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AIR

4

CLAT 2026



Arshnoor Singh

AIR

2

AILET 2025



Chaitanya Ghosh

AIR

2

CLAT 2025



Daiwik Agarwala

AIR

4

CLAT 2025



Aditya Gautam Ankhad

AIR

4

AILET 2026



Siddhant Rohit



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AIR 04, CLAT



Arshnoor Singh



AIR 04, AILET



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AIR 22, AILET



Aryan Gupta



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AIR 43, AILET



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YE POSTER NAHI, PROOF HAI!



NPLC's TOP PERFORMERS 2025

AIR 02, AILET



Chaitanya Ghosh

AIR 02, CLAT



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AIR 04, CLAT



Aditya Ankhad

AIR 6, AILET



Dhruv Kamath

AIR 10, AILET



Vidisha Singh

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Samyuktha Kovilakath

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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.

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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.

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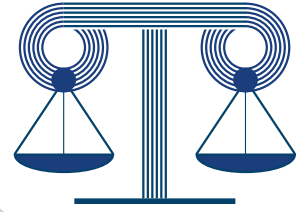
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SUPREME COURT

Landmark Judgements



1 Show Cause Notice Challengeable in Writ Jurisdiction in Exceptional Cases

Background

- The appellants, M/s. Accord Distilleries and Breweries Pvt. Ltd. and its directors, were alleged to have acquired and held shares in a Singapore-based company without RBI approval, in violation of Section 4 of FEMA, 1999.
- Their properties were seized under Section 37A(1) of FEMA on 11 September 2020, but the Competent Authority refused to confirm the seizure on 3 February 2021, holding that there was no evidence of foreign security being held by them.
- Despite this finding, the Adjudicating Authority issued a Show Cause Notice dated 22 December 2021 under Section 16(3) of FEMA, followed by a corrigendum dated 13 March 2023.
- The appellants challenged the Show Cause Notice before the Madras High Court, but both the Single Judge and the Division Bench declined interference on the ground that writ petitions against show cause notices are ordinarily not maintainable.
- The Adjudicating Authority later relied on the High Court's observations and passed a final adjudication order dated 26 August 2024, leading the appellants to approach the Supreme Court.

Judgement of the Court

- The Supreme Court held that the general rule against interference at the Show Cause Notice stage is a rule of judicial prudence, not an absolute constitutional bar.
- The Court clarified that High Courts may interfere

Case Details

- Case Title:** J. Sri Nisha v. The Special Director, Adjudicating Authority, Directorate of Enforcement & Anr.
- Citation:** 2026 LiveLaw (SC) 320
- Bench:** Justice Vikram Nath and Justice Sandeep Mehta

Issue Before the Court

- Whether a Show Cause Notice can be challenged under Article 226 of the Constitution in exceptional circumstances.
- Whether the High Court erred in treating writ interference at the Show Cause Notice stage as practically barred.
- Whether the Division Bench wrongly made observations affecting the Competent Authority's findings while the departmental appeal was still pending.
- Whether the Adjudicating Authority could rely on such observations to override the Competent Authority's earlier order.
- Whether the final adjudication order dated 26 August 2024 was legally sustainable.

under Article 226 where the notice suffers from patent lack of jurisdiction, non-application of mind, predetermined approach, abuse of process, or violation of natural justice.

- The Court found that the Division Bench of the High Court had erred by making observations that effectively diluted the Competent Authority's findings under Section 37A of FEMA.
- Since the departmental appeal against the Competent Authority's order was still pending, such observations prejudiced the statutory appellate process and the appellants' rights.
- The Court held that the Adjudicating Authority acted arbitrarily by relying on the High Court's observations to override the Competent Authority's reasoned order.
- Accordingly, the Supreme Court set aside the orders of the Single Judge, the Division Bench, and the final adjudication order, revived the matter from the Show Cause Notice stage, and directed the Appellate Authority to decide the pending appeal first.

Key Takeaway for CLAT Aspirant

- **Article 226 Writ Jurisdiction of High Courts:** Article 226 gives High Courts wide power to issue writs for enforcement of fundamental rights and other legal rights. This case shows that High Courts retain jurisdiction even at the Show Cause Notice stage, though such power is used sparingly.
- **Show Cause Notice Ordinary Rule of Non-Interference:** Courts generally avoid interfering with Show Cause Notices because the authority must first complete adjudication. The noticee is usually expected to respond before the authority instead of directly invoking writ jurisdiction.
- **Rule of Prudence, Not Absolute Bar:** The Supreme Court clarified that non-interference at the Show Cause Notice stage is not a jurisdictional prohibition. It is only a self-imposed judicial restraint followed to prevent premature interruption of administrative proceedings.
- **Exceptional Grounds for Writ Interference:** A writ petition against a Show Cause Notice is maintainable where there is patent lack of jurisdiction, non-application of mind, predetermined approach, abuse of process, or violation of natural justice.
- **Patent Lack of Jurisdiction:** If the authority issuing the notice has no legal power to initiate proceedings, the affected party need not wait for the final order. In such cases, writ interference may prevent unlawful proceedings at the threshold.
- **Non-Application of Mind:** A notice issued mechanically or without considering relevant statutory findings may be challenged. The case highlights that an authority cannot ignore a prior reasoned order passed by a competent statutory authority.
- **Abuse of Process:** Proceedings cannot be used to bypass or nullify statutory findings indirectly. If the process is misused to defeat rights or prejudice pending remedies, the writ court may intervene.
- **FEMA Section 37A Seizure and Confirmation:** Section 37A provides for seizure of assets where foreign exchange or foreign security is suspected to be held abroad in contravention of FEMA. However, confirmation by the Competent Authority requires proper satisfaction of statutory conditions.
- **FEMA Section 16(3) Adjudication through Show Cause Notice:** Section 16(3) empowers the Adjudicating Authority to issue a Show Cause Notice for alleged FEMA contraventions. This power must be exercised fairly and cannot be used to override pending appellate proceedings.
- **Statutory Appeal and Institutional Discipline:** Where a statutory appeal is pending, other authorities should not prejudge or indirectly decide the matter. The case reinforces institutional discipline among the Competent Authority, Appellate Authority, and Adjudicating Authority under FEMA.



Practice Questions

1. Analyze the situations below and determine which situation would least likely justify confirmation of seizure under Section 37A of FEMA, where assets are seized on suspicion of foreign exchange or foreign security being held abroad in contravention of FEMA.

(a) The Directorate finds foreign bank records showing that Nitin transferred company funds to acquire shares in a Dubai-based entity without RBI approval, and the Competent Authority records these documents before confirming seizure.

(b) The Enforcement officers recover emails, foreign share certificates, and remittance records showing that Priya indirectly held securities in a Singapore company, and the Competent Authority confirms seizure after examining the material.

(c) The Competent Authority confirms seizure against Ramesh only because his name appears in an anonymous complaint, though no foreign security, foreign exchange, bank trail, or ownership document is found against him.

(d) The Directorate produces overseas company filings showing that Kavita is a beneficial owner of a Malaysian company, and the Competent Authority confirms seizure after noting the statutory conditions.

2. Aarav and Mehul are directors of Suryansh Biotech Pvt. Ltd. The Enforcement Directorate alleges that they acquired shares in a Thailand-based pharmaceutical company without complying with FEMA. Their properties are seized under Section 37A. However, the Competent Authority refuses to confirm the seizure after finding that the documents only show proposed negotiations and not actual holding of foreign security abroad. The Directorate files a statutory appeal against this refusal, and the appeal is still pending.

Before the appeal is decided, the Adjudicating Authority issues a Show Cause Notice under Section 16(3), stating that the Competent Authority's refusal "does not affect adjudication" and that penalty proceedings must continue because the Department believes the refusal was wrongly passed. Aarav and Mehul challenge the notice, arguing that it unfairly bypasses the pending appellate process. Which of the following arguments would most strongly support their claim?

(a) A Show Cause Notice under FEMA can never be issued once seizure has been refused.

(b) The Adjudicating Authority may issue a notice, but cannot use it to override pending appellate proceedings.

(c) The Competent Authority's refusal permanently ends every possible FEMA proceeding.

(d) The Directorate loses all statutory powers once it files an appeal against any order.

3. Devika runs Narmada Textiles Pvt. Ltd., a company based in Indore. The company exports cotton garments to Nepal and Bangladesh. A commercial dispute arises between Devika and one foreign buyer, who alleges that she received foreign payments without making proper declarations. Acting on this complaint, the District Food Supply Officer issues a notice titled "FEMA Penalty and Foreign Exchange Contravention Notice".

The notice directs Devika to appear before him and explain why penalty should not be imposed for

violation of FEMA. Devika replies that the District Food Supply Officer has no legal authority under FEMA to initiate adjudication proceedings. The officer responds that since the allegation concerns foreign payments, Devika must first participate in the inquiry and challenge the final order later. Devika immediately approaches the High Court seeking quashing of the notice on the ground that the officer has no legal power to initiate FEMA proceedings. Will she succeed?

- (a) Yes, because the notice is issued by an authority having no legal power to initiate FEMA proceedings.
- (b) Yes, because every person accused of a FEMA violation can avoid inquiry by filing a writ petition.
- (c) No, because Devika must always wait for the final order before approaching the High Court.
- (d) No, because any government officer can initiate FEMA proceedings if foreign payments are involved.

4. Which of the following constitutional provisions gives High Courts wide power to issue writs for the enforcement of fundamental rights and other legal rights?

- (a) Article 32
- (b) Article 226
- (c) Article 136
- (d) Article 227

5. Ritika is the proprietor of Shree Vardhan Handicrafts, a Jaipur-based business that exports marble sculptures to buyers in Europe. One of her foreign buyers delays payment, and a dispute arises regarding the invoice amount. On receiving a complaint from the buyer, the Regional Transport Officer issues a notice to Ritika titled "Foreign Exchange Violation Proceedings". The notice states that Ritika must appear before him and explain why penalty should not be imposed for alleged violation of foreign exchange rules.

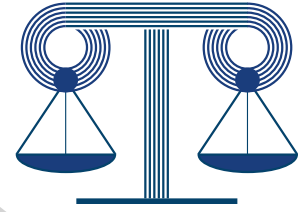
Ritika replies that the Regional Transport Officer has no statutory authority to initiate proceedings relating to foreign exchange violations. The officer responds that since the allegation involves an international payment dispute, Ritika must first participate in the proceedings and can challenge the final order later. Ritika immediately files a writ petition before the High Court seeking quashing of the notice at the threshold. Will Ritika succeed?

- (a) Yes, because the notice was issued by an authority having no legal power to initiate such proceedings.
- (b) Yes, because every notice involving foreign payments can be challenged before the High Court immediately.
- (c) No, because Ritika must always wait for the final order before approaching the High Court.
- (d) No, because any government officer may initiate proceedings if foreign exchange is mentioned.



SUPREME COURT

Landmark Judgements



2

Pay Commission Benefits Cannot Be Denied by Imposing Extra Conditions

Background

- The respondents were originally appointed in the Border Roads Organisation in subordinate engineering cadres as Overseers, Charge Mechanics, and Superintendents, and were subsequently merged and redesignated as Junior Engineers in accordance with the Fifth Central Pay Commission recommendations; under the Sixth Pay Commission, they were placed at Level 6 with Grade Pay of Rs. 4,200, with career progression to Level 8 with Grade Pay of Rs. 4,800 upon completion of 20 years of service under the Modified Assured Career Progression Scheme.
- Upon reaching Level 8, the respondents claimed entitlement to Non-Functional Upgradation to Level 9 with Grade Pay of Rs. 5,400 after completing four years of service at Level 8, in terms of Para 7.4.13(iv)(b) of the Seventh Central Pay Commission recommendations.
- The Border Roads Organisation rejected the claim by letter dated 19 February 2021, holding that the NFU benefit was applicable only to Group B Officers whose entry-level Grade Pay under the Sixth Pay Commission was Rs. 4,800, and not to Junior Engineers who had reached that level through the MACP Scheme.
- The Delhi High Court allowed the respondents' writ petition, holding that the mode of reaching Level 8 was immaterial and that completion of four years of service at Level 8 was the sole condition for NFU; it directed extension of Level 9 benefit to the Junior Engineers within four weeks.
- The Union of India challenged the Delhi High Court's order before the Supreme Court,

Case Details

- Case Title:** Union of India & Others v. Sunil Kumar Rai & Others
- Citation:** 2026 LiveLaw (SC) 323
- Bench** Justice Pankaj Mithal and Justice S.V.N. Bhatti

Issue Before the Court

- Whether Junior Engineers of the Border Roads Organisation who reached Level 8 through the MACP Scheme, rather than by direct recruitment, are entitled to Non-Functional Upgradation to Level 9 under Para 7.4.13(iv)(b) of the Seventh Central Pay Commission recommendations.
- Whether the Government can introduce an entry-level condition restricting NFU only to direct recruits at Grade Pay of Rs. 4,800, when no such condition is prescribed in the Seventh Pay Commission recommendations.

contending that the NFU benefit was inapplicable to the respondents as their entry-level Grade Pay was Rs. 4,200 and not Rs. 4,800.

Judgement of the Court

- The Court held that a plain reading of Para 7.4.13(iv)(b) of the Seventh Central Pay Commission establishes that completion of four years of service in Level 8 on a seniority-cum-suitability basis is the only condition for entitlement to NFU; the provision does not distinguish between employees who joined Level 8 through direct recruitment and those who reached it through the MACP Scheme.
- No such distinction between direct recruits and MACP promotees can be read into the Pay Commission's recommendations; the Government cannot unilaterally introduce additional conditions to restrict the class of beneficiaries beyond what the Commission itself prescribed.
- The Government's insistence on an entry-level condition of Grade Pay Rs. 4,800 amounts to introducing a restriction that finds no basis in the Pay Commission's recommendations, thereby effectively denying a legitimate benefit to the respondents without valid reasons.
- The Court found no grounds to interfere with the Delhi High Court's order, which had correctly applied the principle that the mode of entry into Level 8 is immaterial for determining eligibility for NFU.
- The Supreme Court dismissed the Union's civil appeal, upheld the Delhi High Court's order directing extension of NFU at Level 9 to the respondents, and made no order as to costs.

Key Takeaway for CLAT Aspirant

- **Pay Commission Recommendations - Nature and Binding Effect:** Central Pay Commission recommendations are made by an expert body constituted by the Central Government to review and revise the salary structure of government employees. While the Government is not legally bound to accept Pay Commission recommendations, once it accepts and implements them through executive orders, those recommendations acquire the force of binding policy and must be applied as accepted without unilateral modification. The Government cannot selectively apply the beneficial portions of a recommendation while introducing additional restrictions that narrow the class of beneficiaries beyond what the Commission intended.
- **Plain Meaning Rule in Interpretation of Service Benefits:** When construing a Pay Commission recommendation or any service rule prescribing an entitlement, courts apply the plain meaning rule, which requires that the text be read as it stands without importing additional conditions or limitations not found in the language. Where the recommendation prescribes one condition for a benefit, the Government cannot read in additional conditions merely because it considers them administratively convenient or financially prudent. Any restriction on a statutory or policy benefit must have explicit textual support.
- **Modified Assured Career Progression Scheme - Nature and Purpose:** The MACP Scheme provides financial upgradation to Central Government employees upon completion of 10, 20, and 30 years of service respectively, where normal promotion avenues are unavailable or exhausted. Upgradation under MACP grants the employee a higher Grade Pay without a change in designation; it is a recognised career progression mechanism designed to prevent stagnation and ensure that long-

serving employees are not permanently denied financial advancement. Courts have consistently held that MACP upgradation is a legitimate mode of progression and cannot be treated as inferior to direct recruitment for purposes of determining eligibility for subsequent benefits.

- **Non-Functional Upgradation - Concept and Purpose:** Non-Functional Upgradation is a pay benefit recommended by the Pay Commission to address pay stagnation at a particular level by granting upgradation to the next level on the basis of seniority-cum-suitability, without requiring an actual promotion in designation or post. NFU is distinct from promotion and from MACP; it is a financial benefit that recognises continuous service at a particular level and ensures that employees do not remain financially stagnant even when promotional vacancies are unavailable. The sole condition for NFU under the Seventh Pay Commission is completion of the prescribed period of service at the relevant level.
- **Doctrine Against Addition of Conditions to Statutory Benefits:** A well-established principle of service law is that the Government, as an employer, cannot unilaterally add conditions to a benefit that has been prescribed by a Pay Commission or incorporated into service rules without a corresponding amendment to the applicable rules or orders. Adding conditions that restrict the class of beneficiaries amounts to amending the recommendation by executive fiat, which is impermissible. This principle protects the legitimate expectations of employees who have relied on the terms of the Pay Commission recommendations in the conduct of their service careers.
- **Article 14 and Equality in Service Matters - Arbitrariness in Denial of Benefits:** Article 14 of the Constitution guarantees equality before law and equal protection of laws, and has been consistently applied in service matters to strike down arbitrary distinctions among similarly situated employees. Where two sets of employees are at the same level and have completed the same period of service, denying the benefit of NFU to one set on the ground of the mode of entry into that level, when the Pay Commission makes no such distinction, is an arbitrary classification that violates Article 14. Courts examining service benefits apply the test of whether the distinction has a rational nexus to the legitimate object of the policy.
- **Article 226 of the Constitution - Enforcement of Service Entitlements:** Article 226 confers upon High Courts the power to issue writs, including writs of mandamus, for enforcement of legal rights including service-related entitlements of government employees. A writ of mandamus lies to compel a public authority to perform a public duty imposed upon it by law; where an employee is entitled to a pay benefit under an accepted Pay Commission recommendation and the Government arbitrarily denies it, a mandamus can be issued directing the Government to grant the benefit. This jurisdiction of the High Court is the primary constitutional remedy for enforcement of service rights.
- **Principle of Legitimate Expectation in Service Law:** The doctrine of legitimate expectation, rooted in principles of natural justice and fairness, provides that where a public authority has by its conduct or representations led a person to reasonably expect that they will receive a benefit or that a particular procedure will be followed, that expectation deserves protection. Government employees who have completed the prescribed period of service at Level 8, relying on the Pay Commission's recommendations, have a legitimate expectation of receiving NFU; denial of this expectation without a valid legal basis amounts to a breach of the doctrine and is subject to judicial review.
- **Distinction Between Promotion and Financial Upgradation in Service Law:** Indian service law draws a clear distinction between promotion, which involves movement to a higher post with a change in designation and responsibilities, and financial upgradation, which involves only an increase in pay grade without a change in post or designation. MACP and NFU are both forms of financial

upgradation and not promotions; courts have consistently held that conditions applicable to promotions, such as existence of a vacancy or direct recruitment quota, cannot be imported into the determination of eligibility for financial upgradation schemes. The mode of entry into a pay level is relevant for promotional purposes but not for financial upgradation benefits.

- **Judicial Review of Pay and Service Decisions - Scope and Limits:** Courts exercising judicial review of pay-related decisions of the Government do not substitute their judgment for that of the executive on questions of pay policy; they examine only whether the decision was made within the framework of applicable rules and recommendations and whether it was arbitrary, discriminatory, or in violation of a clear legal entitlement. Where the Government's decision is found to have introduced a condition not found in the applicable Pay Commission recommendation, it falls outside the permissible range of executive discretion and is liable to be set aside as legally unsustainable.



Practice Questions

1. Raghav joined the Border Engineering Service as a Junior Engineer at Level 6. After twenty years of service, he received financial upgradation to Level 8 under the MACP Scheme. He then completed four years at Level 8. The accepted Pay Commission recommendation states that employees completing four years at Level 8 are entitled to NFU to Level 9. However, the Department rejects Raghav's claim, stating that NFU will be granted only to employees who entered Level 8 by direct recruitment and not to those who reached Level 8 through MACP. Raghav challenges this condition. Which argument would most strongly support his claim?

- (a) The Government may add any condition to service benefits if it considers the condition financially convenient.
- (b) The Government cannot add a restrictive condition to an accepted benefit without amending the applicable rule or order.
- (c) Employees who reach Level 8 through MACP are legally superior to direct recruits at Level 8.
- (d) NFU must be granted to every government employee, regardless of pay level or completed service.

2. A Central Department has two sets of employees at Level 8. The first set entered Level 8 through direct recruitment, while the second set reached Level 8 through MACP after long service. Both sets perform similar duties at the same level and have completed four years at Level 8. The accepted Pay Commission recommendation grants NFU after four years at Level 8 and does not distinguish between the two modes of entry. The Department grants NFU to direct recruits but denies it to MACP employees only because of their mode of entry into Level 8. The MACP employees file a writ petition alleging violation of Article 14. Will they succeed?

- (a) No, because Article 14 does not apply to pay and service benefits of government employees.
- (b) No, because every distinction made by the Government in service matters is automatically valid.
- (c) Yes, because employees at the same level with the same completed service cannot be denied NFU on an irrelevant mode-of-entry distinction.
- (d) Yes, because Article 14 requires higher pay for MACP employees than direct recruits in every case.

3. Which constitutional provision empowers High Courts to issue writs, including mandamus, for enforcement of legal rights such as service-related entitlements of government employees?

- (a) Article 32
- (b) Article 136
- (c) Article 311
- (d) Article 226

4. Assume Kavita Sharma joined the State Public Works Department as a Junior Accounts Officer in Pay Level 6 through direct recruitment. After completing the required years of service without regular promotion, she applied for financial upgradation under the applicable MACP/NFU scheme. The department rejected her claim, stating that no vacancy existed in the higher post of Senior Accounts

Officer, and that her direct recruitment entry into Pay Level 6 prevented her from claiming movement to the next pay level. Kavita argues that she is not seeking a higher post, designation, or duties, but only the financial benefit available under the scheme. Which of the following statements are legally correct?

- i. Kavita's claim can be rejected merely because no promotional vacancy exists in the higher post.
- ii. MACP/NFU benefits involve financial upgradation, not promotion to a higher designation.
- iii. Kavita's mode of entry into Pay Level 6 is relevant for promotion, not financial upgradation.
- iv. Granting MACP/NFU would automatically make Kavita a Senior Accounts Officer.

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

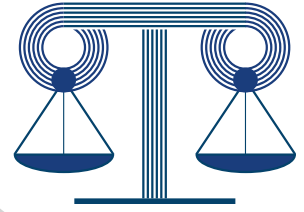
5. Devendra and several other Junior Engineers complete four years of service at Level 8 after reaching that level through MACP. The accepted Pay Commission recommendation indicates that completion of four years at Level 8 is sufficient for NFU to Level 9. For several months, the Department circulates internal notes stating that all eligible Level 8 officers will receive NFU. Later, without amending the relevant order, the Department refuses NFU to Devendra's batch, stating that only direct recruits at Level 8 will be considered. Devendra argues that the Department's conduct and the accepted recommendation created a legitimate expectation in his favour. Which conclusion is most consistent with the doctrine?

- (a) Devendra has no claim because legitimate expectation never applies in service matters.
- (b) Devendra has a claim because the accepted recommendation and departmental conduct created a reasonable expectation of NFU.
- (c) Devendra must fail because legitimate expectation always overrides every statutory rule and financial limitation.
- (d) Devendra must fail because government employees can claim benefits only through political representation.



