d) Incorrect. Attachment of a bank account as a mode of recovery is not expressly prohibited by Section

421 CrPC. While Section 421 specifically mentions attachment and sale of movable property and recovery through the Collector, the proviso's prohibition is directed specifically at arrest and detention – not at attachment of financial assets. Bank account attachment, being a form of attachment of property rather than deprivation of liberty, does not fall within the prohibited category under the proviso.

4. Correct Answer: (b) No, since Section 18(2) of the Family Courts Act makes the CrPC enforcement framework exhaustive, and no conflicting mechanism under the CPC can be adopted.

Reference Line: "Section 18(2) of the Act provides that orders passed under Chapter IX of the CrPC – which includes maintenance orders under Section 125 – shall be executed in the manner prescribed by the CrPC. This provision makes the CrPC enforcement framework governing maintenance orders exhaustive, and Family Courts cannot resort to enforcement mechanisms under the CPC or any other procedure that conflicts with the CrPC's prescribed scheme."

Explanation:

(a) Incorrect. Section 18(2) of the Family Courts Act does not grant Family Courts any discretion to choose freely between CrPC and CPC enforcement mechanisms. The provision is mandatory and prescriptive – it directs that Chapter IX CrPC orders shall be executed in the manner prescribed by the CrPC. By making the CrPC framework exhaustive, the provision removes the very discretion that this option attributes to the court. Kavita's argument that the court may choose whichever mechanism is more convenient has no statutory foundation.

(b) Correct. Section 18(2) of the Family Courts Act creates an exhaustive and binding enforcement framework for maintenance orders by directing that they be executed in the manner prescribed by the CrPC. This means Family Courts cannot supplement or replace the CrPC enforcement scheme with CPC mechanisms, even if the CPC route might seem more convenient in a given case. While the Supreme Court in *Rajnish v. Neha* acknowledged enforcement as a money decree under the CPC as one possible mode, this does not override the primacy and exclusivity of the CrPC framework under Section 18(2) in cases where CrPC expressly governs.

(c) Incorrect. The Supreme Court in *Rajnish v. Neha* did not direct that all maintenance orders must be enforced exclusively as money decrees under the CPC. The judgment listed enforcement as a money decree under the CPC as one among several available modes – including Section 28-A of the Hindu Marriage Act, Section 20(6) of the PWDVA, and Section 128 CrPC. Presenting the CPC route as the exclusive mandated mode is a direct misreading of the Supreme Court's directions in that case.

(d) Incorrect. Family Courts have clear jurisdiction to enforce maintenance orders passed by them. Section 18(2) of the Family Courts Act, read with Section 125(3) CrPC, establishes the procedure for such enforcement. The proposition that Family Courts must transfer enforcement proceedings to civil courts has no basis in either the Family Courts Act or the CrPC. Such a reading would render Family Courts ineffective and would fragment the maintenance enforcement process in a manner entirely inconsistent with the legislative intent behind the Family Courts Act.

5. Correct Answer: (a) A maintenance defaulter is a civil obligor, and arrest without first exhausting recovery mechanisms violates Article 21 and the statutory scheme under Section 125(3) CrPC.

Reference Line: "Treating a maintenance defaulter as a criminal by issuing arrest warrants without completing the prescribed civil enforcement process conflates these two fundamentally distinct categories, causing unjust deprivation of liberty and stigmatisation of the defaulter."

Explanation:

(a) Correct. The principle draws a clear and fundamental distinction between civil default and criminal offending. A person who fails to pay court-ordered maintenance has not committed a criminal offence – they have defaulted on a civil obligation. The statutory scheme under Section 125(3) CrPC recognises this by prescribing a graduated enforcement mechanism that treats arrest as a last resort. Bypassing this sequence and issuing an arrest warrant without exhausting recovery mechanisms violates both the statutory framework and Article 21 of the Constitution, which guarantees personal liberty and prohibits its deprivation except in accordance with the procedure established by law.

(b) Incorrect. This option overstates Prakash's position. Imprisonment is indeed a permissible remedy under Section 125(3) CrPC – but it is available only as a last resort, after recovery through the prescribed fine-levy mechanism has been attempted and has failed. The law does not categorically exclude imprisonment from maintenance enforcement; it prescribes the specific conditions and sequence under which it becomes available. Stating that imprisonment is never permissible is legally incorrect and goes beyond what the statutory scheme provides.

(c) Incorrect. A maintenance defaulter is not entitled to the same procedural protections as an accused in a criminal trial – maintenance proceedings under Section 125 CrPC are civil and remedial in character, not punitive. The principle expressly states that Section 125 is remedial and welfare-oriented and is not punitive in character. The procedural protections applicable to criminal trials – such as the presumption of innocence, proof beyond reasonable doubt, and the right to a full criminal hearing – do not apply in the same manner to civil enforcement proceedings under Section 125.

(d) Incorrect. The convenience or time-consuming nature of property attachment is not a legally recognised ground for bypassing the mandatory statutory sequence under Section 125(3) CrPC. The provision does not contain any such exception. Allowing courts to skip the recovery stage whenever they consider it inconvenient would render the sequential enforcement mechanism meaningless and would give judges unchecked discretion to deprive persons of liberty without following the procedure established by law – a direct violation of Article 21.

17. Freezing Non-Accused Bank Accounts Violates Articles 19(1)(g) & 21

1. Correct Answer: (a) The freezing is illegal since freezing of bank accounts requires a Magistrate's order under Section 107 BNSS and cannot be done by police direction alone.

Reference Line: "Section 107 of the BNSS provides the legal mechanism for attachment or freezing of bank accounts as measures directed at securing alleged proceeds of crime. Crucially, this power can only be exercised upon an order of a competent Magistrate, after following prescribed procedural safeguards."

Explanation:

(a) Correct. The legal mechanism for freezing bank accounts is Section 107 BNSS, which requires an order of a competent Magistrate after following prescribed procedural safeguards. This judicial authorisation requirement is a critical safeguard ensuring that the coercive measure of freezing accounts is not taken unilaterally by police or executive authorities. Since no Magistrate's order was obtained in this case, the police direction to the bank to freeze TechServe's accounts is entirely without legal authority and must be set aside.