SUPREME COURT

Landmark Judgements



3 Single Tainted Public Work Award Violates Article 14

Background

- The writ petition was filed by Save Mon Region Federation, a civil society organisation representing residents of the Mon region in Arunachal Pradesh, alleging systemic arbitrariness, favouritism, and serious departures from procurement norms in the award and execution of public works contracts in the State.
- The petitioners alleged that contracts worth approximately Rs. 1,270 crores were awarded without open and competitive tendering to firms associated with the Chief Minister, Pema Khandu, including M/s Brand Eagles belonging to his spouse, and M/s Alliance Trading Co. owned by his nephew, Tsering Tashi, an MLA from Tawang District.
- The CAG, directed by the Supreme Court in a connected matter, filed a final report dated 21 July 2025, recording multiple instances of execution of works without call of tender, repeated non-availability of recorded reasons for dispensing with competitive procurement, and non-production of vouchers and tender evaluation material in relation to projects of substantial value.
- The State sought to defend the awards by arguing that the share of works allotted to firms related to the Chief Minister was numerically minuscule, citing departmental percentages as low as 0.03% to 1.20% across various departments, and further contended that the CAG report was within the legislative domain for scrutiny.
- The Court, finding that the allegations were directed

Case Details

- Case Title:** Save Mon Region Federation & Anr. v. The State of Arunachal Pradesh & Ors.
- Citation:** 2026 INSC 320
- Bench** Justice Vikram Nath, Justice Sandeep Mehta, and Justice NV Anjaria

Issue Before the Court

- Whether the award of public works contracts in Arunachal Pradesh, allegedly made in favour of firms related to the Chief Minister without adherence to competitive tendering norms, constitutes a violation of Article 14 of the Constitution.
- Whether the State's defence based on the numerically small percentage of disputed awards constitutes a valid answer to allegations of conflict of interest and nepotism in public procurement.
- Whether the non-production of core procurement records and repeated resort to non-tender methods, as recorded by the CAG, provides a sufficient prima facie basis for directing an independent investigation by the CBI.

against persons occupying high constitutional and political office and that leaving the investigation to State machinery would raise a serious apprehension about institutional independence, ordered the CBI to register a preliminary enquiry.

Judgement of the Court

- The Court held that the award of public contracts is an exercise of public power subject to the discipline of Article 14; the State, as trustee of public resources, must act fairly, transparently, and non-arbitrarily, and inviting competition through tenders is one of the safest means of fulfilling that constitutional obligation.
- The Court firmly rejected the State's statistical defence, holding that a constitutional violation in public procurement is not diluted by statistics; even a single instance of an award tainted by conflict of interest constitutes an affront to Article 14, and a numerically small percentage cannot serve as a licence for nepotism or neutralise the illegality attaching to an award not supported by a transparent process and contemporaneous records.
- The Court accorded evidentiary value to the CAG report and rejected the State's contention that the report was within the legislative domain for scrutiny, holding that the proceedings before the Court were not rendered infructuous merely because an audit report was also capable of being examined in the legislative domain.
- On the question of missing records, the Court held that the State, as custodian of public records, is expected to maintain them in a traceable and accountable manner; where material records that ought to exist are not produced, the law permits drawing a presumption against the party withholding evidence, applying with even greater force where that party is the State.
- The Court directed the CBI to register a preliminary enquiry within two weeks, directed the State to cooperate fully and furnish all relevant records within four weeks, and required the CBI to file a status report within sixteen weeks; the investigation was to cover public works contracts and work orders for the period 1 January 2015 to 31 December 2025.

Key Takeaway for CLAT Aspirant

- **Article 14, Constitution of India - Equality in Public Procurement:** Article 14 guarantees equality before law and equal protection of laws to all persons within the territory of India. In the context of public procurement, it imposes a constitutional obligation on the State to act fairly, transparently, and non-arbitrarily when distributing public resources. The conferment of private benefit through the exercise of public power constitutes a direct violation of Article 14, regardless of the quantum or percentage of tainted awards.
- **Single Instance Sufficient to Constitute Constitutional Violation:** The Court authoritatively held that a constitutional violation in public contracting is not diluted by statistics. Even a single instance of an award tainted by conflict of interest or deliberate bypass of competitive procurement, if established, undermines equality, the rule of law, and public confidence in fair administration. This principle forecloses any numerical or proportionality-based defence to nepotism in public contracting.
- **State as Trustee of Public Resources:** The judgment reinforces the doctrine that the State, when awarding public contracts, acts as a trustee of public resources and not as a private party free to

exercise unfettered discretion. This trusteeship obligation requires that every exercise of contractual power be founded on a sound, transparent, and discernible policy implemented through a non-discriminatory method, as affirmed in *Akhil Bhartiya Upphokta Congress v. State of M.P.* (2011).

- **Departure from Competitive Tendering - Requirement of Recorded Reasons:** A decision to depart from competitive tendering must be supported by reasons recorded by the competent authority that are rational and capable of objective scrutiny. Repeated resort to non-tender methods without a demonstrable contemporaneous record of reasons is itself indicative of arbitrariness and opens the State to constitutional challenge under Article 14.
- **Article 32 and CBI Investigation - Power of Supreme Court:** Article 32 confers upon the Supreme Court the power to issue directions and writs for enforcement of fundamental rights. As held in *State of W.B. v. Committee for Protection of Democratic Rights* (2010), a constitutional court may direct the CBI to investigate a cognizable offence within a State without requiring State consent, and this does not violate the federal structure; however, such power must be exercised sparingly and only where necessary to lend credibility to the investigation.
- **Adverse Presumption Against State for Non-Production of Records:** Where material records that ought to exist in the custody of the State are not produced before the Court, the law permits drawing an adverse presumption against the State. This principle applies with even greater force against the State as the custodian of public records, and the non-production of vouchers and tender evaluation material was treated as a significant adverse circumstance in this case.
- **CAG Report as Evidence Before Courts - Not Confined to Legislative Domain:** The Court rejected the argument that a CAG report, being liable to examination by the State legislature, loses its evidentiary value or relevance in judicial proceedings. Constitutional courts are not rendered infructuous by the parallel legislative domain of audit scrutiny, and a CAG report recording systemic procurement irregularities constitutes relevant and admissible material before a court enforcing fundamental rights.
- **Conflict of Interest in Public Contracting - Constitutional Accountability:** The principle drawn from *Sachidanand Pandey v. State of W.B.* (1987) that the appearance of public justice is as important as doing justice is central to this judgment. Allegations of contracts being awarded to the spouse, mother, and nephew of the Chief Minister raise not merely administrative concerns but constitutional accountability issues, requiring independent scrutiny free from the influence of the very authority alleged to have acted with bias.
- **Transparency and Fair Opportunity as Constitutional Essentials:** As held in *Centre for Public Interest Litigation v. Union of India* (2012), whenever a public authority grants a contract or licence, it must adopt a transparent and fair method giving eligible persons a fair opportunity to compete. Transparency and fair opportunity are not merely administrative best practices but constitutional essentials in the disposition of public resources, enforceable under Article 14.
- **Reasonable Classification Under Article 14 - Test of Intelligible Differentia:** Article 14 forbids class legislation but permits reasonable classification if it satisfies two conditions established in *State of West Bengal v. Anwar Ali Sarkar* (1952): the classification must be founded on an intelligible differentia distinguishing those grouped together from others, and that differentia must have a rational relation to the object sought to be achieved. In the context of public procurement, any differential treatment of contractors must satisfy this test and cannot rest on personal relationships or political proximity.



Practice Questions

1. A public interest organisation files a petition before the Supreme Court alleging that contracts worth several hundred crores were awarded in Himachal Pradesh to firms controlled by the Chief Minister's spouse and nephew without competitive tendering. The petitioners produce audit material showing missing vouchers, absence of tender records, and repeated non-tender awards. The State argues that police investigation must remain with the State because CBI investigation without State consent would violate federalism. The petitioners argue that State agencies cannot fairly investigate allegations involving the highest political executive. Which argument would most strongly support the petitioners' request for a CBI enquiry?
 - (a) The Supreme Court can direct CBI investigation in every public contract dispute merely because Article 32 has been invoked.
 - (b) A constitutional court may direct CBI investigation without State consent where such direction is necessary to lend credibility to the investigation.
 - (c) State consent is always unnecessary for CBI investigation, even where no fundamental right or public law issue is involved.
 - (d) Allegations against a Chief Minister's relatives automatically prove corruption and remove the need for any preliminary enquiry.

2. The State of Vindhyaachal awards a package of school construction contracts to three firms. One firm is owned by the Chief Minister's wife, the second by his mother, and the third by his nephew, who is also a ruling party MLA. The contracts are awarded through departmental nomination without open bidding. The State argues that the projects were completed on time and that no direct financial loss has yet been proved. A civil society group files a petition seeking independent scrutiny, arguing that the process creates a serious appearance of bias. Which conclusion is most consistent with the principle of constitutional accountability in public contracting?
 - (a) The petition must fail because conflict of interest matters only when actual financial loss is proved.
 - (b) The petition must fail because relatives of political executives are absolutely barred from doing business with the State.
 - (c) The petition has merit because awards to close relatives of the Chief Minister raise constitutional accountability concerns requiring independent scrutiny.
 - (d) The petition has merit only if the contractors admit that they received the contracts because of their family relationship.

3. Which of the following best states the constitutional requirement when a public authority grants a contract or licence involving public resources?
 - (a) It must adopt a transparent and fair method that gives eligible persons a fair opportunity to compete.
 - (b) It may choose any contractor privately if the department believes the contractor is efficient.
 - (c) It must always award contracts only to government-owned companies, regardless of eligibility.
 - (d) It may avoid competition whenever the contract amount is small compared to the annual budget.

4. Nisha Traders challenges the award of several irrigation repair contracts by the State of Madhya Pradesh. The company alleges that the contracts were awarded to politically connected firms without proper tender evaluation. During the hearing, the High Court directs the State to produce tender evaluation sheets, comparative bid statements, vouchers, approval notes, and reasons for rejecting other bidders. The State produces only final work orders and says that older records are “not traceable,” though the contracts were awarded only two years ago and involved public funds. Nisha Traders argues that the missing records should be treated as an adverse circumstance against the State. Will Nisha Traders succeed on this point?

- (a) Yes, because where material public records are not produced by the State, the Court may draw an adverse presumption.
- (b) Yes, because every missing government document conclusively proves that the contract was illegally awarded.
- (c) No, because the State can never be asked to produce tender records once a contract has been completed.
- (d) No, because courts must presume that all public contracts are valid even when key records are withheld.

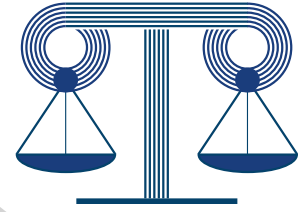
5. Analyze the situations below and determine which situation would most clearly violate Article 14 in the context of public procurement.

- (a) A State department invites tenders for a bridge project, evaluates all bidders on published technical and financial criteria, and awards the contract to the lowest qualified bidder.
- (b) A State corporation urgently repairs a flood-damaged road without open tendering, records written reasons for urgency, and later places the decision before an audit committee.
- (c) A Public Works Department awards a road contract to a company owned by the Minister’s brother without competitive tendering, claiming that the contract value is only 0.5% of the department’s annual works.
- (d) A municipal body rejects a contractor because his bid is incomplete, records the missing documents, and awards the work to another eligible bidder through an open process.



SUPREME COURT

Landmark Judgements



4 PwD Quota in UR Open to All Disabled Categories

Background

- The West Bengal State Electricity Transmission Co. Ltd. notified a recruitment for 30 posts of Junior Engineer (Civil) Grade II, of which one post was earmarked as UR (PWD-LV), being an Unreserved post horizontally reserved for Persons with Disabilities having Low Vision or Blindness, with a stipulation that in case of non-availability of a qualified UR (PWD-LV) candidate, the vacancy would be filled by PWD candidates of other categories as per merit.
- Respondent No. 1, belonging to the Unreserved category with the PWD-LV attribute, secured 55.667 marks, while Respondent No. 3, belonging to the OBC-A (Most Backward) category and also possessing the PWD-LV attribute, secured 66.667 marks; the appellant authority offered appointment to Respondent No. 3 on the basis of superior merit.
- Respondent No. 3 was not appointed against any of the five OBC-A posts, as more meritorious OBC-A candidates occupied those vacancies; his appointment to the UR (PWD-LV) post was made solely on account of his PWD-LV attribute and higher marks, without availing any relaxation in eligibility criteria.
- The Single Bench of the Calcutta High Court upheld the appointment of Respondent No. 3, but the Division Bench reversed this, holding that since a qualified Unreserved PWD-LV candidate was available, the post could not be offered to any

Case Details

- Case Title:** West Bengal State Electricity Transmission Co. Ltd. & Ors. v. Dipendu Biswas & Ors.
- Citation:** 2026 INSC 330
- Bench** Justice Sanjay Karol and Justice N. Kotiswar Singh

Issue Before the Court

- Whether a post notified as UR (PWD-LV) is open only to candidates belonging to the general or Unreserved social category who also possess the PWD-LV attribute, or whether it is open to all candidates including those from SC, ST, and OBC categories who also possess the PWD-LV attribute.
- Whether the recruitment notification condition permitting filling of the UR (PWD-LV) vacancy by candidates of other categories in case of non-availability of a qualified Unreserved candidate operates as an absolute bar against considering more meritorious reserved-category PWD-LV candidates when an Unreserved PWD-LV candidate is available.

candidate from a reserved social category.

- The appellant authority approached the Supreme Court challenging the Division Bench's order, which was found to have misapplied the recruitment notification condition and to have proceeded on the erroneous premise that the Unreserved category is a distinct social compartment accessible only to general category candidates.

- Whether merit remains the sole governing criterion for appointment to a post falling under the Unreserved category when a horizontal reservation for PWD-LV is applied to it.

Judgement of the Court

- The Court held that the Unreserved category does not refer to any distinct social or communal category; a post under the Unreserved category is open to the world at large, and when a horizontal PWD-LV reservation is applied to it, the post remains open to all candidates of all vertical social categories including SC, ST, and OBC, subject only to the condition that such candidates also possess the PWD-LV attribute; all such candidates are similarly situated with respect to the horizontal attribute and are entitled to equal treatment.
- The Court held that the recruitment notification condition permitting other categories to fill the vacancy in case of non-availability of a qualified UR (PWD-LV) candidate is merely a fallback provision and cannot be construed as an absolute bar against more meritorious reserved-category PWD-LV candidates; such an interpretation would be patently arbitrary and violative of Articles 14 and 16 of the Constitution.
- Merit is the co-attendant and inseparable attribute of appointment to any post under the Unreserved category; a less meritorious Unreserved PWD-LV candidate cannot be preferred over a more meritorious reserved-category PWD-LV candidate, as doing so would defy the foundational principle of merit governing open category appointments.
- Since Respondent No. 3 had not availed any relaxation in eligibility criteria while claiming the UR (PWD-LV) post, his superior merit entitled him to appointment; the Court confirmed his selection.
- The Supreme Court set aside the impugned judgment of the Division Bench of the Calcutta High Court and restored the order of the Single Bench confirming the appointment of Respondent No. 3.

Key Takeaway for CLAT Aspirant

- **Vertical Reservation - Constitutional Basis and Operation:** Vertical reservation refers to the quota prescribed under Article 16(4) of the Constitution in favour of Scheduled Castes, Scheduled Tribes, and Other Backward Classes not adequately represented in State services. It operates by carving out a fixed percentage of total vacancies for each identified social group, within which candidates compete inter se. As held in *Indra Sawhney v. Union of India* (1992), vertical reservation must not exceed 50% of total vacancies in a recruitment year, and a reserved category candidate qualifying on open merit must be counted in the open category quota, not against her reserved category quota.
- **Horizontal Reservation - Constitutional Basis and Operation:** Horizontal reservation refers to the cross-cutting entitlement provided under Articles 15(3) and 16(1) of the Constitution to special groups

such as Persons with Disabilities, women, ex-servicemen, and transgender persons. It cuts across all vertical categories and does not create a separate independent pool of posts. Candidates selected under horizontal reservation are adjusted within their respective vertical social category, ensuring that the percentage of vertical reservation remains unaltered after the application of horizontal reservation.

- **Nature of the Unreserved Category - Open to All:** The Unreserved or Open category is not a distinct social compartment reserved exclusively for general category candidates. It is open to candidates from all social categories, including SC, ST, and OBC. When a horizontal attribute such as PWD-LV is applied to an Unreserved post, all candidates possessing that horizontal attribute are similarly situated and entitled to compete on merit, irrespective of their vertical social category.
- **Intersection of Vertical and Horizontal Reservation - Adjustment Principle:** Where a candidate falls at the intersection of a vertical reserved category and a horizontal reserved category, the governing rule is adjustment by merit. As affirmed in *Saurav Yadav v. State of Uttar Pradesh (2021)*, such a candidate who qualifies on open merit cannot be restricted to her vertical quota and cannot be excluded from the horizontal quota applicable to the open category. The horizontal benefit must be given effect without diminishing the vertical reservation percentage.
- **Compartmentalised vs. Overall Horizontal Reservation:** As distinguished in *Anil Kumar Gupta v. State of U.P. (1995)*, compartmentalised horizontal reservation proportionately distributes horizontally reserved seats within each vertical category, making them non-transferable across vertical compartments. Overall horizontal reservation applies the reserved seats across all vertical categories without confinement, making them inter-transferable. The distinction is critical in determining whether a PWD or women candidate from one vertical category can occupy a horizontal seat designated within another vertical category.
- **Merit as the Governing Criterion for Unreserved Posts:** Appointment to a post under the Unreserved category is governed solely by merit. A less meritorious candidate cannot be preferred over a more meritorious candidate on the basis of social category alone when the post in question falls under the open/unreserved pool. Departing from this principle by substituting category identity for comparative merit is arbitrary and violative of Articles 14 and 16 of the Constitution.
- **Availing of Relaxation as a Disqualifying Factor for Unreserved Posts:** A reserved category candidate who avails relaxation in essential eligibility criteria, such as age, qualification, or minimum marks, cannot claim appointment to an Unreserved post on the basis of that relaxed standard. As reiterated in *Union of India v. Sajib Roy (2025)*, such relaxation is intended to facilitate entry into reserved category vacancies and cannot be imported into open category appointments. In the present case, since the candidate had availed no relaxation, his superior merit fully entitled him to the Unreserved post.
- **Rights of Persons with Disabilities - Rights of Persons with Disabilities Act, 2016:** The Rights of Persons with Disabilities Act, 2016 replaces the earlier Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. It provides for 4% reservation for persons with benchmark disabilities in government establishments, as against the earlier 3%. It also defines "benchmark disability" as disability of not less than 40% and lays down detailed provisions for identification of posts suitable for persons with specific disabilities. This statutory framework operates alongside constitutional reservation provisions and informs the entitlement of PWD candidates in public employment.
- **Article 16(1) - Equality of Opportunity in Public Employment:** Article 16(1) guarantees equality of opportunity to all citizens in matters relating to employment or appointment to any office under the State. It is broader than Article 16(4), which enables affirmative action for backward classes. Article 16(1)

is the constitutional foundation for horizontal reservations and also for the principle that all candidates similarly situated with respect to the horizontal attribute, regardless of their vertical social category, must be treated equally when competing for a post horizontally reserved for that attribute.

- **Fallback Provisions in Recruitment Notifications - Interpretive Limits:** Recruitment notifications frequently contain fallback clauses providing that if no eligible candidate of a specified type is available, the vacancy may be filled from another pool. Such clauses are merely directory and state what would happen in the absence of the primary class of eligible candidates. They cannot be interpreted to create an absolute bar against more meritorious candidates from other categories, nor can they override constitutional principles of merit and equality. Any interpretation of a fallback clause that produces an arbitrary or discriminatory result must be rejected as violative of Article 14.



Practice Questions

1. Which of the following constitutional provisions guarantees equality of opportunity to citizens in matters relating to employment or appointment to an office under the State?

- (a) Article 14
- (b) Article 15(4)
- (c) Article 16(1)
- (d) Article 16(4)

2. Kavya, a general category candidate with locomotor disability, and Meenakshi, an SC candidate with locomotor disability, apply for one post notified as UR (PWD-Orthopaedic) in the Kerala Water Authority. Kavya scores 58 marks. Meenakshi scores 79 marks and has not availed any relaxation in eligibility criteria. The recruitment board selects Kavya, stating that because the post is “UR”, a general category candidate must be preferred over a reserved category candidate even if the reserved category candidate has higher marks. Meenakshi files a writ petition challenging the appointment. Will she succeed?

- (a) Yes, because a more meritorious candidate cannot be denied an Unreserved post on the basis of social category alone.
- (b) Yes, because every SC candidate with disability must automatically be selected over all general category candidates.
- (c) No, because Unreserved posts are reserved exclusively for candidates from the general social category.
- (d) No, because merit becomes irrelevant once a post carries any form of horizontal reservation.

3. Arvind belongs to the Unreserved category and has low vision. Farhan belongs to the OBC category and also has low vision. Both apply for one post notified as UR (PWD-LV) in the Bihar State Power Corporation. Arvind scores 61 marks, while Farhan scores 74 marks. Farhan has not taken any relaxation in age, qualification, fees, or minimum marks. The selection board initially selects Farhan because he is more meritorious. Arvind challenges the selection, arguing that a UR (PWD-LV) post must first go to an Unreserved social category candidate if such candidate is available. Which of the following arguments would most strongly support Farhan’s selection?

- (a) The Unreserved category is open to all social categories, and all PWD-LV candidates may compete on merit.
- (b) OBC candidates are always entitled to preference over Unreserved candidates in every public employment process.
- (c) A UR (PWD-LV) post must be treated as an OBC post whenever an OBC candidate scores higher marks.
- (d) Horizontal reservation permits appointment without comparing merit between similarly disabled candidates.

4. The Rajasthan Public Works Department conducts recruitment for 80 Junior Engineer posts. Out of

these, 40 posts are unreserved, 12 are reserved for SC candidates, 8 for ST candidates, and 20 for OBC candidates. The notification also provides 4% horizontal reservation for Persons with Disabilities. Anjali, an SC candidate with benchmark disability, secures enough marks to be selected under the PWD horizontal reservation. The Department selects her but places her in a separate “PWD quota” outside the SC, ST, OBC, and Unreserved categories. As a result, the total number of posts effectively increases and the vertical reservation percentages are disturbed. Anjali’s selection is challenged by other candidates, who argue that she should have been adjusted within her own vertical category. Which argument would most strongly support the challenge?

- (a) Horizontal reservation creates an entirely separate and independent pool of posts for disabled candidates.
- (b) A PWD candidate selected horizontally must be adjusted within her respective vertical social category.
- (c) A disabled candidate can be appointed only if she belongs to the Unreserved social category.
- (d) Horizontal reservation always reduces the number of seats available to SC, ST, and OBC candidates.

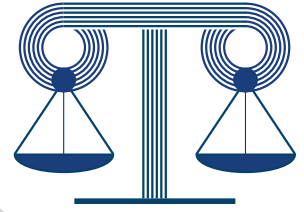
5. Analyze the situations below and determine which situation would most clearly violate the rule governing vertical reservation in public employment.

- (a) In a recruitment for 100 posts, the State reserves 15 posts for SC, 7 posts for ST, and 27 posts for OBC candidates, and the remaining posts are treated as open competition posts.
- (b) An OBC candidate scores higher than the last selected open category candidate and is selected in the open category, without reducing the number of posts reserved for OBC candidates.
- (c) A recruitment authority fixes 65% of total posts for SC, ST, and OBC candidates together, stating that social justice permits reservation beyond ordinary constitutional limits.
- (d) SC candidates compete against one another for SC-reserved posts, while meritorious SC candidates who qualify independently are considered in the open merit list.



SUPREME COURT

Landmark Judgements



5 Spouse Cannot Revoke Consent for Mutual Divorce After Settlement Agreement

Background

- The parties were married in 2000; in 2023 the husband filed for divorce before the Family Court, which referred the matter to mediation, resulting in a comprehensive settlement agreement whereby both parties agreed to seek divorce by mutual consent and to resolve all financial claims between them.
- Under the settlement, the husband agreed to withdraw the first divorce petition, pay Rs. 1.5 crores in two instalments, pay Rs. 14 lakhs for a car, and hand over certain jewellery; the wife agreed to transfer Rs. 2.52 crores from their joint business account to the husband.
- A joint petition for mutual consent divorce was filed, and both parties partially performed their obligations under the settlement; however, before the second motion could be filed, the wife unilaterally withdrew her consent for mutual divorce.
- The wife also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the husband and his mother for the first time after approximately 23 years of marriage, and before the Supreme Court claimed the existence of large unrecorded agreements, a submission the Court described as one that left it "appalled at the sheer audacity."
- The Delhi High Court refused to quash the DV Act proceedings, following which the husband approached the Supreme Court seeking dissolution of the marriage under Article 142 of the Constitution.