(b) Incorrect. Section 106 BNSS is expressly limited to seizure of tangible property for evidentiary

purposes during investigation. The principle clearly states that this power does not extend to freezing of bank accounts, which requires a separate legal mechanism. Freezing accounts is directed at securing alleged proceeds of crime — an objective entirely distinct from preserving physical evidence — and requires the judicial authorisation prescribed under Section 107 BNSS. Any exercise of Section 106 to freeze bank accounts is therefore without legal authority.

(c) Incorrect. Police officers do not have broad or unlimited powers during investigation to freeze bank accounts of parties who received payments from suspects. Section 106 BNSS permits police to seize tangible property for evidentiary purposes only — it does not extend to freezing bank accounts, which is a distinct and more coercive measure targeting alleged proceeds of crime. The existence of a connection between a party and a suspect's transaction is not sufficient legal basis for freezing accounts without judicial authorisation.

(d) Incorrect. The urgency of preventing dissipation of proceeds of crime does not override the requirement of judicial authorisation under Section 107 BNSS. The requirement of a Magistrate's order is a mandatory procedural safeguard — not a formality that can be bypassed in the name of investigative urgency. Allowing executive agencies to freeze accounts without judicial oversight whenever they invoke the risk of dissipation would render the safeguard meaningless and enable unchecked executive interference with fundamental rights.

2. Correct Answer: (a) Statement ii only

Reference Line: "Section 106 of the Bharatiya Nagarik Suraksha Sanhita, 2023, empowers police officers to seize property in the course of investigation for evidentiary purposes only. It does not extend to the attachment or freezing of bank accounts... Any exercise of Section 106 to freeze bank accounts is therefore without legal authority."

Explanation:

(a) Correct. Statement ii is false because Section 106 BNSS does not empower police to freeze bank accounts for evidentiary purposes. The principle expressly states that Section 106 is limited to seizure of tangible property for evidentiary purposes and does not extend to freezing of bank accounts. Freezing of bank accounts requires a Magistrate's order under Section 107 BNSS. Statement ii therefore misrepresents the scope of Section 106 BNSS, making it the false statement.

(b) Incorrect. Statements i and iv are both true. Statement i correctly reflects the principle that blanket freezing of an account without establishing the account holder's complicity is disproportionate and constitutionally impermissible. Statement iv accurately states the legally permissible approach — a targeted freeze restricted to amounts connected to the alleged offence, with judicial oversight. Neither is false, and identifying them as false statements is directly contradicted by the principles.

(c) Incorrect. As established, statement i is true — blanket freezing without establishing complicity is disproportionate and impermissible. Statement iii is also true — the principle expressly extends Article 21's right to livelihood to companies in the sense that the right to meet operational and salary obligations is an aspect of the broader constitutional guarantee. Grouping two true statements and presenting them as false makes this option incorrect.

(d) Incorrect. Statement ii is false, as explained above. However, statement iii is entirely true and is supported by the principle's express statement that freezing a company's accounts without legal basis, thereby preventing it from meeting salary and operational obligations, violates Article 21. Combining a false statement with a true one and presenting both as false makes this option incorrect.

3. Correct Answer: (b) The action suffers from violation of natural justice since GlobalPay was given no prior notice or opportunity to be heard before its accounts were frozen.

Reference Line: "Before freezing the accounts of a business entity, authorities must at minimum inform the entity of the reasons for the proposed action and provide it an opportunity to show cause. Unilateral freezing without prior notice, without reasons, and without any opportunity for the account holder to respond is a denial of natural justice that compounds the constitutional violations of Articles 19(1)(g) and 21."

Explanation:

(a) Incorrect. Funds received by a legitimate business in an ordinary commercial transaction do not automatically become proceeds of crime merely because the payer later commits fraud. The principle draws a clear distinction – proceeds of crime must be directly and actually connected to criminal activity. GlobalPay received routine transaction fees from the merchant in the ordinary course of business, long before any fraud was discovered. The subsequent criminal conduct of the merchant cannot retrospectively transform GlobalPay's legitimate business receipts into proceeds of crime.

(b) Correct. The principle of audi alteram partem – the right to be heard – is a fundamental requirement of natural justice that must be observed before any adverse action is taken against a party. The Enforcement Directorate froze GlobalPay's accounts without prior notice, without providing reasons, and without giving GlobalPay any opportunity to respond. This is a textbook denial of natural justice. The principle expressly states that such unilateral action without notice and opportunity to respond is a denial of natural justice that compounds the constitutional violations of Articles 19(1)(g) and 21.

(c) Incorrect. Enforcement agencies do not have unrestricted or unlimited powers to freeze accounts without judicial oversight. The principle is clear that freezing of bank accounts requires a Magistrate's order under Section 107 BNSS. The requirement of judicial oversight is a mandatory safeguard – not an optional procedural step – and cannot be dispensed with on the ground that the investigation is ongoing or urgent. Unrestricted freezing powers without judicial oversight would be constitutionally impermissible.

(d) Incorrect. There is no legal rule permitting a 30-day administrative freeze without notice, after which the account must be unfrozen if no charge is filed. This option introduces a completely fabricated procedural rule that has no basis in the BNSS, the principles provided, or any established legal framework. The correct position is that even the initial freezing requires judicial authorisation under Section 107 BNSS and compliance with natural justice principles – not merely a time-bound administrative measure.

4. Correct Answer: (c) No, since proceeds of crime must be directly connected to criminal activity, and legitimate business receipts do not become proceeds of crime due to a customer's fraud.

Reference Line: "Money received by a legitimate business in an ordinary commercial transaction from a customer who later commits fraud does not automatically transform into proceeds of crime merely because of the customer's subsequent conduct."

Explanation:

(a) Incorrect. The taint theory – that any financial transaction with a fraud-accused entity automatically taints all funds received – has no basis in the legal framework governing proceeds of crime. The concept of proceeds of crime requires that the property be derived or obtained as a result of criminal activity. FinCorp received payment for legitimate financial advisory services rendered in the ordinary course of

business. The fact that its client later committed fraud against third parties does not transform FinCorp's legitimate service fees into proceeds of that fraud.