Case Details

Case Title: Dhananjay Rathi v. Ruchika Rathi
Court: Supreme Court of India
Citation: 2026 INSC 360
Bench: Justice Rajesh Bindal and Justice Vijay Bishnoi

Issue Before the Court

- Whether a spouse can withdraw consent for mutual divorce after having given such consent as part of a comprehensive mediation settlement resolving all disputes between the parties.
- Whether the statutory right of withdrawal under Section 13B of the Hindu Marriage Act, 1955 can override binding obligations arising from a negotiated and court-confirmed settlement agreement.
- Whether DV Act proceedings filed for the first time after 23 years of marriage and only after the husband initiated contempt proceedings for the wife's resilement from the settlement are liable to be quashed as an afterthought and abuse of process.

Judgement of the Court

- The Court drew a crucial distinction between the general statutory right to withdraw consent under Section 13B and the obligations arising from a comprehensive mediation settlement; it held that while a party may ordinarily withdraw consent before the decree, this right does not extend to disregarding a settlement authenticated by a mediator and confirmed by the Court.
- Once a mediation settlement is so authenticated and confirmed, it replaces the original dispute and becomes the governing framework between the parties; resilement is permissible only on proof of force, fraud, undue influence, or non-performance of obligations by the other party, none of which were established in the present case.
- The wife's claim regarding large unrecorded private agreements for transfer of jewellery and gold biscuits was strongly disapproved by the Court, and it held that unjustified resilement from settlement terms must attract strict consequences, including heavy costs, to deter misuse of the mediation process.
- The DV Act proceedings were found to have been filed for the very first time after 23 years of marriage and only after the husband initiated contempt proceedings against the wife; the Court held them to be premeditated, an afterthought intended to sustain litigation, and accordingly quashed them.
- Finding the marriage to have irretrievably broken down and no useful purpose served by compelling the parties to remain in a dissolved union, the Court dissolved the marriage by invoking Article 142 of the Constitution and directed the husband to pay the remaining dues to the wife.

- Whether the Supreme Court can dissolve the marriage by invoking Article 142 of the Constitution upon finding that it has irretrievably broken down.

Key Takeaway for CLAT Aspirant

- **Section 13B, Hindu Marriage Act, 1955 - Divorce by Mutual Consent:** Section 13B provides for dissolution of marriage by mutual consent through a joint petition, a minimum period of one year's separation, and a second motion filed between six and eighteen months after the first. The general rule, affirmed in *Hitesh Bhatnagar v. Deepa Bhatnagar* (2011), is that either party may withdraw consent at any stage before the decree is passed. This case carves out a critical exception: where consent is embedded in a comprehensive mediation settlement, the statutory right of withdrawal is overridden by the binding obligations of that settlement.
- **Binding Nature of Mediation Settlements - Limits on Withdrawal of Consent:** A court-confirmed mediation settlement replaces the original dispute and binds the parties. A spouse cannot resile from such a settlement, as doing so undermines the foundational integrity of the mediation process. Resilement is only available where the settlement was procured by force, fraud, or undue influence, or where the other party has failed to perform their obligations.
- **Article 142 of the Constitution - Power to Do Complete Justice:** Article 142 confers on the Supreme Court an extraordinary power to pass any decree or order necessary for complete justice in a pending matter. The Court has consistently used this power to dissolve marriages that have irretrievably broken down, bypassing procedural requirements under statute. This power is exclusive to the

Supreme Court and cannot be exercised by lower courts.

- **Irretrievable Breakdown of Marriage - Judicial Doctrine Under Article 142:** Irretrievable breakdown of marriage is not a statutory ground for divorce under the Hindu Marriage Act, 1955, but the Supreme Court has recognised it as a basis for exercising power under Article 142. Where a marriage has completely and permanently broken down, the Court will not compel parties to remain in a dissolved union.
- **Cooling Off Period Under Section 13B(2) - Directory and Waivable:** As held in *Amardeep Singh v. Harveen Kaur* (2017) and affirmed in *Shilpa Shailesh v. Varun Sreenivasan* (2023), the six-month cooling off period between the first and second motions is directory and not mandatory. It may be waived where the parties have genuinely settled all disputes, the statutory separation period has already elapsed, and prolonging the wait would only increase the parties' agony.
- **Section 12, Protection of Women from Domestic Violence Act, 2005 - Abuse of Process:** Section 12 empowers an aggrieved person to apply to a Magistrate for reliefs under the DV Act. The Court quashed the proceedings initiated under this provision, holding them to be an afterthought and a mala fide attempt to sustain litigation. This illustrates the doctrine of abuse of process, under which courts may quash proceedings that are vexatious or filed with an ulterior motive rather than a genuine grievance.
- **No-Fault Theory in Divorce Law:** Divorce by mutual consent is rooted in the no-fault theory, under which neither party is required to prove any matrimonial offence by the other. The no-fault framework, while facilitative, cannot be weaponised by a party to secure financial benefits through a settlement and then resile from the agreed dissolution of marriage.
- **Sanctity of Mediation as a Dispute Resolution Process:** The Court's strong disapproval of casual resilement from a mediation settlement reflects the judicial emphasis on the sanctity and finality of court-assisted mediation. Courts treat court-confirmed mediation settlements as quasi-judicial instruments, entitled to protection from opportunistic withdrawal by either party.
- **Partial Performance and Estoppel in Settlement Agreements:** Both parties had partially performed their obligations under the settlement before the wife resiled. A party who has accepted benefits under an agreement cannot thereafter repudiate it. This connects to the doctrine of promissory estoppel and part performance, applicable in the context of matrimonial settlements as much as general contract law.
- **Shilpa Shailesh v. Varun Sreenivasan (2023) - Constitution Bench on Article 142:** This Constitution Bench judgment held that the Supreme Court may exercise power under Article 142(1) to grant divorce while dispensing with the waiting period, provided the parties have freely arrived at a genuine settlement covering alimony and other ancillary matters. A genuine comprehensive settlement is both a precondition for, and a strong justification of, the exercise of Article 142 powers in matrimonial disputes.



Practice Questions

1. Analyze the situations below and determine which situation would most strongly justify preventing a spouse from withdrawing consent before the divorce decree is passed under Section 13B of the Hindu Marriage Act, 1955.

- (a) Asha and Kunal file a joint petition for mutual consent divorce after one year of separation, but no settlement regarding property, maintenance, jewellery, or pending cases is recorded between them.
- (b) Nidhi and Raghav sign a private oral understanding to separate, but the terms are never recorded before a mediator, court, or any authorised legal forum.
- (c) Meera and Arjun enter into a court-confirmed mediation settlement resolving alimony, business accounts, jewellery, and pending cases, partly perform it, and then Meera withdraws consent without proving fraud or non-performance.
- (d) Kavita and Saurabh discuss possible divorce terms through relatives, but Saurabh refuses to sign any document and the parties never file a joint petition for divorce.

2. Aarav and Priyanka have lived separately for three years. After several failed attempts at reconciliation, they enter into a written settlement before the Family Court Mediation Centre. The settlement resolves permanent alimony, custody of their daughter, return of jewellery, closure of criminal complaints, and division of a jointly owned flat. They file the first motion for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Both request the Family Court to waive the six-month waiting period because all disputes have been genuinely settled and prolonging the marriage would only continue emotional hardship. Which of the following arguments would most strongly support their request for waiver?

- (a) The six-month cooling off period is directory and may be waived where the parties have genuinely settled all disputes and further waiting would only increase agony.
- (b) The six-month cooling off period is mandatory in every case and cannot be waived even by the Supreme Court or Family Court.
- (c) The cooling off period disappears automatically whenever one spouse says that reconciliation is no longer possible.
- (d) The cooling off period may be waived only when the parties have not completed one year of separation before filing the petition.

3. Rajat and Sneha were married for twenty-four years. Rajat filed a divorce petition in 2024, and the matter was referred to mediation. In mediation, both parties signed a settlement: Rajat agreed to pay ₹1.8 crores, transfer one car, and return certain jewellery; Sneha agreed to withdraw all monetary claims and cooperate in mutual consent divorce. Rajat paid the first instalment and transferred the car. Before the second motion, Sneha withdrew consent and claimed that Rajat had also orally promised to transfer two farmhouses, though this was not mentioned in the settlement. When Rajat filed contempt proceedings, Sneha filed her first-ever complaint under Section 12 of the DV Act against Rajat and his 78-year-old mother, alleging vague domestic violence from the early years of marriage without dates, medical

records, messages, or earlier complaints. Rajat seeks quashing of the DV Act proceedings as an abuse of process. Will he succeed?

- (a) Yes, because proceedings filed as an afterthought with an ulterior motive may be quashed as abuse of process.
- (b) Yes, because every complaint under Section 12 of the DV Act must be quashed if divorce proceedings are pending.
- (c) No, because proceedings under the DV Act can never be quashed once a woman files an application.
- (d) No, because a delayed complaint must always be treated as genuine regardless of surrounding circumstances.

4. Neeraj and Anamika have been living separately for eleven years. They have no children. Multiple attempts at mediation have failed. Both have filed civil and criminal proceedings against each other, but none of the proceedings has restored the matrimonial relationship. In the Supreme Court, the record shows complete loss of trust, permanent separation, and no realistic possibility of reunion. However, one party argues that irretrievable breakdown of marriage is not expressly mentioned as a ground for divorce under the Hindu Marriage Act, 1955. Which conclusion is most consistent with the judicial doctrine recognised by the Supreme Court?

- (a) The Supreme Court may dissolve the marriage under Article 142 if the marriage has completely and permanently broken down.
- (b) The Family Court may dissolve the marriage solely on irretrievable breakdown even without any statutory ground.
- (c) The marriage must continue forever because irretrievable breakdown is not mentioned in the Hindu Marriage Act.
- (d) The Supreme Court can dissolve such marriage only if both parties file a fresh joint petition under Section 13B.

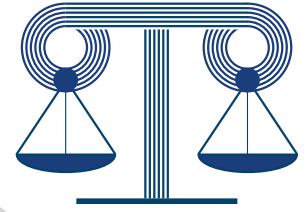
5. Which of the following constitutional provisions gives the Supreme Court extraordinary power to pass any decree or order necessary for complete justice in a pending matter?

- (a) Article 136
- (b) Article 141
- (c) Article 142
- (d) Article 226



SUPREME COURT

Landmark Judgements



6 Seat vs. Venue of Arbitration

Background

- The appellant, J&K Economic Reconstruction Agency, engaged the respondent, Rash Builders India Pvt. Ltd., for execution of four infrastructure road projects in Jammu and Kashmir under agreements executed on 31 March 2008; disputes arising from these contracts led the respondent to invoke arbitration in April 2014.
- The Supreme Court, by order dated 7 December 2015, appointed a former Judge of the Supreme Court as sole arbitrator; by an order dated 26 March 2016, the Arbitral Tribunal, with the express consent of both parties, fixed Srinagar as the seat of arbitration and New Delhi as the venue.
- The arbitral proceedings were conducted at New Delhi for reasons of convenience, and the arbitral award was rendered at New Delhi on 15 January 2024.
- The appellant filed a petition under Section 34 of the Act before the J&K and Ladakh High Court at Srinagar to challenge the award; the High Court returned the petition directing the appellant to approach Delhi courts, reasoning that since proceedings were conducted and the award was passed at New Delhi, Delhi courts had jurisdiction.
- The appellant challenged this order before the Supreme Court, contending that the seat had been expressly designated as Srinagar by mutual consent and could be altered only by a fresh agreement between the parties, which had never occurred.

Case Details

- Case Title:** J&K Economic Reconstruction Agency v. Rash Builders India Private Limited
- Citation:** 2026 INSC 368
- Bench** Justice PS Narasimha and Justice Alok Aradhe

Issue Before the Court

- Whether the conduct of arbitral proceedings and the rendering of the arbitral award at a place different from the designated seat of arbitration confers jurisdiction upon courts at that place to entertain a challenge under Section 34 of the Act.
- Whether the seat of arbitration, once expressly designated by agreement of the parties, remains immutable and exclusively determines supervisory jurisdiction regardless of where the proceedings were held or the award was passed.
- Whether a recital in the arbitral award recording the place of arbitration as New Delhi can override or alter the contractually designated seat of arbitration at Srinagar.

Judgement of the Court

- The Court held that the conduct of arbitral proceedings and the rendering of the award at New Delhi for reasons of convenience did not confer jurisdiction on Delhi courts; the venue is merely a geographical location chosen for the practical convenience of holding hearings and carries no jurisdictional consequence whatsoever.
- The seat of arbitration, having been expressly designated as Srinagar by consent of both parties, remained immutable; courts at the seat alone have exclusive supervisory jurisdiction over all proceedings arising out of the arbitration, including Section 34 challenges, operating akin to an exclusive jurisdiction clause excluding all other courts.
- The seat can be altered only by a fresh express agreement between the parties; no such alteration had occurred in the present case, and the arbitral tribunal's decision to hold proceedings at New Delhi for convenience did not amount to any such alteration.
- The Court rejected the contention that the recital in the arbitral award recording New Delhi as the place of arbitration was determinative of the seat; the seat is governed by the agreement of the parties and not by any incidental recital in the award.
- The Supreme Court quashed the High Court's impugned order, restored the Section 34 petition before the J&K and Ladakh High Court at Srinagar as the court of competent jurisdiction, and directed the fate of remaining petitions pending in Delhi to abide by this decision.

Key Takeaway for CLAT Aspirant

- **Seat of Arbitration - Juridical Home and Supervisory Jurisdiction:** The seat of arbitration refers to the juridical home or legal place of the arbitration. It determines the curial law governing the arbitral process and the court having exclusive supervisory control over the arbitration, including jurisdiction over Section 34 (challenge to award), Section 9 (interim relief), and Section 11 (appointment of arbitrator) proceedings. Once designated by agreement, the seat remains immutable unless expressly altered by a fresh agreement between the parties.
- **Venue of Arbitration - Geographical Convenience Only:** The venue is simply the physical location chosen for the convenience of conducting hearings or meetings. It carries no jurisdictional consequence and does not alter the juridical seat. The arbitral tribunal is expressly permitted under Section 20(3) of the Arbitration and Conciliation Act, 1996 to hold proceedings at any location other than the seat without affecting the seat in any manner.
- **Section 20, Arbitration and Conciliation Act, 1996 - Party Autonomy in Choice of Seat:** Section 20 embodies the principle of party autonomy in the choice of seat. Sub-section (1) permits parties to agree on the place of arbitration, while sub-section (3) permits the tribunal to hold hearings and meetings at any place it considers appropriate for consultation, examination of witnesses, or inspection of documents. This statutory framework firmly separates the juridical concept of seat from the procedural concept of venue.
- **Section 34, Arbitration and Conciliation Act, 1996 - Challenge to Arbitral Award:** Section 34 provides the statutory mechanism for challenging an arbitral award before a court. Only the court at the designated seat of arbitration has exclusive supervisory jurisdiction to entertain and decide such a challenge. An application must be filed within three months of receiving the award, with a further condonable period of thirty days on sufficient cause shown and no extension beyond that.

- **Seat as Exclusive Jurisdiction Clause:** As affirmed in *Indus Mobile Distribution Pvt. Ltd. v. Datawind Innovations Pvt. Ltd.* (2017) and *BGS SGS Soma JV v. NHPC Ltd.* (2020), the designation of a seat of arbitration operates akin to an exclusive jurisdiction clause, vesting exclusive jurisdiction in the courts of that place for all matters arising out of the arbitration. This exclusivity operates to the exclusion of all other courts, including courts where the cause of action arose or where hearings were conducted.
- **Immutability of Seat Once Designated:** The seat, once fixed by agreement of the parties, cannot be altered by the conduct of proceedings elsewhere, the place of signing of the award, or any incidental recital in the award. Alteration requires an express fresh agreement between the parties. This principle of immutability is central to ensuring legal certainty and giving effect to party autonomy in arbitration.
- **Recital in Award Cannot Override Designated Seat:** A reference in the arbitral award to the place where it was signed or rendered does not alter or override the contractually designated seat. The seat is governed exclusively by the agreement of the parties, and allowing incidental recitals in the award to determine jurisdiction would render the concept of juridical seat meaningless and introduce uncertainty into the arbitration framework.
- **Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc. (2012) - Foundation of Seat Jurisprudence:** This Constitution Bench judgment authoritatively recognised that arbitration is anchored to the seat chosen by the parties and that the law of that seat governs the arbitration. It established the foundational distinction between seat as a juridical concept and venue as a matter of procedural convenience, upon which all subsequent seat-versus-venue jurisprudence has been built.
- **Section 2(1)(e), Arbitration and Conciliation Act, 1996 - Definition of Court:** Section 2(1)(e) defines the term "court" for purposes of the Act with reference to the subject-matter of arbitration, understood as the process of dispute resolution. This provision identifies the court having supervisory jurisdiction as the court at the seat of arbitration, and is the statutory basis for the principle that the seat exclusively determines which court exercises supervisory control.
- **Party Autonomy and Legal Certainty in Arbitration:** The overarching principle running through this judgment is that party autonomy, as expressed through the designation of the seat in the arbitration agreement, must be given full and unqualified effect. Allowing the place of hearing or the place of rendering the award to determine jurisdiction would undermine contractual intent, introduce uncertainty, and defeat the foundational objectives of the Arbitration and Conciliation Act, 1996.



Practice Questions

1. Arjun Infrastructure Pvt. Ltd. and Narmada Bridges Ltd. enter into a construction contract. The arbitration clause states that “the seat of arbitration shall be Ahmedabad.” During the proceedings, both parties request the arbitrator to conduct hearings in Bengaluru because their senior counsel, witnesses, and project documents are located there. The arbitrator records that Bengaluru is being used only for convenience. The award is also signed in Bengaluru. Narmada Bridges files a Section 34 petition before the Bengaluru court, arguing that since hearings and award-signing took place there, Bengaluru became the place having jurisdiction. Which argument would most strongly support Arjun Infrastructure’s objection to Bengaluru jurisdiction?

- (a) Bengaluru became the seat because the award was signed there.
- (b) The venue used for convenience does not alter the juridical seat fixed by agreement.
- (c) Every place where a witness is examined automatically gets supervisory jurisdiction.
- (d) The arbitrator can choose any court for Section 34 proceedings after passing the award.

2. Shalini Textiles Ltd. and Devansh Retail LLP enter into a supply agreement. The arbitration clause provides that “the place of arbitration shall be Chennai.” After disputes arise, the arbitral tribunal finds that the main warehouse records are in Surat, the technical expert is in Pune, and one key witness is medically unable to travel. The tribunal therefore conducts document inspection in Surat, expert examination in Pune, and final arguments through physical hearings in Hyderabad. Devansh Retail later argues that the tribunal’s use of several cities shows that Chennai was never the controlling place of arbitration. Shalini argues that Section 20 permits hearings at places other than the agreed seat. Will Shalini succeed?

- (a) Yes, because Section 20 separates the agreed juridical place from convenient hearing locations.
- (b) Yes, because every city where proceedings occur becomes an additional seat of arbitration.
- (c) No, because the tribunal must conduct every hearing only at the agreed place of arbitration.
- (d) No, because party autonomy ends once the tribunal decides to inspect documents elsewhere.

3. Kedar Power Ltd. and Himalaya Tunnels Pvt. Ltd. agree that the seat of arbitration shall be Shimla. The hearings take place in Gurugram, and the arbitral award is emailed to both parties on 1 January 2026. Kedar Power files a Section 34 challenge before a Gurugram court on 20 April 2026, arguing that Gurugram has jurisdiction because all oral hearings were held there. Himalaya Tunnels objects, arguing that only the Shimla court has jurisdiction and that limitation has also expired unless the court can condone delay within the statutory outer limit. Which conclusion is most accurate?

- (a) Gurugram court has jurisdiction because the hearings were conducted there.
- (b) Shimla court has jurisdiction, and Section 34 must comply with the strict limitation period.
- (c) Both Gurugram and Shimla courts have equal jurisdiction because both places are connected.
- (d) Any court in India may hear the Section 34 petition if the award amount is substantial.

4. Which provision of the Arbitration and Conciliation Act, 1996 defines “court” for purposes of the Act and forms the statutory basis for identifying the court having supervisory jurisdiction at the seat of arbitration?

- (a) Section 2(1)(e)
- (b) Section 8
- (c) Section 29A
- (d) Section 36

5. Assume Aarav Infrastructure Pvt. Ltd. and Meera Logistics LLP entered into a contract for constructing a warehousing facility in Jaipur. The arbitration clause stated: "The seat of arbitration shall be Mumbai." Due to convenience, the parties later agreed through emails that all hearings would be physically conducted in Delhi. After the award was passed against Meera Logistics LLP, Meera filed a Section 34 challenge before the Delhi High Court, arguing that since every hearing took place in Delhi, Delhi had become the seat of arbitration. Aarav objected and filed a Section 9 petition before the Bombay High Court, claiming that Mumbai continued to be the juridical seat. Which of the following statements are correct?

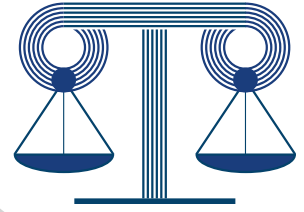
- i. Mumbai remains the seat of arbitration because it was expressly designated in the arbitration agreement.
- ii. Delhi becomes the seat of arbitration because all hearings were physically conducted there.
- iii. The Bombay High Court has supervisory jurisdiction over Section 34 and Section 9 proceedings.
- iv. The seat could shift from Mumbai to Delhi only if the parties expressly altered it by a fresh agreement.

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



SUPREME COURT

Landmark Judgements



7 Sale of Accused's Property Cannot Be Ordered as Bail Condition

Background

- A complaint was lodged on 4 June 2025 alleging cheating and misappropriation of funds, leading to registration of an FIR against the appellants under Sections 406, 409, and 420 read with Section 34 of the Indian Penal Code, 1860; the appellants were arrested and remained in custody for 83 days during the investigation stage.
- The jurisdictional Sessions Court rejected the appellants' bail application, following which they approached the Madras High Court.
- The Madras High Court granted bail but imposed a condition directing the Judicial Magistrate No. 1, Trichy, to sell the appellants' immovable properties and distribute the sale proceeds among the complainant and similarly placed victims.
- The High Court appears to have been prompted by the appellants' counsel having voluntarily offered an undertaking to sell properties and deposit the amount; however, the Court went further and directed the Magistrate himself to execute the sale.
- The appellants challenged the impugned condition before the Supreme Court on the ground that directing the sale of immovable property as a bail condition is beyond the power vested under Section 483 of the BNSS, 2023, and amounts to converting bail proceedings into recovery proceedings.

Judgement of the Court

- The Court held that neither the BNSS, 2023 nor the CrPC, 1973 empowers a court at the stage of bail or investigation to direct the sale of immovable property belonging to an accused for

Case Details

- Case Title:** Feroze Basha & Anr. v. State of Tamil Nadu
- Citation:** 2026 LiveLaw (SC) 389 I Criminal Appeal No(s). of 2026 @ SLP(Criminal) No(s). 6155 of 2026
- Bench** Justice Aravind Kumar and Justice Prasanna B. Varale

Issue Before the Court

- Whether a court, while exercising jurisdiction to grant bail, can impose a condition directing the sale of an accused's immovable property for settlement of alleged claims of the complainant.
- Whether bail conditions that have no nexus with the object of granting bail and which virtually grant final civil relief to the complainant are permissible under the statutory framework governing bail.

settlement of alleged claims; ordering the sale of property as a bail condition amounts to granting final civil relief affecting property rights, which is wholly beyond the scope of bail jurisdiction.