(b) Incorrect. Enforcement agencies do not have blanket authority to freeze accounts of all entities that received money from a suspected fraudster. The doctrine of proportionality requires that freezing action be targeted at accounts and amounts actually connected to the offence. Sweeping in innocent commercial counterparties who had ordinary business dealings with a suspect – without any finding of complicity – is precisely the kind of disproportionate enforcement action that courts have consistently struck down as constitutionally impermissible.

(c) Correct. The principle is explicit – proceeds of crime must be directly connected to criminal activity, and money received by a legitimate business in ordinary commercial transactions from a customer who later commits fraud does not automatically become proceeds of crime. FinCorp provided genuine financial advisory services to RealEstate Builders and received payment for those services. The subsequent fraudulent conduct of RealEstate Builders against homebuyers does not create any legal basis for treating FinCorp's service fees as proceeds of that fraud or for freezing FinCorp's accounts.

(d) Incorrect. There is no general legal exemption for financial sector entities from proceeds-of-crime attachment proceedings. While financial institutions may be subject to specific regulatory frameworks, the reason FinCorp's accounts cannot be frozen in this case is not any sectoral exemption but the absence of any genuine connection between FinCorp's funds and the alleged criminal activity. Grounding the answer in a non-existent sectoral exemption would lead to the correct outcome for entirely wrong legal reasons.

5. Correct Answer: (d) The freezing violates both Article 19(1)(g) and Article 21 since it arbitrarily impairs SwiftLogix's right to trade and prevents it from meeting operational obligations.

Reference Line: "Blanket freezing of a business entity's accounts without any finding of complicity fails this test and directly impairs the Article 19(1)(g) right... Freezing a company's accounts without legal basis, thereby preventing it from meeting operational and salary obligations, violates this constitutional guarantee."

Explanation:

(a) Incorrect. Article 21's right to livelihood is not restricted to natural persons alone. The Supreme Court's expansive interpretation of Article 21 extends to business entities in the sense that the right to operate commercially and meet financial obligations – including paying employees' salaries – is an aspect of the broader constitutional guarantee of life and dignity. Freezing a company's accounts and preventing it from meeting operational and salary obligations engages Article 21. Restricting the violation to Article 19(1)(g) alone gives an incomplete and legally incorrect picture.

(b) Incorrect. Article 19(1)(g) is not disappplied merely because a sector is regulated. The fundamental right to carry on trade or business under Article 19(1)(g) applies across all lawful commercial activities, including those in regulated sectors like logistics. Regulation of a sector under Article 19(6) requires that restrictions be reasonable and proportionate – it does not suspend the fundamental right itself. Furthermore, both Article 19(1)(g) and Article 21 are violated simultaneously in this case, and restricting the analysis to Article 21 alone is incomplete.

(c) Incorrect. Article 19(6) permits reasonable restrictions on Article 19(1)(g) in the interest of the general public – but any such restriction must be proportionate and backed by legal authority. The freezing of SwiftLogix's accounts fails both tests. It is disproportionate because SwiftLogix is not complicit in the

fraud, and it lacks legal authority because no Magistrate's order under Section 107 BNSS was obtained. Article 19(6) does not provide a blanket immunity for all investigative freezing actions regardless of their legality or proportionality.

(d) Correct. The freezing of SwiftLogix's accounts without any finding of complicity, without legal authority under Section 107 BNSS, and without prior notice violates both constitutional guarantees simultaneously. Article 19(1)(g) is violated because the blanket freeze arbitrarily impairs SwiftLogix's right to carry on its logistics business without any proportionate justification. Article 21 is violated because the freeze prevents SwiftLogix from meeting its salary and operational obligations, directly impairing the company's ability to sustain its commercial existence and honour its obligations to employees and creditors.

18. 24-Week Abortion Right for Unmarried Women

1. Correct Answer: (a) No, since the Supreme Court in *X v. Principal Secretary* held that excluding unmarried women from Rule 3-B is unconstitutional and extended its benefit to all women in consensual relationships.

Reference Line: "The Supreme Court held that there must be no distinction between married and unmarried women in seeking termination of pregnancy between 20 and 24 weeks arising out of a consensual relationship... excluding unmarried women from Rule 3-B is unconstitutional as it violates Articles 14 and 21."

Explanation:

(a) Correct. The Supreme Court in *X v. Principal Secretary* (2022) applied purposive interpretation and held that excluding unmarried women in consensual relationships from Rule 3-B is unconstitutional as it violates Articles 14 and 21. The Court extended the benefit of Rule 3-B to all women — married or unmarried — in consensual relationships. The hospital's refusal, which relies on the pre-ruling literal reading of Rule 3-B, is therefore legally unsustainable after this binding Supreme Court pronouncement. Under Article 141, this ruling binds all courts and authorities, including government hospitals.

(b) Incorrect. While it is true that the unamended text of Rule 3-B did not expressly include unmarried women in consensual relationships, the Supreme Court in *X v. Principal Secretary* declared this exclusion unconstitutional. After a Supreme Court ruling under Article 141, the literal text of a subordinate rule cannot override the constitutional interpretation given by the Supreme Court. Relying on the pre-ruling text of Rule 3-B to refuse termination is not legally sustainable and directly contradicts binding precedent.

(c) Incorrect. The State Medical Board recommendation is required only for terminations beyond 24 weeks on grounds of foetal abnormalities — not for terminations between 20 and 24 weeks sought by categories eligible under Rule 3-B. Priya's case involves a termination at 22 weeks, which falls within the Rule 3-B window. The applicable requirement is the opinion of two registered medical practitioners, not a State Medical Board recommendation. The hospital's refusal cannot be justified on this ground.

(d) Incorrect. The MTP Act, 1971 in its original form prescribed a 20-week gestational limit, not 24 weeks. The 24-week limit for specified categories was introduced only through the 2021 amendment. Prior to the amendment and the Supreme Court's ruling, there was no universal 24-week entitlement for all women without category-based restriction. This option misstates the legislative history of the Act and attributes a provision to the original 1971 enactment that was only introduced decades later.

2. Correct Answer: (b) Statement ii only

Reference Line: "Under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India... Any hospital, doctor, or authority that refuses to act in accordance with this ruling is acting in breach of the law as declared by the Supreme Court."