- Bail conditions must be regulatory and not punitive or determinative in nature; conditions imposed must bear a direct nexus with the object of securing fair investigation or trial and cannot effectively decide civil rights or disputes between the parties.
- The High Court, in directing the Magistrate to execute the sale of the appellants' properties, went beyond its bail jurisdiction and adjudicated what was in substance a civil dispute, the very property being the subject matter of a pending civil suit.
- Relying on *Mahesh Chandra v. State of U.P.* (2006), the Court reiterated that the jurisdiction of a court while granting bail does not extend to deciding civil rights or imposing conditions that virtually grant the final civil relief sought by the complainant.
- The Supreme Court allowed the appeal, set aside the impugned condition directing the sale of properties, left undisturbed the condition requiring deposit of title deeds to secure the presence of the accused, and granted the appellants liberty to take appropriate steps regarding the properties.

Key Takeaway for CLAT Aspirant

- **Bail - Basic Rule and Constitutional Underpinning:** Bail is the rule and jail is the exception, as established by Justice V.R. Krishna Iyer in *State of Rajasthan v. Balchand* (1977). This principle is rooted in Article 21 of the Constitution, which guarantees the right to life and personal liberty. Deprivation of personal liberty is constitutionally permissible only through procedure established by law, and that procedure must be fair, just, and reasonable. Prolonged pre-trial detention without adequate justification constitutes a violation of Article 21.
- **Nexus Requirement for Bail Conditions - Regulatory vs. Punitive:** As affirmed in *Sumit Mehta v. State (NCT of Delhi)* (2013) and *Parvez Noordin Lokhandwalla v. State of Maharashtra* (2020), bail conditions must bear a direct nexus with the object of granting bail, which is to secure the accused's presence during investigation or trial and to ensure fair conduct of proceedings. Conditions that are punitive, arbitrary, or fanciful fall outside the scope of bail jurisdiction entirely, regardless of how widely the enabling provision is worded.
- **Section 483, BNSS, 2023 - Special Powers of High Court and Sessions Court Regarding Bail:** Section 483 of the BNSS, 2023, which replaces Section 439 of the CrPC, 1973, confers special powers on the High Court and the Court of Session to grant bail, modify bail conditions, and cancel bail in appropriate cases. These powers, however wide, are not unbounded; they are confined to securing the purposes of bail and do not extend to directing disposal of property, adjudicating civil claims, or granting reliefs that can only be obtained through separate civil or execution proceedings.
- **Section 480, BNSS, 2023 - Bail in Non-Bailable Offences:** Section 480 of the BNSS, 2023, corresponding to Section 437 of the CrPC, governs the grant of bail in non-bailable offences. Unlike bailable offences where bail is a right, bail in non-bailable offences is a matter of judicial discretion, exercised after considering factors such as the nature and gravity of the accusation, the antecedents of the accused, the possibility of flight risk, and the likelihood of tampering with evidence or influencing witnesses. Conditions imposed under this provision must be proportionate to these concerns and regulatory in character.

- **Separation of Civil and Criminal Jurisdiction:** Indian law maintains a clear separation between civil and criminal courts in terms of jurisdiction and the reliefs they can grant. A criminal court adjudicates guilt or innocence in relation to offences defined by penal statutes and can impose punishments prescribed therein. Civil courts adjudicate disputes over rights, property, contracts, and obligations, and can grant reliefs such as damages, injunctions, specific performance, and declarations. A criminal court cannot, even incidentally, grant civil reliefs such as directing sale of property or distribution of proceeds, as these fall exclusively within civil jurisdiction.
- **Sections 406, 409, and 420, Indian Penal Code, 1860 - Criminal Breach of Trust and Cheating:** Section 406 penalises criminal breach of trust with imprisonment up to three years, fine, or both. Section 409, a graver variant, applies to criminal breach of trust by a public servant, banker, merchant, factor, broker, attorney, or agent, and carries imprisonment up to ten years with fine. Section 420 penalises cheating and dishonestly inducing delivery of property with imprisonment up to seven years and fine. These are cognizable and non-bailable offences. The commission of these offences may also give rise to civil liability, but such liability must be adjudicated through civil proceedings and cannot be enforced at the bail stage of criminal proceedings.
- **Doctrine of Proportionality in Bail Conditions:** The doctrine of proportionality, drawn from Articles 14 and 21 of the Constitution, requires that any restriction imposed on an accused as a condition of bail must be proportionate to the legitimate aim sought to be achieved. A condition that is grossly disproportionate to the object of securing the accused's presence or ensuring fair trial is constitutionally impermissible. Directing the sale of all immovable properties of an accused at the investigation stage, when guilt has not been established, is a disproportionate measure that effectively punishes the accused before trial.
- **Attachment and Forfeiture of Property - Proper Legal Channels:** Where the State or a complainant seeks recovery of proceeds of crime or compensation for financial offences, there exist dedicated legal mechanisms for the same. Under the Code of Criminal Procedure and the BNSS, courts can order attachment of property under Section 83 (BNSS) during investigation. Under the Prevention of Money Laundering Act, 2002, the Enforcement Directorate can provisionally attach proceeds of crime. Civil suits for recovery of money or damages are maintainable before civil courts. These are the proper and lawful channels for recovery; bail proceedings cannot substitute for or short-circuit these mechanisms.
- **Voluntarily Offered Undertaking Cannot Expand Judicial Jurisdiction:** A concession or undertaking offered by an accused's counsel before a court cannot expand the court's jurisdiction beyond its statutory limits. Courts derive their jurisdiction from statute and not from consent of parties. Even if the accused's counsel voluntarily offered to sell properties, the court could not convert that offer into a judicial direction to be executed by a Magistrate, as doing so would vest executive and civil jurisdiction in a court that possesses neither under the law governing bail.
- **Presumption of Innocence and Pre-Trial Property Rights:** The presumption of innocence is a fundamental principle of criminal jurisprudence, recognised under Article 21 of the Constitution and embedded in the common law tradition. An accused is presumed innocent until proven guilty by a competent court after a fair trial. This presumption has direct implications for property rights: an accused whose guilt has not been established retains full civil rights over their property, and no court or authority can direct disposal of such property merely on the basis of allegations at the pre-trial or investigation stage.



Practice Questions

1. In March 2025, the Economic Offences Wing in Jaipur arrested Aman Bhandari, director of a real estate finance company, for allegedly inducing several investors to deposit money in a “secured housing bond” scheme. The complaint alleged that Aman had diverted part of the money to purchase two luxury cars, one farmhouse near Ajmer, and certain company shares in the name of his cousin. During investigation, the police seized the cars and share certificates, while the farmhouse remained in possession of Aman’s family.

Aman filed a bail application before the Sessions Court under Section 483 of the BNSS, 2023. The Court granted bail but imposed the following conditions: Aman must appear before the investigating officer every Saturday, must not contact any investor or employee of the company, must deposit his passport, must hand over possession of the Ajmer farmhouse to the lead complainant within fifteen days, must transfer the disputed company shares to the investors’ association, and must deposit ₹60 lakh before release as partial repayment to the investors.

Aman challenged the conditions relating to the farmhouse, shares, and ₹60 lakh deposit before the High Court. He argued that while the Sessions Court could impose conditions to secure his presence and prevent interference with investigation, it could not use a bail order to decide possession of property, transfer shares, or compel monetary recovery. The investors opposed the challenge, arguing that Section 483 gives wide powers to the Sessions Court and High Court in bail matters.

Consider the following statements:

- i. The Sessions Court had special power under Section 483 of the BNSS, 2023 to grant bail and impose conditions connected with the purposes of bail.
- ii. The direction requiring Aman to appear before the investigating officer, avoid contacting witnesses, and deposit his passport is connected with securing the purposes of bail.
- iii. The direction requiring Aman to hand over the farmhouse and transfer company shares is valid because Section 483 permits courts to settle property disputes connected with the offence.
- iv. The direction requiring Aman to deposit ₹60 lakh as partial repayment is beyond Section 483 if it operates as a civil recovery or execution-type relief.

How many statements are true?

- (a) One statement
- (b) Two statements
- (c) Three statements
- (d) All four statements

2. Which constitutional provision forms the foundation for the principle that “bail is the rule and jail is the exception” because personal liberty cannot be deprived except by fair, just, and reasonable procedure established by law?

- (a) Article 14
- (b) Article 19
- (c) Article 21
- (d) Article 32

3. The complainants in a financial fraud case allege that Arvind purchased two flats using proceeds of crime. They want the flats sold immediately and the sale proceeds distributed among victims. The trial has not begun, and Arvind's guilt has not been established. Which of the following is the legally proper route for recovery or preservation of such property?

- (a) The bail court should direct sale of the flats and distribute the proceeds to complainants.
- (b) The complainants should seek recovery only through social pressure and private settlement.
- (c) The State or complainants should use lawful mechanisms such as attachment, PMLA proceedings, or civil suits.
- (d) The Magistrate should sell the flats orally if the complainants produce a list of alleged victims.

4. Rohan, a partner in a jewellery investment firm, is accused of dishonestly inducing several customers to deposit money and then misappropriating the funds. An FIR is registered against him under Sections 406 and 420 of the IPC. Some complainants also file civil suits for recovery of money. Rohan applies for bail. The Sessions Court grants bail but adds a condition that unless Rohan deposits ₹2 crores within fifteen days, his bail shall stand cancelled. Rohan challenges this condition, arguing that criminal proceedings cannot be used to enforce disputed civil liability at the bail stage. Will Rohan succeed?

- (a) Yes, because alleged civil liability must be adjudicated through civil proceedings and cannot be enforced as a bail condition.
- (b) Yes, because offences under Sections 406 and 420 of the IPC are always bailable and never justify conditions.
- (c) No, because once cheating is alleged, the complainant's entire claim must be recovered before bail is granted.
- (d) No, because a criminal court can finally decide all money claims while considering bail in non-bailable offences.

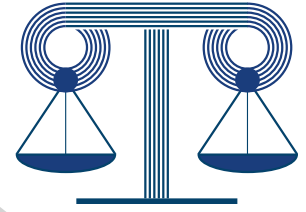
5. Prakash is arrested for alleged misappropriation of investor funds in a non-bailable offence. He has no prior criminal antecedents, has already joined investigation for two months, has deposited his passport, and the police have seized all relevant account books. The complainants oppose bail, arguing that Prakash should remain in custody until he repays the entire alleged amount. Prakash argues that bail conditions must relate to investigation, trial, flight risk, or witness protection, not forced recovery. Which argument would most strongly support Prakash's bail request?

- (a) Bail in every non-bailable offence is an absolute right of the accused.
- (b) Bail discretion must be exercised through proportionate regulatory conditions.
- (c) Repayment of alleged dues is always the first condition for granting bail.
- (d) Non-bailable offences always require custody until the trial is completed.



SUPREME COURT

Landmark Judgements



8

Legal Representatives can Challenge Arbitral Awards u/s 34 & not Article 227

Background

- A Deed of Agreement for Sale was executed on 20 April 2007 between one Appu John, the alleged paternal uncle of the appellant, and Respondent No. 1 for the sale of the subject property; Appu John passed away on 28 July 2007, shortly after executing the agreement.
- Arbitration proceedings were initiated in 2011 against one A. Philip, who was shown as the legal representative of Appu John; the appellant contended that Philip had been falsely projected as the legal representative and that he himself was the sole surviving legal heir of Appu John.
- An arbitral award dated 21 February 2011 was passed in favour of Respondent No. 1 directing execution of the sale deed; the appellant claimed to have been informed of the arbitration proceedings only on 28 August 2012 and was subsequently impleaded in the execution petition by order of the Madras High Court in September 2021.
- The appellant challenged the arbitral award by filing a Civil Revision Petition under Article 227 of the Constitution before the Madras High Court, contending that since he was never made a party to the arbitration proceedings, he could not avail the remedy under Section 34 of the Arbitration and Conciliation Act, 1996.
- The Madras High Court dismissed the petition and directed the appellant to avail the remedy under Section 34 of the Act; the appellant challenged this order before the Supreme Court.

Case Details

- Case Title:** V.K. John v. S. Mukanchand Bothra and HUF (Died)
Represented by LRs. & Ors.
- Citation:** 2026 INSC 393
- Bench** Justice Sanjay Karol and Justice N. Kotiswar Singh

Issue Before the Court

- Whether the term "party" in Section 34 of the Arbitration and Conciliation Act, 1996 includes legal representatives of a deceased party, entitling them to challenge an arbitral award under that provision.
- Whether a legal representative aggrieved by an arbitral award can invoke the supervisory jurisdiction of the High Court under Article 227 of the Constitution or Section 115 of the Code of Civil Procedure in place of the statutory remedy under Section 34 of the Arbitration Act.

Judgement of the Court

- The Court held that the Arbitration and Conciliation Act, 1996 is a complete code in itself and does not envision arbitral proceedings ceasing upon the death of a party; the term "party" under Section 34 includes legal representatives of a deceased party, as upon death, legal representatives step into the shoes of that party for all purposes under the Act.
- The Court relied on Section 2(1)(g) defining "legal representative," Section 40 providing for continuity of the arbitration agreement notwithstanding death of a party, and Section 35 binding "parties claiming under" the original parties, to hold that the scheme of the Act is consistently oriented towards continuity and not termination upon death.
- Denying legal representatives the right to challenge an award under Section 34 would make them liable to fulfil the award while rendering them remediless, which would defeat the self-contained character of the Act and produce a manifestly unjust outcome.
- The Court held that recourse to Article 227 of the Constitution or Section 115 CPC is impermissible where the Arbitration Act itself provides an adequate and appropriate remedy under Section 34; the right to legal representation cannot be frozen upon the death of a litigant party to arbitral proceedings.
- The Supreme Court dismissed the appeal, affirmed the Madras High Court's order, permitted the appellant to file a petition under Section 34 of the Arbitration Act, and directed that limitation for filing such petition would run from the date of the Supreme Court's judgment.

Key Takeaway for CLAT Aspirant

- **Arbitration and Conciliation Act, 1996 as a Complete Code:** The Arbitration and Conciliation Act, 1996 is a self-contained and exhaustive code for arbitration-related matters in India. It provides its own mechanisms for appointment of arbitrators, conduct of proceedings, challenge to awards, enforcement, and appeals. As affirmed in *Bhaven Construction v. Executive Engineer (2022)*, judicial interference beyond what the Act itself contemplates must be exercised only in exceptional rarity, such as where a party is left entirely remediless or clear bad faith is demonstrated. The completeness of the code forecloses parallel invocation of general supervisory or revisional jurisdiction.
- **Section 34, Arbitration and Conciliation Act, 1996 - Exclusive Remedy to Challenge an Award:** Section 34 provides the only statutory recourse against an arbitral award. The word "only" in subsection (1) is deliberate and significant, making it clear that no other mode of challenge is permissible. Grounds for setting aside include incapacity of a party, invalid arbitration agreement, absence of proper notice, award beyond the scope of submission, improper tribunal composition, non-arbitrability of the subject matter, and conflict with the public policy of India. For domestic awards, patent illegality apparent on the face of the award is an additional ground. The application must be filed within three months of receiving the award, with a further condonable extension of thirty days and no extension beyond that.
- **Legal Representatives as "Parties" Under the Arbitration Act:** Section 2(1)(g) of the Act defines "legal representative" as a person who in law represents the estate of a deceased person, including any person who intermeddles with the estate and the person on whom the estate devolves. The Court held that legal representatives fall within the term "party" under Section 34 and are therefore entitled to

challenge an arbitral award under that provision. This interpretation prevents the anomalous situation of legal representatives being bound by an award under Section 35 while having no statutory remedy to challenge it.

- **Section 40, Arbitration and Conciliation Act, 1996 - Continuity of Arbitration Agreement Upon Death:** Section 40 expressly provides that an arbitration agreement is not discharged by the death of any party thereto and remains enforceable by or against the legal representative of the deceased. The mandate of the arbitrator is similarly not terminated by such death. This provision reflects the legislative intent that death of a party does not disrupt or terminate arbitral proceedings, and that the legal representative steps in seamlessly for all purposes under the Act.
- **Section 35, Arbitration and Conciliation Act, 1996 - Binding Effect of Awards on Legal Representatives:** Section 35 makes an arbitral award final and binding not only on the original parties but also on "parties claiming under them." This phrase necessarily encompasses legal representatives of a deceased party, who derive their rights and liabilities from the deceased. The Court relied on this provision to affirm that legal representatives are fully subject to the regime of the Act, including its challenge mechanism, and cannot escape its ambit by invoking external supervisory jurisdictions.
- **Article 227, Constitution of India - Superintendence Jurisdiction of High Courts and Its Limits:** Article 227 confers upon every High Court the power of superintendence over all courts and tribunals within its territorial jurisdiction. This power includes calling for returns, issuing general rules, and correcting jurisdictional errors of subordinate courts. However, it is a discretionary and extraordinary power and cannot be invoked as a substitute for a statutory remedy that is adequate and available. Where a specific statute provides a complete remedy, recourse to Article 227 is impermissible, as doing so would circumvent the legislative scheme and undermine the finality that the statute seeks to confer on arbitral awards.
- **Section 115, Code of Civil Procedure, 1908 - Revisional Jurisdiction and Its Exclusion in Arbitration Matters:** Section 115 CPC confers revisional jurisdiction on the High Court to examine whether a subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted with material irregularity. Like Article 227, this jurisdiction is supervisory and cannot override or supplement a specific statutory remedy. The Arbitration Act, being a special and later legislation, excludes the application of Section 115 CPC in matters governed by it, in accordance with the principle that special law prevails over general law.
- **Doctrine of Adequate Alternative Remedy:** The doctrine of adequate alternative remedy is a well-established principle of procedural law under which courts decline to exercise extraordinary or supervisory jurisdiction where an equally efficacious statutory remedy exists. The doctrine applies with particular force in arbitration matters, where Parliament has deliberately enacted a comprehensive statute to minimise court intervention and promote finality of awards. Invocation of Article 227 or Section 115 CPC to bypass Section 34 is a direct attempt to circumvent this doctrine and is uniformly deprecated by the courts.
- **Transmission of Rights and Liabilities Upon Death - General Law of Succession:** Under the general law of succession applicable in India, including the Indian Succession Act, 1925 and personal law statutes, the rights and liabilities of a deceased person devolve upon their legal heirs or legal representatives upon death. This principle of transmission applies equally to rights and obligations arising from contracts, including arbitration agreements. A legal representative who inherits the estate of the deceased simultaneously inherits the benefits and burdens of all subsisting agreements, including the obligation to participate in or be bound by arbitration proceedings validly commenced under those agreements.
- **Natural Justice - Audi Alteram Partem and Arbitral Proceedings Against Wrong Representatives:** One of the grounds for setting aside an arbitral award under Section 34(2)(a)(iii) is that a party was not given proper notice of the arbitration proceedings or was otherwise unable to present its case. Where arbitration is conducted against a person falsely projected as the legal representative of the

deceased, the true legal heir who had no knowledge of or participation in the proceedings has a strong prima facie ground to challenge the award under this provision. The principle of audi alteram partem, which requires that no person be condemned without being heard, is a fundamental requirement of natural justice and is codified as a ground for setting aside awards under the Act.



Practice Questions

1. Analyze the situations below and determine which situation would least likely be maintainable as a valid challenge to an arbitral award.
 - (a) Ramesh files an application under Section 34 within three months, arguing that he never received proper notice of the arbitral proceedings.
 - (b) Kavita files an application under Section 34 within the condonable thirty-day period, showing sufficient cause for delay after receiving the award.
 - (c) Devendra files a civil suit seeking declaration that the arbitral award is void, though Section 34 remedy was available to him.
 - (d) Nisha files a Section 34 application in a domestic arbitration, alleging patent illegality apparent on the face of the award.

2. Harish entered into an agreement to sell ancestral property to Manav. The agreement contained an arbitration clause. Harish died before arbitral proceedings began. Manav initiated arbitration against Suresh, claiming that Suresh was Harish's legal representative. However, Harish's daughter, Ananya, later produced succession documents showing that she was the actual legal heir and that Suresh had no authority to represent Harish's estate. An arbitral award directing execution of the sale deed was passed. Ananya seeks to challenge the award under Section 34, but Manav argues that Ananya was never originally named as a party in the arbitration and therefore cannot file a Section 34 application. Which argument would most strongly support Ananya's right to challenge the award?
 - (a) A legal representative falls within the term "party" for Section 34 and may challenge an award affecting the estate.
 - (b) A legal representative can challenge an award only by filing a fresh civil suit for declaration of title.
 - (c) A legal representative is bound by an award but has no statutory remedy to question its validity.
 - (d) A legal representative may challenge an award only if the arbitrator personally permits such challenge.

3. Which of the following best states the effect of Section 115 CPC in matters governed by the Arbitration and Conciliation Act, 1996?
 - (a) Section 115 CPC may be used as an additional remedy whenever a party misses the limitation period under Section 34.
 - (b) Section 115 CPC overrides Section 34 because revisional jurisdiction is wider than arbitration remedies.
 - (c) Section 115 CPC cannot override or supplement the specific statutory remedy provided under the Arbitration Act.
 - (d) Section 115 CPC permits the High Court to reappreciate every arbitral award as if hearing a regular appeal.

4. Sushila executed a partnership dissolution agreement with Bhavesh containing an arbitration clause. After disputes arose, an arbitral award directed Sushila to pay a fixed amount from the partnership assets. Sushila died after the award but before enforcement. Her legal heirs, Neha and Tarun, inherited her estate. During execution, they argue that the award binds only Sushila personally and not them,

because they were not original signatories to the arbitration agreement. Bhavesh argues that the award binds persons claiming under Sushila. Which conclusion is most consistent with Section 35 of the Arbitration and Conciliation Act, 1996?

- (a) The award binds only the original signatory and becomes unenforceable immediately after her death.
- (b) The award binds legal representatives because they claim under the deceased party and represent her estate.
- (c) The award binds legal representatives only if they separately sign a fresh arbitration agreement after death.
- (d) The award binds legal representatives personally beyond the estate, even if they inherited nothing from the deceased.

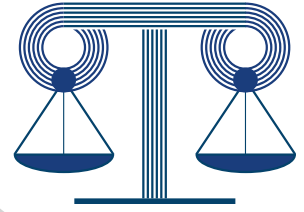
5. Mohan entered into a development agreement with Pratap Builders for construction on his land. The agreement contained an arbitration clause. During the arbitration, Mohan died. His son, Raghav, inherited the estate. Pratap Builders requested the arbitral tribunal to continue the proceedings against Raghav as Mohan's legal representative. Raghav objected, arguing that Mohan's death automatically terminated the arbitration agreement and ended the arbitrator's mandate. Pratap Builders argues that the arbitration agreement survives Mohan's death and remains enforceable against his legal representative. Will Pratap Builders succeed?

- (a) Yes, because death of a party does not discharge the arbitration agreement or terminate the arbitrator's mandate.
- (b) Yes, because every personal obligation of a deceased person automatically becomes a criminal liability of the heir.
- (c) No, because arbitration proceedings always terminate immediately upon the death of any original party.
- (d) No, because legal representatives can inherit property but never inherit contractual obligations connected with arbitration.



SUPREME COURT

Landmark Judgements



9

Appellate Court Can Reverse or Modify Conviction

Background

- The dead body of Smt. Arnomai Bora, Headmistress of Changjurai Elachi Deuri L.P. School, was found concealed in a bag on the banks of the Kopili River on 31 May 2017; an FIR was registered for offences under Sections 302 and 201 IPC, and the accused-respondent Moinul Haque along with co-accused Salim Uddin were chargesheeted under Sections 302, 201, and 376A read with Section 34 IPC.
- The trial court convicted the accused-respondent and sentenced him to death for offences under Sections 302 and 376A IPC and to rigorous imprisonment of seven years under Section 201 IPC; the prosecution's case rested entirely on circumstantial evidence, the sole incriminating link being the recovery of a black umbrella alleged to belong to the deceased pursuant to a disclosure statement under Section 27 of the Indian Evidence Act, 1872.
- The umbrella was recovered 14 days after the incident; the Investigating Officer neither sealed the article nor conducted test identification proceedings before a Magistrate, but instead called the family members of the deceased to the police station for identification, which the Court found to be in clear contravention of established procedure.
- The Gauhati High Court acquitted the accused-respondent of offences under Sections 302 and 376A IPC while affirming his conviction under Section 201 IPC with a reduced sentence of three years rigorous imprisonment; the accused-respondent did not file any appeal against his conviction under Section 201 IPC.
- The State of Assam filed an appeal before the Supreme Court challenging the acquittal; despite

Case Details

- Case Title:** State of Assam v. Moinul Haque @ Monu
- Citation:** 2026 INSC 386
- Bench:** Justice Vikram Nath and Justice Sandeep Mehta

Issue Before the Court

- Whether the prosecution established a complete and coherent chain of circumstances sufficient to sustain the conviction of the accused-respondent for the offences of murder and rape under Sections 302 and 376A IPC, based on the recovery of an umbrella under Section 27 of the Evidence Act and the confession of the co-accused.
- Whether an appellate court retains jurisdiction to examine and set aside a conviction that was never challenged by the accused in appeal, when the court is otherwise dealing with a State appeal against acquittal.

the absence of any challenge by the accused to the Section 201 IPC conviction, the Supreme Court examined the correctness of that conviction as well in exercise of its appellate powers, noting that the accused had already undergone approximately five years of incarceration exceeding the three-year sentence awarded.

Judgement of the Court

- The Court held that the recovery of the umbrella, which was the sole incriminating circumstance linking the accused to the crime, was not proved in accordance with law; the article was not sealed after recovery, test identification proceedings were not conducted before a Magistrate, the article bore no distinctive features conclusively linking it to the deceased, and a gap of 14 days between the incident and recovery cast serious doubt on the sanctity of the recovery procedure.
- The confession of co-accused Salim Uddin, having weak evidentiary value under the principle in *Haricharan Kurmi v. State of Bihar (1964)* and requiring strong corroboration in material particulars, could not independently sustain the charge; applying the five-fold test in *Sharad Birdhichand Sarda v. State of Maharashtra (1984)*, the Court found the chain of circumstances incomplete and insufficient to exclude every hypothesis consistent with innocence.
- On the question of appellate jurisdiction, the Court held that the absence of an appeal by the accused-respondent against his Section 201 IPC conviction did not curtail the appellate court's jurisdiction; under Section 386 CrPC, corresponding to Section 427 of the BNSS, 2023, the appellate court is expressly empowered to examine the correctness of findings and sentence recorded by the court below and to reverse, alter, or affirm the same as the interests of justice may require.
- Finding the Section 201 IPC conviction unsustainable on the same flawed evidence and noting that the accused had already served beyond the awarded sentence, the Court set aside the conviction and acquitted the accused-respondent of that charge as well.
- The State's appeal was dismissed, the acquittal for Sections 302 and 376A IPC was upheld, the Section 201 IPC conviction was set aside, and directions were issued for the accused-respondent's immediate release from custody.

Key Takeaway for CLAT Aspirant

- **Appellate Court's Power Under Section 427, BNSS, 2023 - Section 386 CrPC:** Section 427 of the BNSS, 2023, corresponding to Section 386 of the CrPC, 1973, empowers the appellate court to examine the correctness of findings and sentence recorded by the court below and to reverse, alter, or affirm the same as the interests of justice may require. This power is not contingent on the accused having filed an appeal against the conviction; the appellate court can suo motu examine any part of the impugned order when it is seized of the matter in an appeal filed by any party, including the State.
- **Circumstantial Evidence - Five-fold Test from Sharad Birdhichand Sarda (1984):** The Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra (1984)* laid down the definitive test for conviction based on circumstantial evidence. The circumstances must be fully established on evidence; consistent only with the hypothesis of the accused's guilt; of a conclusive nature and tendency; excluding every reasonable hypothesis consistent with innocence; and must together form a complete chain leaving no

reasonable ground for any conclusion other than guilt. A conviction cannot rest on a chain that has even one broken link.

- **Section 27, Indian Evidence Act, 1872 - Discovery of Fact Pursuant to Disclosure Statement:** Section 27 provides for the admissibility of information given by a person in custody to a police officer, to the extent that such information distinctly relates to the discovery of a fact. Only the portion of the statement that directly leads to the discovery is admissible, not the entire statement. For such recovery to be admissible and reliable, the recovered article must be properly identified, sealed at the point of recovery, and where identification by witnesses is required, test identification proceedings must be conducted before a Magistrate under prescribed procedure. Non-compliance with these procedural safeguards vitiates the evidential value of the recovery.
- **Confession of Co-Accused - Weak Evidentiary Value:** As held in *Haricharan Kurmi v. State of Bihar* (1964) by a Constitution Bench, the confession of a co-accused is a weak form of evidence and cannot by itself form the basis of conviction of another accused. It may be taken into consideration only after independent and satisfactory evidence against the accused has been found, and requires the fullest and strongest corroboration in material particulars. The underlying rationale is that a co-accused has an inherent interest in implicating another to reduce personal culpability and cannot be treated as a reliable witness against the accused.
- **Test Identification Proceedings - Procedural Safeguard in Criminal Trials:** Test identification proceedings are a procedural mechanism conducted before a Magistrate to verify whether a witness can independently identify an accused or a recovered article without the influence of prior exposure. These proceedings are distinct from informal identification at a police station, where the environment is controlled by the investigating agency and susceptible to suggestion. Courts have consistently held that identification conducted at a police station, without involvement of a Magistrate, carries diminished probative value and cannot be safely relied upon as an incriminating circumstance.
- **Section 201, Indian Penal Code, 1860 - Causing Disappearance of Evidence:** Section 201 penalises a person who, knowing or having reason to believe that an offence has been committed, causes any evidence thereof to disappear with the intention of screening the offender from legal punishment, or who gives false information respecting the offence. It is a derivative offence in that its commission presupposes the commission of a primary offence. Where the primary offence is not established against the accused, a conviction under Section 201 must be examined with particular care to ensure it is not being sustained solely on the basis of the same flawed evidence that failed to establish the primary charge.
- **Section 376A, Indian Penal Code, 1860 - Rape Causing Death or Persistent Vegetative State:** Section 376A, introduced by the Criminal Law (Amendment) Act, 2013, penalises a person who commits rape and in the course of which inflicts an injury which causes the death of the woman or causes her to be in a persistent vegetative state. The provision carries rigorous imprisonment of not less than twenty years, which may extend to life imprisonment or death. Like all serious penal provisions, conviction under this section in a case based entirely on circumstantial evidence must satisfy the complete chain test; the absence of a reliable incriminating link directly connecting the accused to the offence renders the charge unsustainable.
- **Doctrine of Interests of Justice - Guiding Principle in Criminal Appeals:** The expression "as the interests of justice may require" in Section 386 CrPC and Section 427 BNSS is a broad and flexible standard that empowers appellate courts to go beyond the specific reliefs sought by the parties and correct any miscarriage of justice that is apparent from the record. It reflects the overarching principle

that criminal courts are not merely umpires between the State and the accused but are duty-bound to ensure that only the guilty are punished and the innocent are not wrongly condemned, even if the wrong conviction was not formally challenged.

- **Appeals Against Acquittal - High Threshold for Interference:** Under Section 417 BNSS, 2023, the State may appeal against an order of acquittal to the High Court. The courts have consistently held that in appeals against acquittal, the appellate court must be slow to interfere and should not reverse an acquittal merely because a different view of the evidence is possible. Interference is warranted only where the trial court's or High Court's view is perverse, based on a misreading of evidence, or results in a manifest miscarriage of justice. The higher threshold exists because reversing an acquittal amounts to depriving the accused of a liberty already restored to them.
- **Right Against Double Jeopardy - Article 20(2) and Section 300 BNSS:** Article 20(2) of the Constitution provides that no person shall be prosecuted and punished for the same offence more than once. Section 300 of the BNSS, 2023, corresponding to Section 300 CrPC, embodies this protection in statutory form and bars a second trial for the same offence where the accused has already been convicted or acquitted. This right, however, does not prevent the same court from correcting its own findings on appeal or revision in the same proceedings. The protection operates against fresh prosecution, not against appellate correction of findings within a continuing judicial process.



Practice Questions

1. Analyze the situations below and determine which situation would least likely amount to double jeopardy.
 - (a) After Rafiq is acquitted of theft by a competent court, the police file a fresh charge-sheet against him for the same theft based on the same evidence.
 - (b) After Mehul is convicted and punished for cheating, the State initiates a second prosecution against him for the same cheating transaction and same offence.
 - (c) During a State appeal against acquittal, the appellate court corrects an erroneous finding in the same criminal proceedings after examining the trial record.
 - (d) After Priya is acquitted of criminal breach of trust, the complainant files another criminal case for the same offence using identical allegations.

2. A trial court convicts Aftab under Sections 302, 376A and 201 IPC on circumstantial evidence. The High Court acquits him under Sections 302 and 376A but maintains his conviction under Section 201 IPC. Aftab does not file any appeal against the Section 201 conviction. The State files an appeal before the Supreme Court challenging the acquittal under Sections 302 and 376A. While hearing the State's appeal, the Supreme Court notices that the Section 201 conviction is based on the same unreliable recovery evidence that failed to establish the main offences. Which argument would most strongly support the Supreme Court examining the Section 201 conviction despite no appeal by Aftab?
 - (a) The appellate court may correct an apparent miscarriage of justice when the record shows that an unchallenged conviction is unsustainable.
 - (b) The appellate court must examine only the relief sought by the State and cannot look at any finding favourable to the accused.
 - (c) The appellate court can set aside any conviction only if the accused files a separate appeal within limitation.
 - (d) The appellate court must preserve every unchallenged conviction even if it is based on the same flawed evidence.

3. Which of the following recoveries would most likely have reliable evidentiary value under Section 27 of the Indian Evidence Act, 1872?
 - (a) Police record the entire confession of Manish in custody and treat every sentence, including his admission of guilt, as admissible evidence.
 - (b) On Manish's statement that he hid the victim's watch under a specific stone near a temple, police recover the watch, seal it at the spot, and conduct Magistrate-supervised identification.
 - (c) Police recover a common black umbrella from a public road two weeks later, do not seal it, and ask the victim's family to identify it at the police station.
 - (d) Police claim that Manish gave information about a knife, but no article is recovered and no discovery follows from the alleged statement.

4. After a village contractor, Mahesh, is found dead, the police charge Ratan under Sections 302 and 201 IPC. The prosecution alleges that Ratan murdered Mahesh and later threw Mahesh's phone into a canal to

destroy evidence. At trial, the court finds that the prosecution failed to establish the murder charge because the last-seen evidence, recovery evidence, and witness statements are unreliable. However, the court still convicts Ratan under Section 201 solely on the same alleged phone recovery, though the phone was neither sealed at the place of recovery nor properly identified. Ratan challenges the conviction under Section 201. Which conclusion is most consistent with the principle?

- (a) The Section 201 conviction must be examined carefully because it cannot rest solely on the same flawed evidence that failed to prove the primary offence.
- (b) The Section 201 conviction must automatically stand because disappearance of evidence is always independent of the primary offence.
- (c) The Section 201 conviction must stand because once murder is alleged, destruction of evidence is presumed against the accused.
- (d) The Section 201 conviction must automatically fail in every case where the accused is acquitted of the primary offence.

5. Inspector Nirmal investigates the death of Shalini, whose body is found near a riverbank. Dinesh is charged under Section 376A IPC on the allegation that he committed rape and inflicted injuries causing her death. The prosecution case is entirely circumstantial. The only alleged link is the recovery of a blue scarf from an open field thirteen days after the incident, allegedly on Dinesh's disclosure. The scarf is not sealed at the spot, has no distinctive mark, and is identified by Shalini's brother at the police station without any Magistrate-supervised test identification. There is no medical, forensic, eyewitness, location, or call-record evidence connecting Dinesh to the offence. Dinesh argues that conviction under Section 376A cannot be sustained. Will he succeed?

- (a) Yes, because a serious charge based entirely on circumstantial evidence requires a complete and reliable chain connecting the accused to the offence.
- (b) Yes, because Section 376A IPC can never apply where the victim has died and the evidence is circumstantial.
- (c) No, because recovery of any article after disclosure automatically proves guilt under Section 376A IPC.
- (d) No, because the seriousness of the allegation removes the need to prove every link in the chain of circumstances.

Their Next Chapter



NLSIU - Bengaluru

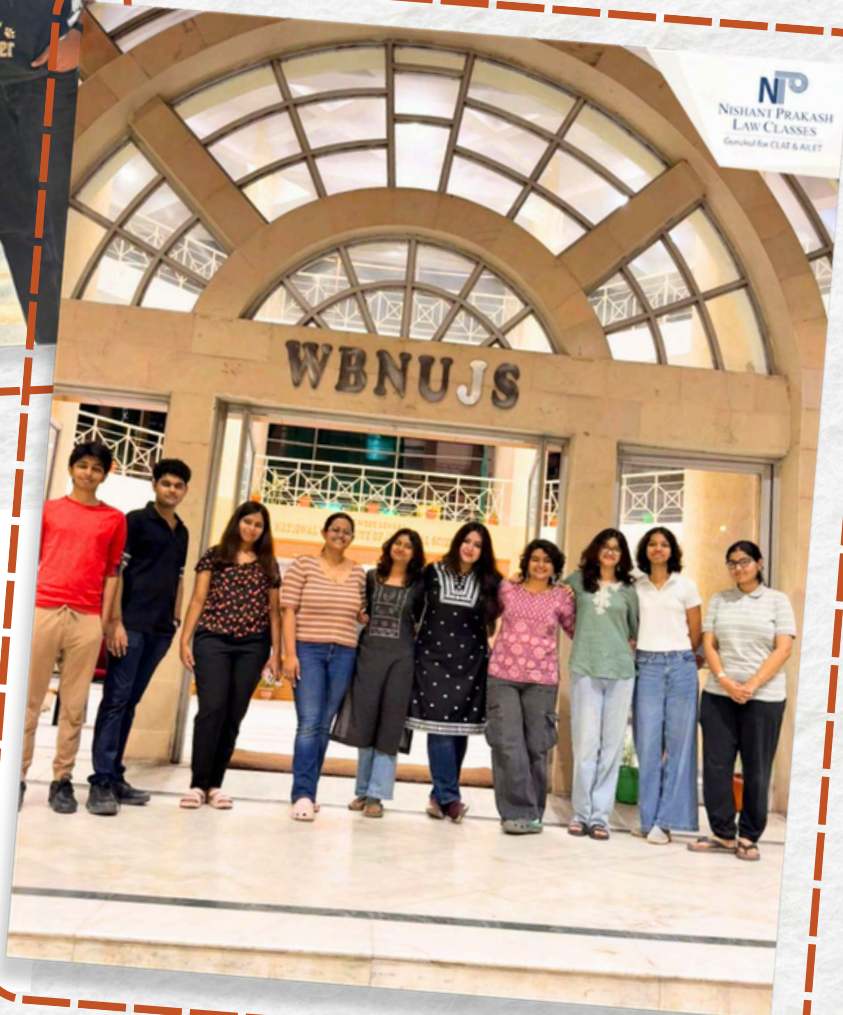
(Left to Right)

**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,
Amolya Kapani, Vidisha
Singh, Goohika Joshi,
Masirah Hussain, Krish
Walia, Chaitanya Ghosh,
Aditya Mehta**



NLU - Jodhpur

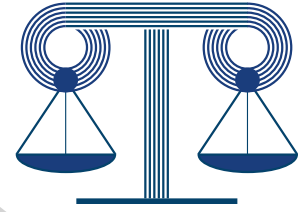
(Left to Right)

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



SUPREME COURT

Landmark Judgements



10

High Courts Cannot Reassess Materials Considered by Trial Courts

Background

- A suit for eviction was instituted on 28 November 2005 by the original landlord, Raghunath Gopal Deshmukh, against the respondent tenants in respect of a commercial shop, on grounds including arrears of rent, permanent unauthorised alterations, and bonafide need of the landlord and his family members; the Trial Court dismissed the suit on 29 November 2016, reasoning that the landlord had not finalised the exact nature of the business he intended to commence.
- The original landlord filed an appeal, but passed away on 24 July 2022 during the pendency of appellate proceedings; his legal heirs were impleaded and filed an application to amend the plaint to incorporate subsequent events, specifically pleading that the appellant's wife required the premises for her legal practice and his son, a medical graduate, required it for a medical clinic.
- The Appellate Court allowed the amendment, observing that the original plaint had explicitly invoked the need of the landlord as well as his family members, and remanded the matter to the Trial Court under Order XLI Rule 25 CPC to record evidence on the newly pleaded facts.
- The respondent tenants invoked the supervisory jurisdiction of the Bombay High Court under Article 227 of the Constitution; the High Court set aside the amendment order, holding that the cause of action regarding bonafide need perished with the original landlord and that legal heirs must institute a fresh

Case Details

- Case Title:** Vinay Raghunath Deshmukh v. Natwarlal Shamji Gada & Anr.
- Citation:** 2026 INSC 416
- Bench:** Justice J.K. Maheshwari and Justice Atul S. Chandurkar

Issue Before the Court

- Whether a court can conduct a meticulous examination of the merits of a case while deciding an application for amendment of pleadings, or whether such scrutiny is confined to assessing whether the proposed changes are necessary to determine the real controversy between the parties.
- Whether an eviction suit based on bonafide need survives the original landlord's death where the legal heirs establish their own requirements and the original plaint had already pleaded the family's need.
- Whether the High Court overstepped its supervisory jurisdiction under Article 227 of the

suit.

- The appellant challenged the High Court's order before the Supreme Court, contending that the original pleadings encompassed the needs of family members, ensuring continuity of the cause of action, and that relegating the heirs to a fresh suit would unnecessarily multiply litigation without causing any prejudice to the tenants.

Constitution by interfering with the discretionary order of the Appellate Court on the merits of the amendment application.

Judgement of the Court

- The Court reiterated that at the stage of considering an amendment, judicial scrutiny must remain confined to assessing whether the proposed changes are necessary to determine the real controversy between the parties; a deep examination of the merits or demerits of the proposed averments is legally impermissible at this preliminary stage.
- The Court held that the Appellate Court possessed requisite authority under Order XLI Rule 25 CPC to frame additional issues arising from subsequent events and delegate fact-finding to the Trial Court; courts must take cognizance of subsequent events such as the demise of a party and the evolving needs of the heirs to ensure the judicial process remains just and meaningful.
- Since the original plaint had expressly pleaded the need of family members, the proposed amendment did not introduce an alien cause of action but merely substantiated and clarified a pre-existing foundational plea, ensuring procedural fairness while maintaining the structural integrity of the original suit.
- The Court held that the supervisory jurisdiction under Article 227 is confined to examining whether an inferior court or tribunal has proceeded within the parameters of its jurisdiction; it is not open to the High Court to act as an appellate court and review or reassess evidence or materials upon which the subordinate court passed its order, relying on *Raj Kumar Bhatia v. Subhash Chander Bhatia (2017)*.
- The Supreme Court allowed the appeal, set aside the Bombay High Court's judgment, restored the Appellate Court's order permitting the amendment, and directed parties to appear before the Trial Court on 8 June 2026 to resume evidentiary proceedings.

Key Takeaway for CLAT Aspirant

- **Article 227, Constitution of India - Supervisory vs. Appellate Jurisdiction:** Article 227 confers upon every High Court the power of superintendence over all courts and tribunals within its territorial jurisdiction. This jurisdiction is supervisory in character and is confined to examining whether the inferior court has acted within the limits of its jurisdiction, committed a jurisdictional error, or acted with patent illegality or perversity. It does not empower the High Court to reassess or re-examine the materials considered by the subordinate court on merits, nor to substitute its own view for that of the court below as if it were an appellate court.
- **Distinction Between Supervisory and Appellate Jurisdiction:** Appellate jurisdiction enables the higher court to re-examine the entire record, reassess evidence, and substitute its own findings for those of the court below. Supervisory jurisdiction under Article 227, by contrast, is limited to correcting jurisdictional errors and does not extend to factual reassessment or substitution of discretion. The

critical distinction is that an appellate court asks whether the decision below was correct, whereas a supervisory court asks only whether the court below acted within its jurisdiction and followed a procedure consistent with the principles of natural justice.

- **Amendment of Pleadings - Order VI Rule XVII, Code of Civil Procedure, 1908:** Order VI Rule XVII CPC empowers a court to allow amendment of pleadings at any stage of the proceedings if the amendment is necessary for determining the real questions in controversy between the parties. At the stage of considering an amendment application, the court is not required to examine the merits or demerits of the proposed averments; its inquiry is confined to whether the amendment is necessary to resolve the actual dispute. Refusal of an amendment that does not cause prejudice to the other party and does not introduce a completely new cause of action is generally regarded as an improper exercise of discretion.
- **Order XLI Rule 25, Code of Civil Procedure, 1908 - Power of Appellate Court to Remand on Additional Issues:** Order XLI Rule 25 empowers the appellate court, where issues have not been tried by the subordinate court, to frame those issues and refer them back for determination, retaining the appeal for final disposal. This provision enables appellate courts to deal with subsequent events that could not have been pleaded before the trial court, without requiring parties to institute fresh proceedings. It is a tool of judicial economy that avoids multiplicity of litigation while preserving the rights of all parties to lead evidence on the new issues.
- **Doctrine of Subsequent Events in Civil Proceedings:** Courts are empowered to take note of events that occur after the institution of a suit but before its final disposal, where those events have a material bearing on the reliefs to be granted. This doctrine prevents the injustice of deciding a case on a state of affairs that has been overtaken by subsequent developments. In eviction suits based on bonafide need, the death of the original landlord and the emergence of the heirs' own requirements constitute subsequent events that courts can and must take into account, provided the original pleadings contain a foundation for such a claim.
- **Bonafide Need as a Ground for Eviction - Rent Control Legislation:** Bonafide need or genuine requirement of the landlord or members of his family is a recognised statutory ground for eviction under most State rent control legislations in India, including the Delhi Rent Control Act, 1958, and its equivalents in other States. The need must be genuine, not a pretence for evicting the tenant, and courts scrutinise the sincerity of the need closely. Where the original plaintiff pleads the need of the family as a whole, the heirs can sustain the eviction claim by establishing their own specific requirements without filing a fresh suit, as the cause of action does not perish with the original landlord.
- **Abatement of Suits and Survival of Cause of Action:** Under Order XXII CPC, a suit abates if, on the death of a party, the right to sue does not survive. However, where the cause of action is not purely personal to the deceased but extends to family members or legal heirs, the suit does not abate and the heirs can be substituted as parties. In eviction proceedings based on bonafide need of the family, where the original plaintiff itself invoked the family's requirements, the cause of action survives the landlord's death and the legal heirs can continue the proceedings and seek amendment to reflect their specific needs.
- **Principle of Judicial Economy - Avoiding Multiplicity of Proceedings:** The principle of judicial economy requires courts to resolve disputes in the most efficient and final manner possible, avoiding unnecessary duplication of proceedings. Directing legal heirs to institute a fresh suit for the same premises, on facts substantially covered by the original suit, defeats this principle and imposes disproportionate costs and delay on the parties. Courts are expected to adopt a pragmatic and purposive approach to procedural law, ensuring that hyper-technicalities do not obstruct the delivery

of substantive justice.

- **Discretionary Orders of Subordinate Courts - Limits of Interference Under Article 227:** Where a subordinate court exercises a discretion vested in it by statute, such as the power to allow or refuse an amendment of pleadings, the High Court in its supervisory jurisdiction under Article 227 cannot interfere merely because it would have exercised that discretion differently. Interference is warranted only where the exercise of discretion was perverse, based on a misreading of the legal position, or resulted in a manifest injustice. The High Court cannot substitute its own assessment of the desirability of the amendment for that of the Appellate Court.
- **Section 115, Code of Civil Procedure, 1908 - Revisional Jurisdiction and Its Limits:** Section 115 CPC confers revisional jurisdiction on the High Court to correct jurisdictional errors of subordinate civil courts. Like Article 227, this jurisdiction does not extend to reappraisal of evidence or substitution of findings on facts. The revisional court can interfere only where the subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted with material irregularity in the exercise of its jurisdiction. An incorrect decision within jurisdiction is not revisable under Section 115, distinguishing it from an appellate remedy which allows correction of all errors of law and fact.