Explanation:

(a) Incorrect. Statements i and iii are both true. Statement i correctly reflects Article 144, which expressly requires all civil and judicial authorities throughout India to act in aid of the Supreme Court — making compliance with the ruling constitutionally mandatory. Statement iii accurately states the principle that access to justice requires not only the existence of a right but also awareness, implementation, and institutional responsiveness — which is precisely what the Bombay High Court's circulation direction sought to achieve. Neither is false.

(b) Correct. Statement ii is false because it incorrectly restricts the binding effect of Article 141 to courts alone, excluding administrative authorities such as hospitals. The principle expressly states that Article 141 binds all courts, tribunals, and administrative authorities — including hospitals and medical practitioners. A government hospital that refuses to implement the Supreme Court's ruling is acting in breach of the law as declared by the Supreme Court, making statement ii a direct misstatement of the constitutional position.

(c) Incorrect. Statement ii is false, as established above. However, statement iv is entirely true — any hospital or authority that refuses to implement the Supreme Court's ruling in *X v. Principal Secretary* acts in breach of the law declared under Article 141. Grouping a false statement with a true one and presenting both as false makes this option incorrect.

(d) Incorrect. Statements i, iii, and iv are all true, as explained above. Statement i is supported by Article 144, statement iii is supported by the access-to-justice principle, and statement iv is supported by Article 141's binding effect. Identifying all three as false statements is entirely incorrect — only statement ii is false.

3. Correct Answer: (c) Article 14, since treating married and unmarried women differently for accessing abortion between 20 and 24 weeks has no rational basis.

Reference Line: "Treating married and unmarried women differently for the purpose of accessing abortion — allowing married women to terminate pregnancies between 20 and 24 weeks while denying the same right to unmarried women in consensual relationships — has no rational basis and constitutes arbitrary discrimination violative of Article 14."

Explanation:

(a) Incorrect. Article 19(1)(a) guarantees freedom of speech and expression — it is not the constitutional provision most directly engaged by differential access to abortion services. The right to reproductive choice is located within Articles 14 and 21, not Article 19(1)(a). While personal autonomy has dimensions that touch Article 19, the question asks for the most directly violated provision, and Article 19(1)(a) is too remote from the specific issue of discriminatory denial of abortion access based on marital status.

(b) Incorrect. Article 21 is certainly engaged — compelling Sunita to continue the pregnancy violates her reproductive autonomy and dignity, which are aspects of the right to life under Article 21. However, the question presents a specific scenario of differential treatment between two similarly situated women — one married and one unmarried — at the same gestational stage and in the same hospital. The most directly violated provision in a case of explicit differential treatment based on marital status is Article 14,

which prohibits arbitrary discrimination. Article 21 is a complementary violation but not the most direct one in this specific factual context.

(c) Correct. The differential treatment between Rekha and Sunita – both at 22 weeks, both at the same hospital, both in the same procedural position – with the only distinction being marital status, is a textbook Article 14 violation. The Supreme Court in *X v. Principal Secretary* expressly held that this distinction has no rational basis and constitutes arbitrary discrimination. Article 14's guarantee of equal protection of the laws is most directly and immediately violated when two identically situated women receive different treatment solely on the basis of marital status in accessing the same medical procedure.

(d) Incorrect. Article 32 confers the right to move the Supreme Court for enforcement of fundamental rights – it is a jurisdictional provision, not a substantive right or a ground of violation. High Courts are equally empowered under Article 226 to enforce fundamental rights, and the proposition that only the Supreme Court has jurisdiction in reproductive autonomy matters is factually and constitutionally incorrect. The question asks which constitutional provision is most directly violated by the differential treatment – Article 32 is the remedy, not the violated right.

4. Correct Answer: (b) No, since under Article 141, the law declared by the Supreme Court is binding on all courts in India, and the single judge was bound to follow *X v. Principal Secretary*.

Reference Line: "Under Article 141 of the Constitution, the law declared by the Supreme Court is binding on all courts within the territory of India."

Explanation:

(a) Incorrect. High Court judges are not entitled to take a different view from the Supreme Court on settled questions of law. Article 141 is unambiguous – the law declared by the Supreme Court is binding on all courts within the territory of India, without exception. A single judge of a High Court does not have the authority to disagree with or depart from a binding Supreme Court pronouncement. The proposition that judges are entitled to take their own view on statutory interpretation regardless of Supreme Court rulings fundamentally misrepresents the hierarchical structure of the Indian judicial system.

(b) Correct. Article 141 makes the law declared by the Supreme Court binding on all courts in India – including single judges of High Courts. Once the Supreme Court in *X v. Principal Secretary* held that excluding unmarried women from Rule 3-B is unconstitutional and extended the benefit of the provision to all women in consensual relationships, every court in India was obligated to follow and apply this ruling. The single judge's reliance on the pre-ruling literal text of Rule 3-B – a position expressly overruled by the Supreme Court – is therefore not legally sustainable and constitutes a failure to follow binding precedent.

(c) Incorrect. The binding effect of a Supreme Court judgment under Article 141 does not depend on the composition of the bench – whether it is a two-judge bench, three-judge bench, or constitution bench. A three-judge bench judgment of the Supreme Court is binding precedent under Article 141 and is not merely persuasive authority for High Courts. The category of "persuasive authority" applies to foreign judgments, obiter dicta, or decisions of coordinate courts – not to binding Supreme Court pronouncements. This option introduces a legally nonexistent distinction.

(d) Incorrect. Single judges of High Courts are fully empowered to interpret welfare legislation – there is no legal rule requiring automatic reference to a division bench for questions of statutory interpretation. Division bench references are made in specific circumstances prescribed by the rules of each High Court – such as when a single judge disagrees with an existing single bench ruling – and are not a general

mandatory requirement for all welfare legislation questions. This option fabricates a procedural restriction that has no basis in law.

5. Correct Answer: (c) Yes, since terminations between 20 and 24 weeks for categories under Rule 3-B require only the opinion of two registered medical practitioners, not a Medical Board recommendation. Reference Line: "Rule 3-B specifies the categories of women who may seek termination of pregnancy between 20 and 24 weeks with the opinion of two registered medical practitioners... Beyond 24 weeks, termination is permitted only on grounds of foetal abnormalities, upon recommendation of a State-level Medical Board."