Practice Questions

1. Vinay's father files an eviction suit against a tenant, pleading that the shop is required for the landlord and his family members. The Trial Court dismisses the suit. During appeal, the father dies, and Vinay is substituted as legal heir. Vinay files an application under Order VI Rule XVII CPC to amend the plaint, stating that his wife needs the shop for her legal practice and his son needs it for a clinic. The tenant opposes the amendment, arguing that the appellate court must first decide whether Vinay's wife and son genuinely need the premises. Which argument would most strongly support Vinay's amendment application?

- (a) The court must allow every amendment requested by a legal heir without examining relevance.
- (b) The court must assess only whether the amendment is necessary for the real controversy, not finally decide its merits at that stage.
- (c) The court must reject every amendment after trial because pleadings can never change during appeal.
- (d) The court must decide the genuineness of the heirs' need conclusively before allowing the amendment.

2. Anand files an eviction suit claiming that his commercial premises are needed by him and his dependent family members. The Trial Court dismisses the suit. During appeal, Anand dies, and his daughter Priya and son Rohit are brought on record. They state that Priya needs the premises for her architectural practice and Rohit needs it for a pharmacy. Since these facts arose after the trial court's judgment, no evidence was led on them earlier. The Appellate Court frames an additional issue on the heirs' bonafide need and sends it to the Trial Court only for recording evidence and returning findings, while keeping the appeal pending for final decision. The tenant challenges the order, saying a fresh eviction suit is the only remedy. Is the tenant likely to succeed?

- (a) Yes, because an appellate court must dismiss the old suit once the original landlord dies.
- (b) Yes, because subsequent facts can be considered only through a completely fresh proceeding.
- (c) No, because the appellate court may frame additional issues and refer them back for findings while retaining the appeal.
- (d) No, because the appellate court itself must record all evidence and cannot involve the trial court again.

3. Shankar files an eviction suit in 2012, stating that the premises are needed for the business of his family. The suit remains pending for many years. In 2021, Shankar dies, and his legal heirs are substituted. His daughter, a chartered accountant, now needs the premises for her office, and his son needs part of it for a diagnostic centre. The tenant argues that the court must decide the case only on the facts existing in 2012 and ignore all later developments. Which conclusion is most consistent with the doctrine of subsequent events?

- (a) The court must ignore all facts arising after the institution of the suit.
- (b) The court may consider later events if they materially affect the relief and have a foundation in the original pleadings.
- (c) The court must dismiss every eviction suit when the original landlord dies before final disposal.
- (d) The court may consider subsequent events only if the tenant agrees to such consideration.

from approaching any other municipal tribunal, stating "the matter is closed forever to prevent multiplicity of litigation." Is the NGT's refusal to preserve the petitioner's remedies legally sound?

- (a) Sound, because preventing multiple litigations is a core administrative duty of NGT.
- (b) Unsound, because a jurisdictional bar does not extinguish the underlying right.
- (c) Sound, because municipal violations inherently lack any legal remedial forums.
- (d) Unsound, because the NGT must directly transfer it to the Supreme Court.

4. Which of the following best describes the limited revisional power of the High Court under Section 115 of the Code of Civil Procedure, 1908?

- (a) It allows the High Court to rehear the entire case as a first appellate court.
- (b) It allows the High Court to correct every factual error made by the subordinate court.
- (c) It allows interference only where the subordinate court commits a jurisdictional error or material irregularity.
- (d) It allows the High Court to substitute its own view whenever another conclusion is possible.

5. In a civil dispute, the trial court dismisses an interim injunction application after considering documents and hearing both parties. The aggrieved party files a petition under Article 227 before the High Court, arguing that the trial court wrongly appreciated the evidence and that the High Court should substitute its own view.

Consider the following Assertion [A] and Reasoning [R]:

[A] The High Court, while exercising supervisory jurisdiction under Article 227, should not reassess the entire evidence merely because another view is possible.

[R] Supervisory jurisdiction is limited to correcting jurisdictional errors and ensuring that the court below acted within jurisdiction and followed natural justice, unlike appellate jurisdiction which allows reassessment of evidence and substitution of findings.

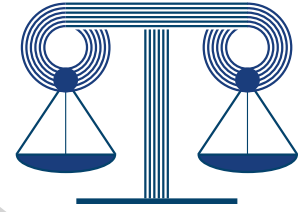
Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true



SUPREME COURT

Landmark Judgements



11 Magistrate Can Order FIR Under Section 156(3) CrPC Without Prior Sanction

Background

- CPI(M) leader Brinda Karat filed a petition seeking registration of an FIR against BJP leaders including Kapil Sharma and Anurag Thakur for alleged hate speeches made ahead of the 2020 Delhi riots, which were alleged to have promoted enmity and disturbed public tranquillity.
- The Judicial Magistrate refused to direct registration of the FIR under Section 156(3) CrPC on the ground that prior sanction under Sections 196 and 197 CrPC was a prerequisite, a view subsequently upheld by the Delhi High Court.
- Aggrieved, Brinda Karat filed a Special Leave Petition before the Supreme Court; the matter was heard as part of a batch of cases concerning hate speeches and hate crimes, including a connected writ petition filed by Ashwini Kumar Upadhyaya.
- The petitioners also urged the Court to issue general directions to create specific hate speech offences and to direct the Union and States to enact legislation in line with the Law Commission's 267th Report of March 2017.
- The Supreme Court partly allowed the petition to the extent of setting aside the Delhi High Court's observation that prior sanction is required before a Magistrate can direct registration of an FIR under Section 156(3) CrPC, while declining to issue general directions on hate speech legislation.

Judgement of the Court

- The Court held that the requirement of prior sanction under Sections 196 and 197 CrPC operates

Case Details

- **Case Title:** Brinda Karat v. State of NCT of Delhi and Others
- **Citation:** 2026 LiveLaw (SC) 437 | SLP(Crl) 5107/2023
- **Bench:** Justice Vikram Nath and Justice Sandeep Mehta

Issue Before the Court

- Whether a Judicial Magistrate requires prior sanction under Sections 196 or 197 CrPC before directing registration of an FIR under Section 156(3) CrPC or Section 175(3) BNSS, 2023.
- Whether an order by a Magistrate directing investigation under Section 156(3) CrPC amounts to taking cognizance of an offence, thereby triggering the sanction requirement.
- Whether the existing criminal law framework adequately addresses hate speech offences, or whether a legislative vacuum exists warranting judicial directions to create new offences or expand criminal liability.

exclusively at the stage of taking cognizance of an offence and has no application at the pre-cognizance stage of FIR registration or police investigation; a Magistrate directing registration of an FIR under Section 156(3) acts at a stage anterior to cognizance and therefore requires no prior sanction.

- Relying on *Mohd. Yousuf v. Afaq Jahan* (2006) and *State of Karnataka v. Pastor P. Raju* (2006), the Court held that an order directing investigation under Section 156(3) CrPC does not amount to taking cognizance within the meaning of Section 190 CrPC; the scheme of the CrPC is sequential and the sanction requirement arises only after the investigation is complete and a report is filed under Section 173.
- The Court cautioned that any interpretation making registration of an FIR contingent upon prior sanction would invert the statutory framework governing criminal investigations and render the investigative provisions unworkable.
- On hate speech legislation, the Court held that the existing criminal law framework, including the IPC and allied legislations, adequately addresses acts promoting enmity, outraging religious sentiments, and disturbing public tranquillity; the creation of criminal offences is exclusively within the legislative domain and the doctrine of separation of powers does not permit the judiciary to create new offences through judicial directions.
- The Court noted that the available statutory remedies, coupled with the supervisory jurisdiction of constitutional courts under Articles 32 and 226 of the Constitution, constitute a complete statutory architecture, and the appropriate course is faithful enforcement of existing law rather than judicial legislation.

Key Takeaway for CLAT Aspirant

- **Section 156(3) CrPC and Section 175(3) BNSS - Magistrate's Power to Direct FIR Registration:** Section 156(3) CrPC, now corresponding to Section 175(3) of the BNSS, 2023, empowers a Judicial Magistrate to order a police officer to investigate a cognizable offence. This power is exercised at the pre-cognizance stage and does not amount to the Magistrate taking cognizance of the offence under Section 190 CrPC. It is a supervisory power enabling the Magistrate to set the investigative machinery in motion where the police have failed to register an FIR or investigate a cognizable offence.
- **Pre-Cognizance Stage vs. Cognizance Stage - A Critical Distinction:** The criminal process under the CrPC and BNSS is sequential. Upon receipt of information regarding a cognizable offence, the police register an FIR and investigate. After the investigation is complete, a report is submitted under Section 173 CrPC. It is only at this stage that the Magistrate takes cognizance under Section 190 CrPC. The sanction requirement under Sections 196 and 197 CrPC is a condition precedent only for the cognizance stage and not for the pre-cognizance stages of FIR registration and investigation. Conflating these two stages results in an erroneous interpretation that renders the investigative framework unworkable.
- **Sections 196 and 197 CrPC - Sanction for Prosecution and Their BNSS Equivalents:** Section 196 CrPC, corresponding to Section 217 of the BNSS, mandates prior sanction from the Government for taking cognizance of offences under Sections 153A, 153B, and 295A IPC, which relate to promoting enmity, imputations against national integration, and outraging religious feelings. Section 197 CrPC, corresponding to Section 218 BNSS, mandates prior sanction for taking cognizance of offences alleged against public servants for acts done in the discharge of official duties. Both provisions

operate as bars at the cognizance stage and cannot be read back into the pre-cognizance stage.

- **Mandatory Duty to Register FIR - Lalita Kumari v. Government of U.P. (2014):** The Constitution Bench in Lalita Kumari v. Government of U.P. (2014) held that registration of an FIR upon disclosure of a cognizable offence is mandatory and the police have no discretion to refuse registration. Where a police officer refuses to register an FIR, an aggrieved person has three statutory remedies: approaching the Superintendent of Police under Section 154(3) CrPC or Section 173(4) BNSS; invoking the Magistrate's jurisdiction under Section 156(3) CrPC or Section 175 BNSS; or filing a complaint under Section 200 CrPC or Section 223 BNSS.
- **Section 190 CrPC - Taking Cognizance of Offences:** Section 190 CrPC empowers a Magistrate to take cognizance of an offence upon receiving a complaint, upon a police report, or upon information received from any person other than a police officer. Taking cognizance is a judicial act by which the Magistrate applies his mind to the commission of the alleged offence with a view to initiating proceedings in respect of it. It is a distinct and later stage from the pre-cognizance investigative stage and carries with it the applicability of sanction requirements under Sections 196 and 197 where relevant.
- **Doctrine of Separation of Powers and Judicial Legislation:** The doctrine of separation of powers, implicit in the constitutional scheme, assigns the power to create criminal offences exclusively to the legislature. Courts are empowered to interpret existing law and enforce it, but cannot create new offences or expand the scope of criminal liability through judicial directions. This principle was applied to reject the petitioners' plea for judicial directions on hate speech legislation, with the Court holding that the appropriate course is legislative action by the Union and the States, informed by recommendations of the Law Commission, rather than judicial legislation.
- **Hate Speech Offences Under Existing Law - Sections 153A, 153B, and 295A IPC:** Section 153A IPC penalises promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, caste, or community, or doing any act prejudicial to the maintenance of harmony. Section 153B penalises assertions prejudicial to national integration. Section 295A penalises deliberate and malicious acts intended to outrage religious feelings. These provisions, read alongside Section 505 IPC dealing with statements conducive to public mischief, constitute the existing statutory framework for addressing hate speech and require prior sanction under Section 196 CrPC for the court to take cognizance.
- **Law Commission's 267th Report (March 2017) on Hate Speech:** The Law Commission of India, in its 267th Report, recommended the introduction of specific hate speech offences in Indian law to address the lacunae in the existing framework. It proposed insertion of new sections in the IPC to specifically penalise incitement to hatred on specified grounds. The Supreme Court, while declining to issue directions, left it open to the Union and States to consider whether further legislative measures in line with these recommendations are warranted, reaffirming that the decision to enact new offences lies within the exclusive domain of the legislature.
- **Complete Statutory Architecture and Supervisory Jurisdiction of Constitutional Courts:** The Court held that the statutory remedies available to a person aggrieved by non-registration of an FIR, when read together with the supervisory jurisdiction of constitutional courts under Articles 32 and 226 of the Constitution, constitute a complete and adequate statutory architecture. The jurisdiction of constitutional courts under Article 226 enables High Courts to issue writs including mandamus directing registration of FIRs and proper investigation, while Article 32 enables the Supreme Court to do so in appropriate cases. This architecture leaves no legislative or remedial vacuum that would

justify extraordinary judicial intervention.

- **Section 173 CrPC and Section 193 BNSS - Police Report and the Trigger for Cognizance:** Section 173 CrPC, corresponding to Section 193 of the BNSS, 2023, requires the officer in charge of a police station to submit a report to the Magistrate upon completion of investigation. This report, commonly known as a charge sheet, constitutes the formal trigger for the Magistrate to apply his mind to the question of taking cognizance under Section 190. The entire investigative process from FIR registration to the filing of the police report is pre-cognizance, and it is only at the conclusion of this process that the sanction requirements of Sections 196 and 197 CrPC become operative and relevant.



Practice Questions

1. In Bhopal, Nisha Verma alleged that her business partner, Rohit Saini, forged her digital signature and transferred ₹18 lakh from their firm's account to his personal account. She submitted a written complaint with bank records and e-mail trails to the local police station, but the Station House Officer refused to register an FIR, stating that the matter appeared to be a "commercial dispute." Nisha then approached the Judicial Magistrate under Section 175(3) of the BNSS, 2023, seeking a direction for registration of FIR and investigation. The Magistrate, without examining witnesses or issuing summons to Rohit, directed the police to investigate the alleged forgery and misappropriation. Rohit challenged the order, arguing that the Magistrate had already taken cognizance under Section 190 CrPC and could not order police investigation at that stage.

Consider the following statements:

- i. The Magistrate could direct police investigation if the complaint disclosed a cognizable offence and the police failed to act.
- ii. The Magistrate's order under Section 175(3) BNSS was passed at the pre-cognizance stage.
- iii. The Magistrate necessarily took cognizance under Section 190 CrPC by directing investigation.
- iv. The Magistrate's power was supervisory in nature and set the investigative machinery in motion.

How many statements are true?

- (a) One statement
- (b) Two statements
- (c) Three statements
- (d) All four statements

2. Aarav, a public works officer, gives a public speech during an official inspection where he allegedly makes statements promoting hostility between two communities. A local resident, Imran, approaches the police and seeks registration of an FIR under Sections 153A and 295A IPC. The Station House Officer refuses to register the FIR, saying that prior sanction under Section 196 CrPC and Section 197 CrPC is required before any police action can be taken. Imran argues that sanction may be relevant later, but not for FIR registration or investigation. Which argument would most strongly support Imran's claim?

- (a) Sanction under Sections 196 and 197 CrPC is never required in any criminal proceeding involving hate speech or public servants.
- (b) Sections 196 and 197 CrPC operate as bars at the cognizance stage and cannot be read back into the pre-cognizance stage.
- (c) Public servants can always be prosecuted without sanction if the allegation is made by a private complainant.
- (d) Hate speech offences under Sections 153A and 295A IPC are non-cognizable and therefore cannot be investigated by police.

3. Meera submits a written complaint to the police alleging that a local organiser circulated a video calling for social boycott of a linguistic community and threatening shopkeepers who deal with them. The

complaint discloses a cognizable offence. The Station House Officer refuses to register an FIR, saying he will first conduct an unlimited “verification” for several months and then decide whether any case exists. Meera wants to compel action through legally recognised remedies. Which of the following is the most accurate course available to her?

- (a) She may approach the Superintendent of Police, move the Magistrate for investigation, or file a complaint before the Magistrate.
- (b) She must wait indefinitely because police have complete discretion to refuse FIR registration in cognizable cases.
- (c) She can directly punish the accused through a private settlement since police have refused registration.
- (d) She must first obtain sanction for prosecution before asking police to register any FIR for a cognizable offence.

4. After investigation into a communal speech case, the police submit a final report before the Magistrate. The Magistrate examines the police report, applies his mind to the allegations, and decides whether proceedings should be initiated against the accused. At this stage, the accused argues that sanction under Section 196 CrPC is required before the Magistrate can proceed further. Which conclusion is most consistent with Section 190 CrPC?

- (a) The Magistrate has already completed the trial merely by reading the police report.
- (b) The police are taking cognizance because they collected evidence during investigation.
- (c) Cognizance took place when the FIR was first registered at the police station.
- (d) Cognizance is a later judicial act where the Magistrate applies his mind to the alleged offence.

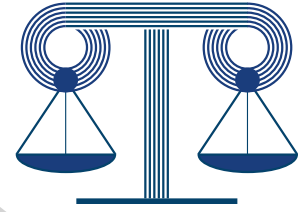
5. Which of the following statutory provisions penalises deliberate and malicious acts intended to outrage religious feelings?

- (a) Section 153A IPC
- (b) Section 153B IPC
- (c) Section 295A IPC
- (d) Section 300 BNSS



SUPREME COURT

Landmark Judgements



12 Joint Statements by Different Accused

Background

- A woman went missing from Karnataka on 23 March 2013; her charred skeletal remains were discovered four days later in a forest area; the prosecution alleged that her brother, having borrowed a large sum of money and gold from her, conspired with three other accused to avoid repayment by abducting and murdering her and burning the body to destroy evidence.
- The prosecution relied primarily upon a joint disclosure statement made by all four accused, who were taken together in a police vehicle and shown, one by one, the spot where the victim was allegedly killed and her body burnt; the panch witness did not depose about the specific statement made by each accused individually.
- The trial court convicted all four accused; the Gauhati High Court upheld the conviction; two of the accused filed criminal appeals before the Supreme Court challenging the evidentiary validity of the joint disclosure statements and the sufficiency of the last-seen evidence.
- Before the Supreme Court, the appellants contended that the joint discovery of the same fact by all four accused simultaneously could not be attributed distinctly to any particular accused, rendering the discovery evidence inadmissible under Section 27 of the Indian Evidence Act, 1872.
- The prosecution's case rested on two primary pillars: the joint disclosure statements leading to discovery of the place of murder and body burning, and the last-seen circumstance of the accused being seen with the deceased shortly before her disappearance.

Case Details

- Case Title:** Anand Jakkappa Pujari @ Gaddadar v. State of Karnataka
- Citation:** 2026 INSC 417
- Bench:** Justice JB Pardiwala and Justice KV Viswanathan

Issue Before the Court

- Whether joint or simultaneous disclosure statements made by different accused persons are admissible under Section 27 of the Indian Evidence Act, 1872, and if so, under what conditions.
- Whether a fact once discovered pursuant to the statement of one accused can be "rediscovered" and relied upon against another accused on the basis of a subsequent statement pointing to the same fact.
- Whether the last-seen circumstance, without corroborating incriminating material, is sufficient to sustain a conviction in a case based on circumstantial evidence.

Judgement of the Court

- The Court held that joint or simultaneous disclosure statements are not per se inadmissible under Section 27 of the Evidence Act, as recognised in *State NCT of Delhi v. Navjot Sandhu* (2005); however, greater care must be exercised when evaluating such statements, as ascertaining exactly who said what in a joint statement presents practical difficulties.
- The information given by each accused must directly and distinctly relate to the fact discovered at that accused's instance; a fact can be discovered only once and cannot be repeatedly relied upon against multiple accused on the basis of the same discovery; there cannot be a rediscovery.
- Where multiple accused make statements in quick succession and each leads to the discovery of a different fact from a different place, the statements may be treated as joint yet the discoveries remain distinct and admissible; however, where all accused point to the same fact from the same place, no distinct discovery can be attributed to any particular accused.
- In the present case, the evidence disclosed a purely joint discovery of the same fact by all four accused simultaneously, making it impossible to attribute any distinct discovery to any particular appellant; the discovery evidence of the two places could therefore not be utilised against the appellants.
- The Court held it would be too risky to sustain a conviction solely on the basis of the last-seen circumstance without additional incriminating material linking the appellants to the crime; finding the chain of circumstantial evidence incomplete, the Court allowed the appeals and acquitted the two appellants.

Key Takeaway for CLAT Aspirant

- **Section 27, Indian Evidence Act, 1872 - Discovery of Fact Pursuant to Disclosure Statement:** Section 27 creates a limited exception to the general rule that confessions made to police are inadmissible. It permits proof of only that portion of an accused's statement which distinctly relates to a fact discovered as a consequence of the information given. Four conditions must be satisfied: the accused must be in police custody; a fact must be discovered; that discovery must flow from the information given; and the information must not already be in the possession of the police. Section 27 finds its equivalent in the proviso to Section 23 of the *Bharatiya Sakshya Adhinyam, 2023*.
- **No Rediscovery - Core Principle from This Judgment:** The most significant doctrinal contribution of this case is the principle that a fact can be discovered only once. Where a fact has already been discovered pursuant to the statement of one accused, subsequent information given by another accused pointing to the same fact does not constitute a fresh discovery and is therefore inadmissible under Section 27. The rationale is that the guarantee of voluntariness and truth underlying Section 27 is derived from the act of discovery itself; where nothing new is discovered, that guarantee is absent.
- **Joint Disclosure Statements - Admissibility and the Distinctness Requirement:** Joint or simultaneous disclosure statements by multiple accused are not per se inadmissible under Section 27. They become admissible only where each accused's statement leads to the discovery of a distinct and different fact from a different place. As recognised in *Lachhman Singh v. State* (1952), where multiple accused make statements leading to different discoveries, the statements are treated as joint but the discoveries remain individually attributable and admissible. The critical test is whether a distinct fact can be attributed to each accused's statement.

- **Circumstantial Evidence - Requirement of a Complete Chain:** Conviction based on circumstantial evidence requires that the chain of circumstances be complete, consistent only with the guilt of the accused, and exclude every reasonable hypothesis consistent with innocence, as laid down in *Sharad Birdhichand Sarada v. State of Maharashtra (1984)*. A missing or broken link in the chain is fatal to the prosecution's case. In the present case, the inadmissibility of the joint discovery statements created an irreparable gap in the chain, rendering the remaining evidence insufficient to sustain the conviction.
- **Last-Seen Evidence - Insufficient as a Sole Basis for Conviction:** The last-seen circumstance, establishing that the accused was seen in the company of the deceased shortly before the latter's death, is a recognised link in a chain of circumstantial evidence. However, it cannot by itself sustain a conviction without corroboration from other incriminating material. Its probative value depends on the proximity of time between the last-seen moment and the occurrence of the offence; the closer the proximity, the stronger the inference, but even then it requires supporting circumstances to form a complete chain.
- **Section 23, Bharatiya Sakshya Adhiniyam, 2023 - Confessions to Police:** Section 23 of the BSA, 2023 replaces Section 25 and Section 26 of the Indian Evidence Act, providing that a confession made to a police officer or while in police custody is generally inadmissible. The proviso to Section 23, which replaces Section 27 IEA, preserves the discovery rule: only that portion of a statement which directly leads to discovery of a fact is admissible. The transition from the IEA to the BSA does not alter the substantive law on discovery statements; the same principles and conditions apply under the new enactment.
- **Panch Witness - Role in Discovery Evidence:** A panch witness is an independent witness to the discovery proceedings conducted under Section 27, present at the time when the accused leads the investigating officer to the place or object discovered. The panch witness's deposition is critical to establishing the link between the accused's statement and the fact discovered. Where the panch witness fails to depose about the specific statement made by each accused or the specific act of discovery attributable to each, the evidential value of the recovery is severely undermined and cannot be safely relied upon to sustain a conviction.
- **Doctrine of Benefit of Doubt in Criminal Law:** The standard of proof in criminal cases is proof beyond reasonable doubt, which is higher than the balance of probabilities applicable in civil cases. Where the prosecution's evidence raises a reasonable doubt as to the guilt of the accused, that doubt must be resolved in favour of the accused. The doctrine of benefit of doubt is not a mere technicality but reflects the foundational presumption of innocence under Article 21 of the Constitution. In the present case, the gaps in the chain of circumstantial evidence and the inadmissibility of the joint discovery statements generated precisely such a reasonable doubt.
- **Admissibility vs. Probative Value - Distinction in Evidence Law:** A piece of evidence may be legally admissible, meaning it satisfies the conditions for being received by the court, yet may carry insufficient probative value to sustain a finding of guilt. Admissibility is a threshold question determined by the rules of evidence; probative value is a question of weight assessed after admissibility is established. Section 27 governs the admissibility of discovery statements; even where a discovery statement is admissible, its weight depends on the reliability of the discovery, the specificity of the information, and corroboration from other evidence.
- **Voluntariness as the Guarantee Underlying Section 27:** The theoretical justification for Section 27's exception to the inadmissibility of police confessions is that the act of discovery corroborates the voluntariness and truth of the accused's statement. If the accused leads the police to a previously

unknown fact, this is taken as circumstantial confirmation that the statement was made voluntarily and is true. Where no new fact is discovered, or where the discovery cannot be attributed to any particular accused's statement, this corroborative guarantee is absent and the basis for admissibility under Section 27 collapses entirely.