Explanation:

(a) Incorrect. The State Medical Board recommendation is not required for all terminations beyond 20 weeks. The principle draws a clear distinction between two different situations – terminations between 20 and 24 weeks for Rule 3-B categories, which require only the opinion of two registered medical practitioners, and terminations beyond 24 weeks on grounds of foetal abnormalities, which require a State Medical Board recommendation. Conflating these two distinct procedural requirements is a misreading of the MTP Act framework and would impose an additional procedural burden on women that the law does not require.

(b) Incorrect. While sexual assault survivors are indeed a specified category under Rule 3-B, the requirement for such cases falling within 20 to 24 weeks is only the opinion of two registered medical practitioners – not both that and a Medical Board recommendation. The Medical Board recommendation is reserved exclusively for terminations beyond 24 weeks on grounds of foetal abnormalities. Adding a Medical Board requirement to Rule 3-B cases incorrectly conflates two separate procedural tracks and imposes a burden that the statute does not prescribe for this category.

(c) Correct. The MTP framework operates on two distinct procedural tracks. For women falling within the categories specified in Rule 3-B – including sexual assault survivors – termination between 20 and 24 weeks requires the opinion of two registered medical practitioners. The State Medical Board recommendation is a separate and additional requirement applicable only to terminations sought beyond 24 weeks on grounds of foetal abnormalities. Meena, as a sexual assault survivor seeking termination at 23 weeks, falls squarely within the Rule 3-B window and requires only two medical practitioners' opinions. The hospital's insistence on a Medical Board recommendation is therefore procedurally incorrect.

(d) Incorrect. While sexual assault survivors are a specified category under Rule 3-B and are therefore entitled to seek termination between 20 and 24 weeks, they are not exempt from all procedural requirements under the MTP Act. The opinion of two registered medical practitioners is still required. Furthermore, the entitlement under Rule 3-B is limited to the 20 to 24-week window – sexual assault survivors are not entitled to seek termination at any gestational age without restriction. Beyond 24 weeks, the Medical Board recommendation requirement applies even to sexual assault survivors seeking termination on grounds of foetal abnormalities.

19. Inclusion of Habeas Corpus in Child Custody Disputes

1. Correct Answer: (c) No, since Rohan is in the lawful custody of his mother without any compulsion or confinement, and habeas corpus does not lie in the absence of illegal detention.

Reference Line: "Where there is no detention in the legal sense – meaning the person is in the natural and lawful custody of a parent or guardian without any compulsion or restraint amounting to confinement – the writ does not lie."

Explanation:

(a) Incorrect. A father's status as natural guardian does not confer an absolute right to seek production of a minor child through habeas corpus at any time. The writ of habeas corpus is designed to address illegal detention – it is a remedy against unlawful confinement, not a tool to enforce parental custody rights. Furthermore, under the Hindu Minority and Guardianship Act, 1956, for children below five years, the statutory presumption favours the mother's custody. The appropriate remedy for a custody dispute is a petition before the Family Court, not a habeas corpus writ.

(b) Incorrect. Not every separation of a child from one parent by the other constitutes unlawful detention in the legal sense. The writ of habeas corpus presupposes actual and unlawful detention or confinement – a legal standard that is not met merely because one parent has taken or retained the child. Rohan is living with his mother at her parents' house under her arrangement, attending to his ordinary childhood needs without any compulsion or restraint. This is natural and lawful parental custody, not unlawful detention that the writ is designed to remedy.

(c) Correct. The precondition for issuing a writ of habeas corpus is the existence of actual and unlawful detention. Rohan, a three-year-old child, is living with his mother Seema at her parents' house – this constitutes natural and lawful parental custody, not detention or confinement in the legal sense. There is no compulsion, restraint, or illegality in Seema's arrangement. Since the foundational prerequisite for the writ – illegal detention – is absent, the habeas corpus petition is not maintainable and Arvind must approach the Family Court for custody relief.

(d) Incorrect. High Courts are expressly empowered under Article 226 of the Constitution to issue writs of habeas corpus. The Supreme Court's jurisdiction under Article 32 is not exclusive – both the Supreme Court and High Courts have concurrent jurisdiction to issue habeas corpus. This option introduces a legally nonexistent restriction on High Court jurisdiction that directly contradicts the plain text of Article 226 of the Constitution.

2. Correct Answer: (a) Statement i only

Reference Line: "Courts have consistently held that habeas corpus is not the appropriate remedy to resolve disputes about child custody that arise in the context of matrimonial proceedings."

Explanation:

(a) Correct. Statement i is false because courts have consistently held that habeas corpus is not the appropriate remedy for child custody disputes arising from matrimonial proceedings. Such disputes involve complex questions of the child's welfare, parental fitness, and long-term arrangements – all of which require evidence, inquiry, and detailed adjudication by a Family Court. Using habeas corpus as a shortcut to obtain custody bypasses the proper forum. The High Court correctly dismissed the petition and directed Suresh to approach the Family Court, confirming that statement i does not reflect the correct legal position.

(b) Incorrect. Statements ii and iii are both true. Statement ii correctly reflects that Family Courts – empowered to receive evidence, hear witnesses, conduct inquiries, and consider welfare agency reports – are far better equipped than High Courts exercising writ jurisdiction to determine complex custody questions. Statement iii accurately states the principle that specialised forums must be used for

specialised disputes, which is precisely why the High Court directed Suresh to the Family Court. Neither is a false statement.

(c) Incorrect. Statement i is false, as established above. However, statement iv is entirely true – the welfare of the child is expressly identified as the paramount consideration in custody matters, overriding the rights or preferences of either parent. Grouping a false statement with a true one and presenting both as false makes this option incorrect.

(d) Incorrect. Statements ii, iii, and iv are all true, as explained above. Statement ii is true because Family Courts are better equipped for custody disputes. Statement iii is true because specialised forums must be used for specialised disputes. Statement iv is true because the child's welfare is the paramount consideration. Identifying all three as false statements is entirely incorrect – only statement i is false.

3. Correct Answer: (d) The court should recognise the statutory presumption in favour of the mother but assess whether it is displaced by evidence of her unfitness or conduct contrary to Dev's welfare.

Reference Line: "Courts respect this presumption, though it is not absolute and can be displaced by evidence of the mother's unfitness or conduct contrary to the child's welfare."

Explanation:

(a) Incorrect. The statutory presumption in favour of the mother for children below five years under the Hindu Minority and Guardianship Act, 1956 is not absolute. While it creates a significant starting point in favour of maternal custody, it can be displaced by evidence that the mother is unfit or that her custody would be contrary to the child's welfare. Treating it as an absolute rule that cannot be overcome regardless of circumstances would prioritise statutory presumption over the paramount consideration of the child's welfare – a result courts have consistently rejected.

(b) Incorrect. The Hindu Minority and Guardianship Act, 1956 does not limit the maternal custody presumption for children below five years to girls alone – it applies to all minor children below five years regardless of gender. Furthermore, the father's status as natural guardian does not automatically prevail over the mother's presumption for children below five years – the Act expressly carves out this exception in recognition of the developmental needs of very young children. Awarding custody to the father on the sole basis of his status as natural guardian, while ignoring the statutory presumption, would be a misapplication of the Act.

(c) Incorrect. Family Courts are fully empowered to interpret and apply the Hindu Minority and Guardianship Act, 1956 in the course of adjudicating custody disputes – this is precisely the kind of matter for which Family Courts were established under the Family Courts Act, 1984. There is no requirement to refer questions of natural guardianship to the High Court before proceeding. Such a referral would be an unnecessary abdication of the Family Court's jurisdiction and would delay relief in a matter where the welfare of a two-year-old child is at stake.

(d) Correct. The Family Court must approach the custody question by first recognising the statutory presumption under the Hindu Minority and Guardianship Act, 1956 that custody of a child below five years ordinarily vests with the mother. Dev, at two years, clearly falls within this category. However, since the presumption is not absolute, the court must also assess whether there is any evidence of Kavitha's unfitness or conduct contrary to Dev's welfare that would justify displacing the presumption. The paramount consideration throughout is the child's welfare – the presumption serves that consideration but does not replace the court's duty to examine all relevant circumstances.

4. Correct Answer: (b) Dismiss the habeas corpus petition since there is no illegal detention, and direct Deepak to approach the Family Court for custody and visitation relief.

Reference Line: "Where there is no detention in the legal sense – meaning the person is in the natural and lawful custody of a parent or guardian without any compulsion or restraint amounting to confinement – the writ does not lie."

Explanation:

(a) Incorrect. The High Court cannot issue habeas corpus directing production and handover of Tara to Deepak when the facts disclose no illegal detention. Tara is living comfortably with Nisha, attending school regularly, and is under her mother's lawful parental arrangement. The foundational precondition for habeas corpus – illegal detention – is absent. Furthermore, issuing habeas corpus to deliver the child to the father would amount to adjudicating a custody dispute through writ jurisdiction, bypassing the Family Court which is the appropriate forum.

(b) Correct. The facts clearly establish that Tara is in no way illegally detained – she is living comfortably with her mother and maternal aunt, attending school, and is under lawful parental custody. There is no compulsion, confinement, or illegality in Nisha's arrangement. Since the precondition for habeas corpus is absent, the High Court must dismiss the petition. The appropriate remedy for Deepak's grievance – obtaining custody or visitation rights – lies before the Family Court, which has the jurisdiction, expertise, and procedural tools to adjudicate such questions in the child's best interest.

(c) Incorrect. Issuing habeas corpus to produce Tara in court would be inappropriate where no illegal detention has been established on the facts. The High Court's finding that Tara is living comfortably and attending school already discloses that there is no detention warranting the writ. Conducting a further inquiry into welfare through the habeas corpus route would convert the writ jurisdiction into a substitute for Family Court proceedings – precisely the practice that courts have consistently disapproved of and directed parties away from.

(d) Incorrect. Staying Tara's school admission during a custody dispute is entirely outside the scope of a habeas corpus proceeding and would cause direct and immediate harm to the child's educational development. Such a stay would use the child's education as leverage in parental litigation – a practice that courts have firmly disapproved of as using children as instruments in matrimonial battles. It would also be a disproportionate and legally baseless exercise of judicial power in writ jurisdiction, which must be exercised with restraint and not to the detriment of the child whose welfare is the paramount consideration.

5. Correct Answer: (a) Award custody to the parent whose conduct is less harmful to the child and issue directions prioritising Arjun's welfare over both parents' personal grievances.

Reference Line: "Courts have firmly disapproved of this conduct and have emphasised that both parents must prioritise the child's welfare over their personal grievances against each other. Judicial intervention in such cases is aimed not at adjudicating between the parents but at protecting the child from the harmful effects of adult conflict."

Explanation:

(a) Correct. The welfare of the child is the paramount consideration in all custody matters – it overrides the rights, preferences, and grievances of both parents. Where both parents are using the child as an instrument in their matrimonial battle, the Family Court's duty is to intervene to protect the child from

harm, not to adjudicate between the parents on the merits of their dispute. Awarding custody to the parent whose conduct is less harmful to Arjun, combined with clear judicial directions that both parents must prioritise his welfare and facilitate his relationship with the other parent, is the response most consistent with the principles of child welfare and judicial disapproval of parental instrumentalisation of children.

(b) Incorrect. The father's status as natural guardian under Hindu law does not automatically prevail in a custody dispute — and certainly does not operate as a consequence of the mother's conduct in influencing the child. The paramount consideration is Arjun's welfare, not which parent holds the legal status of natural guardian. Furthermore, the welfare officer's report suggests both parents are exerting pressure on Arjun — awarding custody to the father solely because of the mother's conduct, without assessing whether the father's home environment is better for Arjun's welfare, would be an incorrect application of the governing legal principle.

(c) Incorrect. Dismissing the petition and referring Arjun to a state-run institution is a drastic and entirely disproportionate measure that would cause far greater harm to the child than the parental conflict itself. Courts intervene in custody matters to protect the child's welfare within a family setting — not to remove children from both parents and institutionalise them except in extreme cases of abuse or complete parental incapacity. The facts disclose no such extreme circumstances, and this option ignores the court's primary obligation to arrange the most welfare-promoting custody arrangement available.

(d) Incorrect. Adjourning proceedings indefinitely without any interim arrangement would leave Arjun in a continuing state of uncertainty, instability, and psychological distress — the very harm the court is called upon to remedy. Courts cannot abdicate their responsibility to protect the child's welfare by simply waiting for parental cooperation that may never materialise. The child's needs are immediate and ongoing, and the court must make interim custody and visitation arrangements that serve Arjun's best interests regardless of both parents' personal conduct and unwillingness to cooperate.