Practice Questions

1. During investigation of a murder case, the accused, while in police custody, states: "I killed the victim with a knife, and I have hidden that knife under the stones near the riverbank." Acting on this information, the police recover the knife from that exact place, which was not previously known to them.

Consider the following Assertion [A] and Reasoning [R]:

[A] The entire statement made by the accused to the police, including the confession that he killed the victim, is admissible under Section 27 of the Indian Evidence Act, 1872.

[R] Section 27 permits proof only of that portion of an accused's statement which distinctly relates to a fact discovered as a consequence of the information given.

Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true

2. Kabir and Sameer are arrested in a dacoity case. During interrogation, Kabir states that he concealed the stolen pistol inside a water tank at his uncle's farm. Sameer separately states that he concealed the victim's wallet inside a broken wall behind an abandoned shop. Acting on Kabir's statement, the police recover the pistol from the water tank. Acting on Sameer's statement, the police recover the wallet from the broken wall. Both recoveries are from different places and relate to different facts. Which argument would most strongly support admissibility under Section 27?

- (a) Joint statements are always inadmissible, even when each accused leads to a different discovery.
- (b) Joint statements are admissible only when all accused point to the same article from the same place.
- (c) The statements may be admissible because each accused led to a distinct fact from a different place.
- (d) The statements are admissible in full because any police statement leading to recovery proves guilt.

3. The police arrest Nilesh, Pratap, and Harsh in connection with the murder of a businessman. During custody, the police prepare one combined disclosure statement stating that "all three accused confessed that they killed the businessman and threw his watch near the old railway gate." Before this statement, the police had already recovered the watch from the old railway gate after receiving information from an independent witness. No new article, place, or fact is discovered after the combined statement. The prosecution seeks to rely on the entire statement to show guilt. The accused object that Section 27 cannot apply because no fresh discovery occurred and the statement cannot be attributed to any one accused. Will the accused succeed?

- (a) Yes, because without a new and attributable discovery, the guarantee of truth and voluntariness under Section 27 is absent.
- (b) Yes, because every statement made in police custody is admissible if three or more accused make it together.

- (c) No, because once the accused are in custody, their entire confession becomes admissible under Section 27.
- (d) No, because prior police knowledge of the fact strengthens the admissibility of the later disclosure statement.

4. Which provision of the Bharatiya Sakshya Adhiniyam, 2023 replaces the earlier rule under Sections 25 and 26 of the Indian Evidence Act regarding confessions made to police officers or while in police custody?

- (a) Section 21, Bharatiya Sakshya Adhiniyam, 2023
- (b) Section 23, Bharatiya Sakshya Adhiniyam, 2023
- (c) Section 27, Bharatiya Sakshya Adhiniyam, 2023
- (d) Section 45, Bharatiya Sakshya Adhiniyam, 2023

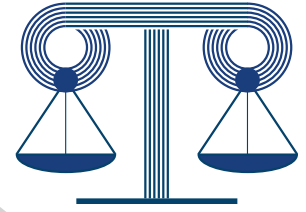
5. Raghav is tried for robbery and murder. The prosecution case is entirely circumstantial. The alleged recovery of the victim's bag is based on a joint disclosure statement by two accused, but the bag had already been found earlier by village residents. No CCTV footage, call records, eyewitness testimony, fingerprints, or reliable forensic link connects Raghav with the crime. The trial court convicts him, stating that his conduct is suspicious. Raghav appeals, arguing that the chain of circumstances is incomplete and that he is entitled to benefit of doubt. Which conclusion is most consistent with criminal law principles?

- (a) Raghav must be acquitted if the evidence creates reasonable doubt about his guilt.
- (b) Raghav must be convicted because suspicion is enough in serious criminal cases.
- (c) Raghav must prove his innocence beyond reasonable doubt to obtain acquittal.
- (d) Raghav must be convicted because circumstantial evidence is always conclusive.



SUPREME COURT

Landmark Judgements



13

Quashing of Criminal Proceedings on Disproof by Reliable Material

Background

- On the night of 11 October 2022, Sushil Chakrabarti, a 77-year-old former Public Prosecutor, lodged a complaint at Police Station Survey Park, Kolkata, alleging that multiple accused persons formed an unlawful assembly, assaulted him and his family members, attempted to forcibly enter his flat, and issued threats during a dispute at Kanishka Apartment; FIR No. 150 of 2022 was registered against eight accused under multiple provisions of the IPC, with Section 354 additionally invoked in the chargesheet.
- CCTV footage of the incident, collected during investigation and forming part of the chargesheet, clearly showed that the three appellant-accused were not present at the scene during the alleged assault and arrived only subsequently, making efforts to pacify the situation rather than participating in any act of aggression.
- The Calcutta High Court quashed proceedings against two co-accused on the ground of lack of specific allegations but declined to extend similar relief to the three appellants without providing any cogent reasoning for the differential treatment.
- The appellants contended before the Supreme Court that the proceedings were malafide, initiated with an ulterior motive arising from prior personal disputes between the parties, and that the CCTV footage, being part of the prosecution's own record, conclusively belied all allegations against them.

Case Details

- Case Title:** Sajal Bose v. State of West Bengal & Ors.
- Citation:** 2026 INSC 322
- Bench:** Justice Vikram Nath, Justice Sandeep Mehta, and Justice N.V. Anjaria

Issue Before the Court

- Whether the CCTV footage forming part of the chargesheet, which conclusively showed the appellants were not involved in the alleged assault, constitutes unimpeachable material sufficient to justify quashing of criminal proceedings under Section 528 of the BNSS, 2023.
- Whether the High Court erred in declining to quash proceedings against the appellants while quashing them against similarly placed co-accused arising from the same FIR and chargesheet, without assigning cogent reasons for the differential treatment.
- Whether the continuation of criminal proceedings against the appellants, in the absence of credible material connecting them to the alleged offences, would amount to an abuse of the process of law.

- The prosecution relied upon a statement recorded under Section 164 CrPC and medical records to assert the appellants' involvement; however, the specific allegation that appellant No. 2 had ignited a lighter to burn the complainant was found to be completely contradicted by the CCTV footage.

Judgement of the Court

- The Court, upon viewing the CCTV footage firsthand, held it to be of unimpeachable provenance and reliability, forming part of the prosecution's own record; the footage showed the appellants arriving only after the altercation had already taken place and making efforts to pacify the situation, with no act of assault or aggression attributable to them at any point, thereby substantially dislodging the factual foundation of the allegations.
- Applying the four-step test from *Pradeep Kumar Kesarwani v. State of Uttar Pradesh (2025)*, the Court found that the material was of sterling quality, negated the allegations, remained unrebutted by the prosecution, and that continuation of trial would amount to abuse of process.
- The Court held that the High Court erred in declining relief to the appellants while quashing proceedings against co-accused arising from the same FIR and chargesheet, without disclosing any cogent or discernible reasoning for the differential treatment; such an approach was legally and factually unsustainable.
- The attendant circumstances, including pre-existing disputes between the parties and the absence of specific overt acts attributed to the appellants, lent substance to the plea of malafide; compelling the appellants to face a full trial in the face of total absence of credible connecting material would constitute misuse of the criminal process.
- The Supreme Court set aside the Calcutta High Court's judgment, allowed the appeals of all three appellants, and quashed the chargesheet and all proceedings insofar as they related to the appellants.

Key Takeaway for CLAT Aspirant

- **Section 528, BNSS, 2023 - Inherent Powers of the High Court:** Section 528 of the BNSS, 2023, corresponding to Section 482 of the CrPC, saves the inherent powers of the High Court to make orders necessary to give effect to any order under the Code, to prevent abuse of the process of any court, or to secure the ends of justice. This section does not confer inherent powers but recognises their pre-existing existence in the High Court. These powers are extraordinary and must be exercised sparingly, but are available wherever the ends of justice demand intervention and the statutory framework does not provide an adequate remedy.
- **Four-Step Test for Quashing - Pradeep Kumar Kesarwani (2025):** The structured test for exercising inherent jurisdiction to quash criminal proceedings requires satisfaction of four cumulative conditions: the material relied upon by the accused must be of sterling and impeccable quality; it must be sufficient to negate the allegations completely; it must remain unrebutted by the prosecution; and the continuation of trial must amount to an abuse of process. All four conditions must be met; the mere existence of contradictory material does not automatically justify quashing if the prosecution can rebut or explain it.
- **Unimpeachable Material as a Basis for Quashing at Pre-Trial Stage:** The general rule governing

quashing petitions is that courts do not appreciate or weigh evidence at the pre-trial stage and must proceed on the assumption that the prosecution's version is true. However, an exception exists where reliable and unimpeachable material of sterling quality, which is part of the prosecution's own record, conclusively displaces the factual basis of the allegations. In such cases, courts are justified in quashing proceedings to prevent injustice, as compelling a trial on demonstrably false allegations amounts to an abuse of process.

- **State of Haryana v. Bhajan Lal (1992) - Categories for Exercise of Inherent Jurisdiction:** The Constitution Bench in *State of Haryana v. Bhajan Lal (1992)* authoritatively laid down seven illustrative categories of cases where the High Court's inherent jurisdiction may be invoked to quash proceedings, including where the allegations do not prima facie constitute any offence, where the uncontroverted material fails to disclose commission of an offence, and where the proceedings are manifestly attended with malafide. These categories are illustrative and not exhaustive, and courts retain flexibility to quash proceedings falling outside them where justice so demands.
- **CCTV Footage as Electronic Evidence - Admissibility and Evidentiary Weight:** Electronic records, including CCTV footage, are admissible as documentary evidence under the Indian Evidence Act, 1872 and the Bharatiya Sakshya Adhiniyam, 2023. Under the BSA, Section 61 and the related provisions on electronic records govern admissibility. CCTV footage forming part of the prosecution's own chargesheet carries particularly high evidentiary weight because it is the prosecution's own admitted record and cannot be dismissed as self-serving material fabricated by the accused. Courts have recognised digital and electronic evidence as capable of conclusively establishing or disproving factual allegations.
- **Abuse of Process of Court - Doctrine and Its Application:** The doctrine of abuse of process empowers courts to terminate proceedings that are vexatious, frivolous, or initiated with an ulterior motive. In criminal law, abuse of process includes using the machinery of criminal law to settle personal scores, applying pressure in civil disputes, or continuing proceedings where the foundation of the allegations has been demonstrably demolished. The availability of inherent jurisdiction under Section 528 BNSS is the primary vehicle through which High Courts prevent such abuse, and the Supreme Court can exercise equivalent powers under Article 136 read with Article 142 of the Constitution.
- **Differential Treatment of Co-Accused - Requirement of Cogent Reasoning:** Where a court quashes criminal proceedings against some accused arising from the same FIR and chargesheet while refusing relief to others, it must assign clear and cogent reasons for the distinction. Differential treatment of similarly placed accused, without a discernible and legally sustainable basis, violates the principle of equality before law under Article 14 of the Constitution and renders the order legally unsustainable. The High Court's failure to explain the differential treatment in the present case was itself an independent ground for the Supreme Court's intervention.
- **Malafide Prosecution - Legal Standard and Indicators:** A prosecution is malafide where it is initiated not to enforce the criminal law but to harass, intimidate, or pressurise the accused for collateral purposes. Indicators of malafide prosecution include prior personal or civil disputes between the parties, absence of specific overt acts attributed to the accused, allegations contradicted by contemporaneous evidence, and a selective approach to the registration of offences. Courts are cautious in finding malafide, as it is a serious allegation against public authorities, but where the evidence is clear and unrefuted, quashing is not only justified but necessary.
- **Section 164 CrPC and Section 183 BNSS - Statement Before Magistrate and Its Limitations:** Section

164 CrPC, corresponding to Section 183 of the BNSS, empowers a Magistrate to record statements of witnesses or confessions of accused during investigation. Such statements carry higher evidentiary value than statements made to police, as they are made before a Magistrate who must satisfy himself of voluntariness. However, a Section 164 statement is not conclusive proof of the facts stated therein and can be contradicted by other evidence including CCTV footage, medical records, and independent witness testimony. Where a Section 164 statement is directly contradicted by incontrovertible electronic evidence, its probative value is correspondingly diminished.

- **Presumption of Innocence and the Cost of Wrongful Prosecution:** The presumption of innocence under Article 21 of the Constitution is not merely a rule of evidence but a substantive protection against arbitrary state action. A criminal trial, even one that ultimately ends in acquittal, inflicts significant costs on the accused in terms of liberty, reputation, financial resources, and mental health. Courts have increasingly recognised that the process itself can become the punishment, making it imperative to terminate proceedings at the earliest stage where the evidence conclusively establishes that no offence is made out. The power to quash under Section 528 BNSS is the legislative recognition of this principle.



Practice Questions

1. Which of the following would be the strongest indicator of malafide prosecution in a criminal case?
 - (a) The accused and complainant had no prior dispute, and the complaint is supported by medical evidence, eyewitnesses, and prompt reporting.
 - (b) The complainant files a criminal case immediately after losing a property dispute, alleges no specific overt act, and the allegation is contradicted by prosecution-collected CCTV footage.
 - (c) The accused claims innocence, but the prosecution has independent witnesses and documentary evidence supporting the complaint.
 - (d) The complainant and accused are neighbours, and the complaint is supported by neutral witnesses who saw the alleged incident.

2. Which provision of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponds to Section 164 of the CrPC, which deals with recording statements and confessions before a Magistrate during investigation?
 - (a) Section 173 BNSS
 - (b) Section 175 BNSS
 - (c) Section 183 BNSS
 - (d) Section 223 BNSS

3. Nikhil and Saurabh are business partners who fall out over control of a warehouse lease. Saurabh files a civil suit seeking possession of the warehouse. Two weeks later, he files a criminal complaint alleging that Nikhil assaulted him inside the warehouse on 12 March at 4:00 p.m. During investigation, the police seize CCTV footage from the warehouse, which shows that Saurabh was not present at the warehouse at that time and that Nikhil was attending an online board meeting from another location. The prosecution includes this footage in the chargesheet but still proceeds with the assault case. Nikhil applies for quashing, arguing that the criminal case is being used to pressurise him in the civil dispute. Will Nikhil succeed?
 - (a) Yes, because continuing proceedings after the factual foundation is demolished may amount to abuse of process.
 - (b) Yes, because every criminal case following a civil dispute must automatically be quashed.
 - (c) No, because criminal proceedings can never be quashed once a chargesheet is filed.
 - (d) No, because courts must ignore electronic evidence while considering abuse of process.

4. Pranay is accused of entering a jewellery shop at 8:15 p.m. and assaulting the complainant. The FIR and the complainant's Section 164 statement both name Pranay as the assailant. However, the prosecution's own chargesheet includes CCTV footage from the shop showing that Pranay never entered the shop and that another unidentified person committed the assault. The footage is clear, timestamped, collected during investigation, and not disputed by the prosecution. Pranay seeks quashing of the proceedings. Which argument would most strongly support his claim?
 - (a) CCTV footage is never admissible in criminal proceedings because it is electronic evidence.

(b) CCTV footage in the prosecution's own chargesheet carries strong evidentiary value and may disprove the allegation.

(c) A complainant's statement must always prevail over electronic evidence, even if the footage is clear.

(d) CCTV footage can be considered only after conviction and not at any earlier stage.

5. Assume Rohit Mehta, a small contractor, was accused by Vikram Traders of cheating in relation to delayed supply of construction material. The police had earlier investigated the same allegations and filed a closure report, which was accepted by the Magistrate after hearing Vikram Traders. Six months later, Vikram Traders filed a fresh criminal complaint before another Magistrate by repeating the same facts, without disclosing the earlier closure proceedings. Rohit approaches the High Court under Section 528, BNSS, seeking quashing of the second complaint on the ground that it is a misuse of criminal process. Which of the following statements are false?

i. Section 528 creates a new inherent power in the High Court for the first time.

ii. The High Court may intervene if the second complaint amounts to abuse of process.

iii. Section 528 can be invoked routinely as a substitute for every appeal or revision.

iv. The High Court's inherent powers must be exercised sparingly to secure justice.

(a) Statements i and iii

(b) Statements ii and iv

(c) Statements i and ii

(d) Statements iii and iv

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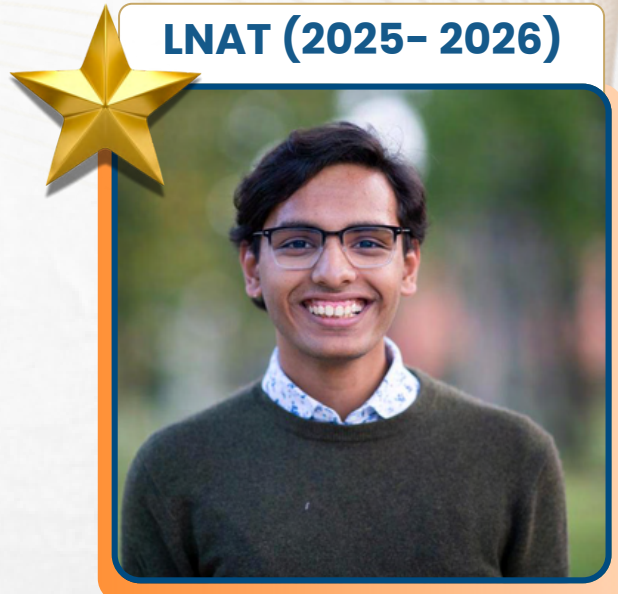
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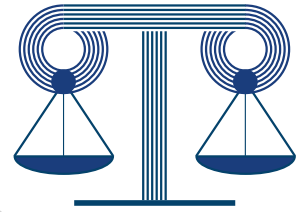
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SUPREME COURT

Landmark Judgements



14

Constructive Res Judicata

Background

- The respondent, Parvatewwa, filed a primary suit (Suit I) against the appellant, Channappa, seeking a permanent injunction restraining interference with her peaceful possession of the suit property, but did not seek a declaration of title to establish her ownership in that suit.
- In the pleadings of Suit I, Channappa expressly and clearly contested Parvatewwa's ownership over the suit property, thereby placing the question of title directly in dispute between the parties at the time of institution of the suit itself.
- Despite being fully aware of the appellant's challenge to her ownership during the pendency of Suit I, the respondent omitted to seek the relief of declaration of title in those proceedings, which she could and ought to have claimed along with the injunction.
- Subsequent to the conclusion of Suit I, the respondent filed Suit II seeking a declaration of title over the same property; the Trial Court and the First Appellate Court concurrently held that Suit II was barred under Section 11 read with Explanation IV and Order II Rule 2 CPC on the ground of constructive res judicata.
- The Karnataka High Court interfered with the concurrent findings of the two courts below and reversed their decisions, prompting the legal representatives of Channappa to challenge the High Court's order before the Supreme Court.

Judgement of the Court

- The Court held that once Channappa had expressly contested Parvatewwa's ownership in the pleadings of Suit I, it became incumbent upon Parvatewwa to seek the comprehensive relief of

Case Details

Case Title: Channappa (D) Thr. LRS. v. Parvatewwa (D) Thr. LRS.

Citation: 2026 INSC 343

Bench Justice Dipankar Datta and Justice Augustine George Masih

Issue Before the Court

- Whether a subsequent suit for declaration of title over a property is barred under Explanation IV to Section 11 CPC on the ground of constructive res judicata, where the plaintiff had omitted to claim that relief in an earlier suit for permanent injunction despite the defendant having expressly disputed the plaintiff's ownership in the pleadings of that suit.
- Whether Order II Rule 2 CPC bars a plaintiff from filing a subsequent suit for a relief that could and ought to have been claimed as part of the same cause of action in the earlier proceedings.

declaration of title along with the consequential relief of injunction in that very suit; the dispute as to the parties' respective rights over the property was already in existence at the time of institution of Suit I.

- The omission to claim the relief of declaration at that stage was fatal and could not be cured through a subsequent suit; under Explanation IV to Section 11 CPC, any matter which might and ought to have been made a ground of attack in the former proceedings is deemed to have been directly and substantially in issue in those proceedings.
- The doctrine underlying Order II Rule 2 CPC requires a plaintiff to include in a single proceeding all reliefs arising from the same cause of action; Parvatewwa's omission to seek declaration of title in Suit I, despite the relief being available and the cause of action being identical, operated as an independent bar to the maintainability of Suit II.
- The Court held that the Trial Court and the First Appellate Court had correctly applied the settled principles governing Section 11 and Order II Rule 2 CPC, and the High Court had erred in interfering with their concurrent findings without any legally sustainable basis.
- The Supreme Court allowed the appeal, set aside the Karnataka High Court's judgment, and restored the concurrent decisions of the Trial Court and the First Appellate Court holding Suit II to be barred.

Key Takeaways for CLAT Aspirants

- **Section 11, Code of Civil Procedure, 1908 - Res Judicata:** Section 11 CPC codifies the doctrine of res judicata, providing that no court shall try any suit or issue that has been directly and substantially in issue in a former suit between the same parties or parties claiming under them litigating under the same title, and has been heard and finally decided by a competent court. The doctrine rests on three maxims: no person should be vexed twice for the same cause; it is in the interest of the State that there be an end to litigation; and a judicial decision must be accepted as correct. Res judicata operates as an absolute procedural bar and goes to the root of the jurisdiction of the court to try the subsequent suit.
- **Explanation IV to Section 11 CPC - Constructive Res Judicata:** Explanation IV to Section 11 CPC embodies the doctrine of constructive res judicata, providing that any matter which might and ought to have been made a ground of attack or defence in a former suit shall be deemed to have been directly and substantially in issue in that suit. It prevents a party from splitting its claims or defences across multiple proceedings by treating all available grounds as having been raised and decided in the former suit. The doctrine imposes a duty of diligence on litigants to raise all available grounds in the first instance and penalises deliberate or negligent omission to do so.
- **Order II Rule 2, Code of Civil Procedure, 1908 - Entire Claim to Be Included in One Suit:** Order II Rule 2 CPC mandates that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; a plaintiff who omits any part of such claim without leave of the court is barred from subsequently suing in respect of the omitted portion. The provision is designed to prevent the fragmentation of a single cause of action into multiple suits, which would harass the defendant, burden the courts, and undermine the finality of judicial proceedings. A plaintiff cannot choose a limited relief in the first suit and reserve a more substantial relief for a subsequent suit arising from the same cause.
- **Distinction Between Res Judicata and Constructive Res Judicata:** Res judicata under Section 11 CPC

bars re-litigation of matters that were actually raised and finally decided in earlier proceedings between the same parties. Constructive res judicata under Explanation IV bars re-litigation of matters that were available to a party but were not raised in the earlier proceedings. The distinction is that res judicata operates on matters actually litigated while constructive res judicata operates on matters that ought to have been litigated. Both serve the same overarching purpose of finality of litigation and prevention of multiplicity of proceedings.