20. False Promise to Marry Alone Doesn't Constitute Rape

1. Correct Answer: (d) Yes, since the long consensual relationship, absence of contemporaneous complaint, and breakdown without evidence of initial fraudulent intent indicate that this is a breach of promise, not rape.

Reference Line: "Where a couple enters a consensual relationship that eventually breaks down and one party refuses to marry the other, the refusal to marry is a breach of promise, a civil wrong — not a criminal offence vitiating the consent to sexual intercourse."

Explanation:

(a) Incorrect. A promise of marriage that is subsequently broken does not automatically vitiate consent to sexual intercourse under Section 90 IPC. The law draws a critical distinction between a false promise made from inception with no intention of fulfilment — which vitiates consent — and a genuine promise that is later broken due to changed circumstances or unwillingness — which constitutes a civil breach of promise. The automatic conflation of broken promises with vitiating misconception has been expressly rejected by courts and would criminalise ordinary human conduct in consensual relationships.

(b) Incorrect. A five-year consensual relationship, during which both parties travelled together, cohabited, and conducted themselves as a couple, is inconsistent with a finding of fraudulent intent from inception. Fraudulent intent from the beginning requires evidence that the accused never intended to fulfil the promise when he made it — not merely that he ultimately did not marry the complainant. The

length and voluntariness of the relationship, combined with the absence of any contemporaneous complaint, are evidentiary circumstances that militate strongly against a finding of initial fraudulent intent.

(c) Incorrect. There is no legal presumption that sexual intercourse during a live-in relationship is non-consensual unless the parties subsequently marry. Indian law recognises the consensual nature of live-in relationships and does not impose any requirement of marriage as a condition for consent to be valid. Such a presumption would be entirely inconsistent with constitutional values of personal autonomy and dignity, and with the settled legal framework governing consent under Section 375 IPC and Section 90 IPC.

(d) Correct. The FIR should be quashed because the facts disclose a breach of promise, not rape. The five-year consensual relationship, the parties' conduct as a couple, the absence of any contemporaneous complaint during the subsistence of the relationship, and the lack of any evidence that Akash harboured fraudulent intent from the very beginning collectively establish that this is a civil wrong – a breach of promise – not a criminal offence. Continuation of the prosecution on these facts would itself be an abuse of the criminal process, and the High Court's inherent power under Section 528 BNSS must be exercised to quash the FIR.

2. Correct Answer: (b) Statement ii only

Reference Line: "The law draws a critical distinction between a false promise of marriage made from the inception with no intention of fulfilment and a genuine promise of marriage that is subsequently broken... Only the former vitiates consent under Section 90 IPC."

Explanation:

(a) Incorrect. Statements i and iv are both true. Statement i correctly reflects the principle that where medical records establish that a termination was conducted with the complainant's written consent, the charge under Section 313 IPC – which requires that the miscarriage was caused against the woman's will – cannot be sustained. The documentary evidence directly contradicts the allegation. Statement iv is also true – Section 313 IPC expressly requires that the miscarriage be caused without the woman's consent for the offence to be made out. Neither statement is false.

(b) Correct. Statement ii is false because a promise of marriage that is subsequently broken does not always vitiate consent to sexual intercourse or constitute rape under Section 376 IPC. The law draws a critical and settled distinction between a false promise made from inception with no intention of fulfilment – which vitiates consent – and a genuine promise that breaks down due to changed circumstances – which is a civil breach. The word "always" in statement ii makes it an absolute proposition that is directly and expressly contradicted by the governing legal principle.

(c) Incorrect. Statement ii is false, as established. However, statement iii is entirely true – for a false promise of marriage to vitiate consent under Section 90 IPC, the accused must have had no intention of fulfilling the promise from the very beginning. This is the settled legal requirement that distinguishes a false promise from a broken promise. Grouping a true statement with a false one and presenting both as false makes this option incorrect.

(d) Incorrect. Statements i, iii, and iv are all true. Statement i is true because the written consent in medical records defeats the Section 313 charge. Statement iii is true because initial fraudulent intent is the legal requirement for vitiating consent. Statement iv is true because Section 313 IPC requires that the miscarriage be caused against the woman's will. Identifying all three as false is entirely incorrect – only

statement ii is false.

3. Correct Answer: (b) Rohan's argument is correct since for cheating under Section 417 IPC, fraudulent or dishonest intent must exist from the inception of the relationship, which is not shown here.

Reference Line: "For a charge of cheating to be sustained in the context of a romantic relationship, it must be shown that the accused harboured fraudulent or dishonest intention from the very beginning of the relationship."

Explanation:

(a) Incorrect. Not every broken promise of marriage in a romantic relationship constitutes fraudulent inducement or cheating under Section 417 IPC. The essential ingredient of cheating is the existence of dishonest or fraudulent intent from the very inception of the relationship – not merely the fact that the relationship broke down or that one party refused to marry the other. Treating every broken promise as fraudulent inducement would criminalise the ordinary breakdown of romantic relationships and is directly contrary to the settled legal position.

(b) Correct. Section 417 IPC requires proof that the accused harboured fraudulent or dishonest intent from the very beginning of the relationship – a standard that goes well beyond showing that the relationship ultimately did not result in marriage. A four-year voluntary relationship, during which both parties conducted themselves as a couple, is inconsistent with fraudulent inducement from inception. Naina's allegation amounts to characterising the subsequent breakdown of the relationship as evidence of initial fraud – which courts have consistently held is insufficient to make out the charge of cheating.

(c) Incorrect. Emotional harm resulting from the breakdown of a relationship does not satisfy the harm requirement for cheating under Section 417 IPC. The harm contemplated by Section 417 is harm caused as a result of the deceptive act that induced the complainant to act – specifically, delivering property or doing or omitting to do something. Emotional suffering arising from a relationship breakdown, without evidence of fraudulent inducement from inception causing such specific harm, does not constitute the harm element required to sustain a cheating charge.

(d) Incorrect. Section 417 IPC is not limited to commercial or property-related transactions – it applies to any situation in which dishonest or fraudulent deception induces a person to deliver property or suffer harm. Courts have consistently applied Section 417 in the context of romantic relationships where fraud from inception is established. The reason the charge fails here is not the inapplicability of Section 417 to romantic relationships but the absence of evidence of fraudulent intent from inception – which is the essential ingredient regardless of the context.

4. Correct Answer: (b) Section 376 IPC penalises rape, which requires absence of consent or vitiated consent, while Section 69 BNS specifically addresses sexual intercourse obtained through a false promise of marriage that does not amount to rape.

Reference Line: "The Bharatiya Nyaya Sanhita, 2023 introduced Section 69, which specifically penalises sexual intercourse obtained through deceitful means or a false promise of marriage – where the sexual intercourse does not amount to rape. This provision fills a gap in the IPC, which had no explicit offence for this category of conduct."

Explanation:

(a) Incorrect. Section 69 BNS is not a mere re-enactment of Section 376 IPC under a new number. The two provisions address distinct situations. Section 376 IPC penalises rape – which requires proof of

absence of consent or consent vitiated under specified circumstances. Section 69 BNS is a new and specific provision introduced by the BNS to fill a legislative gap it penalises sexual intercourse obtained through deceitful means or a false promise of marriage where the conduct does not amount to rape. The substantive scope, elements, and punishment of the two provisions are different.

(b) Correct. The legal distinction between the two provisions is clear and significant. Section 376 IPC addresses rape defined by the absence of consent or consent vitiated by force, fraud, or specified misconceptions. Section 69 BNS was introduced to address a specific category of conduct that the IPC did not explicitly penalise sexual intercourse obtained through a false promise of marriage where the act does not rise to the level of rape. The distinction is important because it provides a specific legislative response to deceptive conduct that falls in the space between consensual intercourse and rape, without diluting the definition of rape itself.

(c) Incorrect. Section 69 BNS does not contain any age-based restriction limiting its application to women below 18 years. The provision addresses a specific type of deceptive conduct sexual intercourse obtained through a false promise of marriage without regard to the age of the complainant. Women of all ages who are deceived into sexual intercourse through a false promise of marriage are entitled to the protection of Section 69 BNS, provided the other elements of the provision are established.

(d) Incorrect. Section 376 IPC is not limited to cases where physical force is used. It covers a wide range of situations where consent is absent or vitiated – including consent obtained under fear of injury, fraud, or misconception of fact – none of which necessarily involve physical force. Similarly, Section 69 BNS is not a catch-all provision covering all forms of deception – it specifically addresses sexual intercourse obtained through deceitful means or a false promise of marriage where the act does not amount to rape. Both options mischaracterise the scope of the provisions.

5. Correct Answer: (a) Under Section 528 BNSS, since the allegations in the FIR, even taken at face value, do not prima facie constitute the offence of rape, and continuation of prosecution would be an abuse of process.

Reference Line: "This power can be exercised where the allegations in the FIR, even if taken at face value, do not prima facie constitute any offence... Quashing is the appropriate remedy where continuation of prosecution would itself be an abuse of process."

Explanation:

(a) Correct. Section 528 BNSS corresponding to Section 482 CrPC preserves the High Court's inherent power to quash proceedings to prevent abuse of process and secure the ends of justice. As laid down in *State of Haryana v. Bhajanlal* (1992), the power can be exercised where the allegations in the FIR, even taken entirely at face value, do not prima facie constitute the offence alleged. Here, the High Court has already found that the allegations even accepted as true do not disclose the essential ingredients of rape. Continuing the prosecution in such circumstances would itself constitute an abuse of the criminal process, and quashing under Section 528 BNSS is the legally correct and appropriate remedy.

(b) Incorrect. Article 226 of the Constitution confers writ jurisdiction on High Courts to enforce fundamental rights and for other purposes but it is not the specific provision under which FIRs are quashed in criminal matters. The appropriate and specific provision is Section 528 BNSS, which expressly preserves the High Court's inherent power to prevent abuse of the process of any court and to secure the ends of justice. Furthermore, the proposition that rape allegations in consensual relationships always

violate the accused's fundamental rights is a sweeping and unsupported generalisation that has no basis in the principles provided.

(c) Incorrect. There is no limitation period for quashing FIRs under Section 528 BNSS no rule requires automatic quashing of all FIRs filed more than one year after the alleged incident. While delay in filing an FIR is a relevant circumstance that courts may weigh in evaluating the credibility of the complaint, it is not a statutory limitation bar that mandates quashing as a matter of course. The correct basis for quashing here is the absence of essential ingredients of the offence on the face of the FIR not the passage of time.

(d) Incorrect. The quashing of FIRs in sexual offence cases does not fall exclusively within the Supreme Court's jurisdiction under Article 136. Article 136 confers special leave jurisdiction on the Supreme Court it is an appellate remedy against orders of lower courts and tribunals, not a tool for quashing FIRs at the investigation stage. High Courts have express inherent jurisdiction under Section 528 BNSS to quash FIRs a power that is well-established, widely exercised, and entirely independent of the Supreme Court's Article 136 jurisdiction.



Faces That Inspire

Our Torchbearers: ALUMNIS IN NLS BANGALORE & NLU DELHI



Ananya Prakash



Masirah Ahmad



Arush Sarma



Nikhil Dabbas



Sampoorno Mukherjee



Vaishnavi K. Prasad



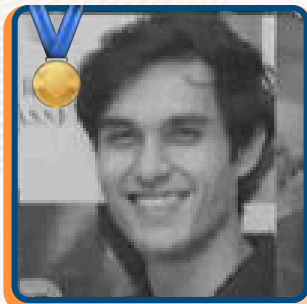
Ananya Kapani



Ananya Tripathi



Tejaswini Singh



Nandil B. Sarma



Anushree Prasad



Eshan Nakra



Varun Pathak



Romit Kohli



Hardik Choubey



Karina Chawla

...a few among the many achievers.



NISHANT PRAKASH LAW CLASSES



A1/5, Lower Ground Floor,
Safdarjung Enclave,
New Delhi, Delhi 110029



(011) 42420442
(+91) 8800802630



www.nplc.in



info@nplc.in



[@nishantprakashlawclass](https://www.instagram.com/nishantprakashlawclass)