- **Suit for Permanent Injunction Without Declaration of Title - Legal Consequences:** A suit for permanent injunction simpliciter is maintainable where the plaintiff's title is not in dispute. However, where the defendant expressly disputes the plaintiff's title, a declaration of title becomes necessary as the foundation for the injunction. In such a case, filing a suit for injunction alone without seeking declaration of title, when title is in dispute, results in an incomplete claim. If the plaintiff later files a separate suit for declaration, it is barred by constructive res judicata and Order II Rule 2 CPC, as the plaintiff was obliged to seek both reliefs in the first suit itself.
- **Concurrent Findings of Two Courts - High Court's Power of Interference:** Where the Trial Court and the First Appellate Court have concurrently arrived at the same finding of fact after appreciating the evidence, the High Court in second appeal or under Article 227 should be slow to interfere unless the concurrent finding is perverse, based on a misreading of evidence, or involves a substantial question of law. The Supreme Court has consistently held that the mere possibility of a different view is not sufficient to justify interference with concurrent findings of two courts. In the present case, the High Court's reversal of concurrent findings without adequate justification was itself an independent ground for the Supreme Court's intervention.
- **Cause of Action - Meaning and Role in Determining Bar Under Order II Rule 2:** A cause of action is the bundle of essential facts which a plaintiff must prove to succeed in a suit. All reliefs flowing from the same cause of action must be claimed in a single proceeding under Order II Rule 2 CPC. Where the plaintiff's right to possession and her right to title both arise from the same set of facts and the same property, the cause of action for injunction and the cause of action for declaration are inseparable. Filing separate suits for these reliefs at different times constitutes an impermissible fragmentation of the cause of action.
- **Applicability of Constructive Res Judicata to Writ Petitions - M. Nagabhushana (2011):** The Supreme Court in *M. Nagabhushana v. State of Karnataka* (2011) held that the doctrine of constructive res judicata embodied in Explanation IV to Section 11 CPC is not confined to civil suits but applies equally to writ petitions. This extension reflects the broader principle that no party should be permitted to reargue before a constitutional court any ground that was available to it in earlier proceedings, whether civil or constitutional, and was deliberately or negligently omitted. The doctrine thus operates as a general principle of procedural law transcending the boundaries of the CPC.
- **Doctrine of Election of Remedies and Its Relationship to Constructive Res Judicata:** The doctrine of election of remedies provides that a party who has two or more inconsistent remedies available must elect one and cannot, after having pursued one to a conclusion, turn to the other. While distinct from constructive res judicata, it reinforces the same underlying policy: a litigant must make a comprehensive and considered choice of reliefs at the outset and cannot reserve alternative or additional reliefs for subsequent proceedings arising from the same facts. Courts will not permit the judicial process to be used in instalments where a consolidated proceeding was both possible and appropriate.

- **Finality of Litigation and the Policy Against Multiplicity of Proceedings:** The policy of Indian procedural law, as reflected in Section 11, Order II Rule 2, and the inherent powers of courts, is strongly against multiplicity of proceedings. Multiplicity of suits arising from the same facts burdens the courts, harasses the opposing party, prolongs uncertainty over legal rights, and undermines public confidence in the efficiency of the justice system. Courts therefore read the bars under Section 11 and Order II Rule 2 broadly and in a manner that discourages piecemeal litigation, and will not permit a party to circumvent these bars through creative characterisation of the cause of action in a subsequent suit.



Practice Questions

1. A files a suit against B claiming ownership of a shop. The civil court, having jurisdiction over the matter, hears both parties and finally decides that B is the owner. Later, A files another suit against B claiming ownership of the same shop on the same title, arguing that the earlier decision was legally incorrect and should be reconsidered.

Consider the following Assertion [A] and Reasoning [R]:

[A] The subsequent suit filed by A is barred by res judicata because the issue of ownership was directly and substantially decided in the former suit between the same parties.

[R] Res judicata applies even if the former suit was not finally decided by a competent court, because its only purpose is to avoid repeated litigation.

Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true

2. Nikhil files a writ petition before the High Court challenging cancellation of his mining lease only on the ground that he was not given proper notice. At that time, he also had documents showing that the cancellation order was passed by an incompetent authority, but he deliberately chooses not to raise that ground. The High Court dismisses his writ petition. Six months later, Nikhil files a second writ petition challenging the same cancellation order on the ground of lack of authority. The State objects that the second writ petition is barred by constructive res judicata. Which argument would most strongly support the State's objection?

- (a) Constructive res judicata applies only to civil suits and never to writ petitions.
- (b) A litigant may file separate writ petitions for each ground arising from the same order.
- (c) Constructive res judicata applies to writ petitions and bars grounds available but omitted earlier.
- (d) Constitutional courts cannot apply procedural doctrines while deciding writ petitions.

3. Priya enters into a development agreement with Devansh Builders. After disputes arise, she has two available remedies: she may either seek specific performance of the agreement or seek damages for breach. Both remedies arise from the same set of facts. Priya first files a suit claiming only damages and allows it to be finally decided. After losing the suit, she files a second suit seeking specific performance of the same agreement, arguing that she had intentionally reserved that remedy for later. Devansh Builders objects that Priya cannot use the judicial process in instalments. Will Devansh Builders succeed?

- (a) Yes, because a party must make a comprehensive choice of reliefs and cannot reserve further remedies arising from the same facts.
- (b) Yes, because a plaintiff is legally required to file every possible civil and criminal case together.
- (c) No, because a party may always pursue one remedy first and another inconsistent remedy later.
- (d) No, because constructive res judicata never applies where contractual remedies are involved.

4. Which provision of the Code of Civil Procedure, 1908 mandates that every suit must include the whole

claim arising from the same cause of action and bars a later suit for an omitted portion if no leave of the court was obtained?

- (a) Order I Rule 10 CPC
- (b) Order II Rule 2 CPC
- (c) Order VI Rule XVII CPC
- (d) Order XLI Rule 25 CPC

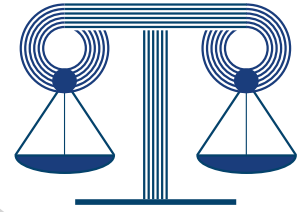
5. Rohan files a suit challenging cancellation of his dealership. In the first suit, he argues only that the cancellation notice was vague. At that time, he also knew that the officer passing the cancellation order lacked authority and that the mandatory hearing procedure was not followed, but he does not raise either ground. The suit is dismissed. Rohan then files a second suit challenging the same cancellation on the omitted grounds of lack of authority and denial of hearing. The defendant argues that both grounds are deemed to have been directly and substantially in issue in the first suit. Which conclusion is most consistent with Explanation IV to Section 11 CPC?

- (a) Rohan may proceed because omitted grounds are never treated as decided.
- (b) Rohan may proceed because each legal ground creates a fresh cause of action.
- (c) Rohan is barred because available grounds that might and ought to have been raised are deemed decided.
- (d) Rohan is barred only if the second suit repeats the exact words used in the first plaint.



SUPREME COURT

Landmark Judgements



15

Magistrate's Investigation Order Cannot Be Quashed Based on Accused's Defence

Background

- The appellant, an NRI residing in Canada, had purchased a residential plot in Athina Township, Bengaluru, in 1994; towards the end of 2006 she discovered that third parties had forcibly entered the layout, demolished infrastructure, and erected boards of an entity called City Scape Properties; she was subsequently induced to sign documents under misrepresentation and her original sale deed was taken away and replaced with a photocopy.
- In 2009, the appellant discovered that her plot had been transferred in the name of accused K.V. Rajagopal Reddy on the basis of a confirmation deed purportedly bearing her signature, which she alleged was obtained under false pretences without her informed consent and without consideration.
- A detailed complaint was filed alleging theft, criminal breach of trust, cheating, forgery, preparation and use of forged documents, and criminal conspiracy against sixteen accused; the XI Additional Chief Metropolitan Magistrate directed police investigation under Section 156(3) CrPC on 6 November 2013, recording that the complaint prima facie disclosed ingredients of cognizable offences, pursuant to which FIR No. 162/2013 was registered.
- The accused approached the Karnataka High Court under Section 482 CrPC seeking quashing of the proceedings; the High Court examined documents relied upon by the accused including sale deeds executed in their favour, treated them as determinative of the dispute, and held that the sale deeds must first be cancelled under Section 31 of the Specific Relief Act, 1963 before criminal proceedings

Case Details

- **Case Title:** Accamma Sam Jacob v. The State of Karnataka & Anr.
- **Citation:** 2026 INSC 362
- **Bench:** Justice Vikram Nath and Justice Sandeep Mehta

Issue Before the Court

- Whether a High Court exercising inherent jurisdiction under Section 482 CrPC can quash a Magistrate's order directing investigation under Section 156(3) CrPC by examining and relying upon defence material such as sale deeds and title documents produced by the accused.
- Whether prior cancellation of registered sale deeds under Section 31 of the Specific Relief Act, 1963 is a prerequisite for initiating criminal proceedings where allegations of forgery, cheating, and criminal conspiracy are levelled in respect of such documents.
- Whether the mere civil character of the underlying dispute bars the initiation or continuation of criminal proceedings where the allegations prima facie disclose the commission of cognizable offences.

could be set in motion.

- The High Court accordingly quashed the FIR and the Magistrate's order on 28 September 2016, prompting the complainant to approach the Supreme Court.

Judgement of the Court

- The Court held that at the stage of a Magistrate's order under Section 156(3) CrPC, the High Court's jurisdiction under Section 482 CrPC is limited to examining whether the allegations in the complaint prima facie disclose a cognizable offence; it cannot travel beyond the complaint to examine defence material such as sale deeds or title documents produced by the accused, as this amounts to adjudication of disputed questions of fact falling within the domain of investigation and trial.
- Consideration of defence material at the pre-trial stage amounts to conducting a wholly impermissible mini-trial; permitting defence material to be weighed at the threshold stage would frustrate and defeat the very purpose of directing a police investigation, contrary to settled principles consistently laid down by the Supreme Court.
- The Court firmly rejected the High Court's reasoning that registered sale deeds must first be cancelled under Section 31 of the Specific Relief Act before criminal proceedings could be set in motion; such a requirement has no legal basis and introduces a prerequisite not contemplated by the statute.
- The mere civil character of the underlying dispute does not by itself bar criminal proceedings where the allegations prima facie disclose the commission of cognizable offences; a civil remedy and a criminal remedy may co-exist where the same set of facts gives rise to both civil liability and criminal culpability.
- The impugned judgment of the Karnataka High Court was set aside, and the FIRs along with proceedings arising therefrom were revived and restored to the concerned Police Station and Magistrate for being proceeded with in accordance with law.

Key Takeaways for CLAT Aspirants

- **Section 156(3) CrPC and Section 175(3) BNSS - Magistrate's Power to Direct Investigation:** Section 156(3) CrPC, now replaced by Section 175(3) of the BNSS, 2023, empowers a Magistrate to direct the officer in charge of a police station to investigate a cognizable offence. At this stage, the Magistrate is required only to determine whether the allegations prima facie disclose the necessary ingredients of a cognizable offence; an exhaustive evaluation of evidence or adjudication of the merits is neither required nor permissible. Section 175(3) BNSS introduces additional procedural safeguards, including a mandatory prior application to the Superintendent of Police and an affidavit supporting the Magistrate's application.
- **Section 482 CrPC and Section 528 BNSS - Inherent Powers and Their Limits in Pre-Trial Quashing:** The inherent power of the High Court under Section 482 CrPC, now Section 528 BNSS, to quash criminal proceedings must be exercised with great circumspection and only in exceptional cases. At the pre-cognizance or pre-trial stage, the High Court's examination is confined to whether the allegations in the complaint, taken at face value, prima facie disclose a cognizable offence. It cannot enter into a merit-based evaluation of the evidence, consider defence material, or adjudicate disputed questions of fact, as doing so would amount to conducting a mini-trial that is wholly impermissible at

that stage.

- **Prohibition on Mini-Trials at the Pre-Trial Stage:** A mini-trial occurs when a court, at the pre-trial stage, evaluates competing versions of facts, weighs evidence, and arrives at a finding on disputed questions. Courts have consistently held that such an exercise is impermissible at the quashing stage, during consideration of charge, or at the stage of framing of issues. The rationale is that factual disputes are reserved for the trial stage, where evidence is led, witnesses are cross-examined, and findings are arrived at after full hearing. Conducting a mini-trial at the threshold stage defeats the investigative and adjudicatory scheme of the criminal law.
- **Co-Existence of Civil and Criminal Remedies:** The existence of a civil remedy for a wrong does not bar the simultaneous or subsequent initiation of criminal proceedings if the same facts prima facie disclose the commission of a cognizable offence. A transaction that is primarily civil in character, such as a sale of property or execution of a contract, may acquire a criminal dimension where it is accompanied by fraud, forgery, cheating, or criminal conspiracy. Courts have consistently held that the mere pendency of civil proceedings or the availability of civil remedies does not by itself bar criminal proceedings, and the two may proceed simultaneously.
- **Section 31, Specific Relief Act, 1963 - Cancellation of Instruments and Its Relationship to Criminal Law:** Section 31 of the Specific Relief Act empowers a civil court to cancel a written instrument that is void or voidable against a party seeking its cancellation. This is a civil remedy and operates in the domain of civil adjudication. The High Court's direction that registered sale deeds must first be cancelled under Section 31 before criminal proceedings can be initiated introduced an extraneous prerequisite with no statutory basis. Criminal courts are competent to examine allegations of forgery, fraud, and fabrication of documents independently, without waiting for a civil court's declaration of invalidity.
- **Neeharika Infrastructure v. State of Maharashtra (2021) - Scope of Power to Interdict Investigation:** This judgment authoritatively delineated the scope of the High Court's power under Section 482 CrPC to stay or quash investigations, holding that where facts are hazy and investigation has just begun, the High Court must exhibit circumspection and permit the investigating agency to perform its statutory duty. Interdicting an investigation at its inception deprives the State of the opportunity to uncover evidence that may either establish or negate the allegations, and should be done only in the clearest cases where the complaint ex facie discloses no cognizable offence.
- **Forgery and Cheating in Property Transactions - Cognizable Offences Under IPC:** Forgery under Section 468 IPC, cheating under Section 420 IPC, criminal breach of trust under Section 406 IPC, and criminal conspiracy under Section 120B IPC are all cognizable and non-bailable offences that frequently arise in property transactions. Where a sale deed or other property document is alleged to have been fabricated, executed under misrepresentation, or used to dishonestly transfer property without the owner's informed consent, these provisions are prima facie attracted and the police are duty-bound to investigate. The nature of the document as a registered instrument does not insulate it from criminal law scrutiny.
- **Doctrine of Prima Facie Satisfaction at the Complaint Stage:** Prima facie satisfaction is the threshold standard applied by a Magistrate when considering whether to order investigation under Section 156(3) CrPC or to take cognizance under Section 190 CrPC. It requires only that the allegations, if accepted as true, disclose the necessary ingredients of a cognizable offence; it does not require proof or even a high probability of guilt. This low threshold is deliberate, as the purpose of investigation is precisely to gather material that will establish or disprove the allegations; requiring a higher standard

at this stage would pre-empt the investigative process itself.

- **Role of the Complainant's Material vs. the Accused's Defence at the Quashing Stage:** At the stage of quashing a complaint or Magistrate's order, courts must proceed on the basis of the material placed by the complainant and not the material relied upon by the accused. The accused's defence, including documents asserting title or denying involvement, is irrelevant at this stage because disputed questions of fact cannot be resolved without evidence and cannot be decided on the basis of competing documents. The accused's remedy lies in the trial, where the defence can be fully established through evidence and cross-examination.
- **Power of the Supreme Court to Revive Quashed Proceedings:** Where the Supreme Court finds that a High Court has quashed criminal proceedings without justification or by applying an erroneous legal standard, it is empowered under Article 136 of the Constitution to set aside the quashing order and revive the proceedings. The revival directs the case to be taken up from the stage at which it was wrongly interfered with, ensuring that the complainant is not permanently deprived of the investigative and trial process to which she is entitled under the statutory scheme. This corrective jurisdiction is a safeguard against the misuse of the quashing power by High Courts.



Practice Questions

1. Analyze the situations below and determine which situation most correctly reflects the Magistrate's power while considering an application for investigation under Section 156(3) CrPC / Section 175(3) BNSS.

- The Magistrate refuses investigation because the complainant has not conclusively proved guilt through documentary and oral evidence at the complaint stage.
- The Magistrate directs investigation after finding that the allegations, if accepted at face value, disclose ingredients of forgery and cheating.
- The Magistrate conducts a full trial-like inquiry, compares rival versions, examines defence documents, and then decides whether police investigation is needed.
- The Magistrate rejects the application only because the accused claims that the dispute also involves a civil property transaction.

2. Rohan files a complaint alleging that his uncle Mahendra forged his signature on a power of attorney and used it to execute sale deeds of ancestral land in favour of third parties. The Magistrate directs investigation under Section 156(3) CrPC after finding prima facie allegations of forgery, cheating, and conspiracy. Mahendra approaches the High Court under Section 482 CrPC, producing private WhatsApp messages and claiming that Rohan had orally consented to the sale. The complainant disputes these messages and says they are fabricated. The High Court examines the messages in detail, accepts Mahendra's defence, and quashes the proceedings before investigation is complete. Rohan challenges the quashing order. Which argument would most strongly support Rohan's challenge?

- The High Court cannot conduct a merit-based evaluation of disputed defence material at the pre-trial stage.
- The High Court must quash every criminal case where the accused produces some defence documents.
- The High Court has no inherent power at all to quash criminal proceedings in any situation.
- The High Court must decide ownership of the property before permitting criminal investigation.

3. Meera owns agricultural land in Ujjain. She alleges that her cousin, Vikram, fabricated an agreement to sell, forged her thumb impression, and then executed registered sale deeds in favour of his business associates. Meera files a complaint alleging forgery, cheating, and conspiracy. Vikram argues that because the sale deeds are registered documents, Meera must first file a civil suit under Section 31 of the Specific Relief Act for cancellation of the sale deeds before any criminal investigation can begin. The Magistrate accepts Vikram's argument and refuses to direct investigation. Is the Magistrate's approach correct?

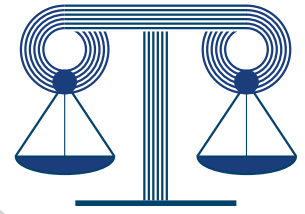
- Yes, because registered sale deeds are completely immune from criminal investigation until cancelled by a civil court.
- Yes, because Section 31 of the Specific Relief Act bars all criminal proceedings involving property documents.
- No, because criminal courts can examine allegations of forgery and fraud without waiting for civil cancellation.
- No, because every registered sale deed must automatically be treated as forged once the owner objects.

4. Which of the following property-related situations would most clearly justify police investigation for cognizable offences such as forgery, cheating, criminal breach of trust, or conspiracy?
- (a) A buyer delays payment under a genuine sale agreement, and both parties admit that the agreement was voluntarily signed.
 - (b) A landlord and tenant disagree about market rent after a valid registered lease expires.
 - (c) A nephew allegedly forges his aunt's signature, creates a false power of attorney, and transfers her land without informed consent.
 - (d) Two brothers disagree about the future partition of family property, but neither alleges fabrication, deception, or dishonest transfer.
5. Which standard must a Magistrate apply while deciding whether to direct investigation under Section 156(3) CrPC / Section 175(3) BNSS at the complaint stage?
- (a) The Magistrate must be satisfied that conviction is certain.
 - (b) The Magistrate must find that the allegations, if accepted as true, disclose ingredients of a cognizable offence.
 - (c) The Magistrate must decide all disputed questions of fact before allowing investigation.
 - (d) The Magistrate must reject the complaint if the accused gives a possible civil explanation.



HIGH COURT

Landmark Judgements



16 Wife Absolute Owner of Streedhan

Background

- The applicant-wife married the opposite party-husband in April 2012, with her family providing sufficient dowry at the time of marriage; disputes arose thereafter and she lodged an FIR against her husband and his family members under Sections 498-A and 323 IPC and the Dowry Prohibition Act alleging demands for additional dowry, pursuant to which a chargesheet was submitted in December 2018.
- In May 2022, a court directed the husband to pay monthly maintenance of Rs. 4,000 to the wife and Rs. 1,000 to her son; following this, the husband filed a counter-complaint alleging that his wife and the other applicants had entered his house in September 2018 and taken away Rs. 6,400 in cash, ornaments worth approximately Rs. 1,50,000, and certain household articles.
- On the basis of this complaint and witness statements, the Magistrate passed a summoning order against the wife and her family members under Sections 323, 504, and 406 of the Indian Penal Code, 1860.
- The applicant-wife challenged the summoning order before the High Court, contending that the ornaments and property taken by her constituted her streedhan of which she was the absolute owner, and that no offence of criminal breach of trust could be made out against her for recovering her own property.
- The Court noted that the summoning order had been passed in a casual manner, as the Magistrate had failed to properly apply the definitional requirements of criminal breach of trust under Section 405 IPC before issuing process.

Case Details

Case Title:	Anamika Tiwari and 4 Others v. State of U.P. and Another
Court	High Court of Judicature at Allahabad
Citation:	2026 LiveLaw (AB) 155
Bench	Justice Chawan Prakash

Issue Before the Court

- Whether a legally wedded wife can be prosecuted for criminal breach of trust under Section 406 IPC for taking away her own streedhan from the matrimonial home.
- Whether streedhan constitutes the absolute property of the wife or whether it becomes joint property of the husband and wife upon marriage, thereby enabling the husband or his family to claim entrustment over it.
- Whether the summoning order passed by the Magistrate without proper application of the definitional requirements of criminal breach of trust under Section 405 IPC was legally sustainable.

Judgement of the Court

- The Court examined Sections 405 and 406 IPC and held that for an offence of criminal breach of trust to be made out, property must be entrusted to a person who subsequently and dishonestly misappropriates or converts it to her own use; since the wife is the absolute owner of her streedhan, no entrustment by the husband or his family can be said to exist in law.
- Streedhan does not become joint property of the husband and wife by virtue of marriage; the wife retains an unqualified right to dispose of it as she pleases, and neither the husband nor the in-laws have any legal control over such property.
- While a husband may use streedhan during times of distress, such use carries only a moral obligation to restore the property or its equivalent value and does not confer any right of ownership or control upon him or the in-laws.
- The allegations under Sections 323 and 504 IPC against the remaining applicants were found to be general and non-specific in nature and insufficient to sustain the summoning order.
- The summoning order was set aside and the entire proceedings against the wife and her relatives were quashed, the Magistrate having failed to properly apply the definitional requirements of Section 405 IPC before issuing process.

Key Takeaways for CLAT Aspirants

- **Streedhan - Nature, Composition, and Absolute Ownership:** Streedhan, derived from the Sanskrit words "Stri" meaning woman and "dhana" meaning property, refers to all movable and immovable property, gifts, and valuables received by a woman before, at the time of, or after marriage, including during childbirth and widowhood. A woman is the absolute owner of her streedhan and retains an unqualified right to dispose of it at her pleasure. It does not become joint marital property upon marriage and is entirely distinct from dowry in that it involves no element of coercion and is a voluntary gift to the woman.
- **Legal Framework Protecting Streedhan - Section 14, Hindu Succession Act and Section 27, Hindu Marriage Act:** Section 14 of the Hindu Succession Act, 1956, read with Section 27 of the Hindu Marriage Act, 1955, provides that a woman is the absolute owner of her streedhan even if it is placed in the custody of her husband or in-laws, who are deemed to be trustees bound to return it whenever demanded. The Domestic Violence Act, 2005 further reinforces this right under Section 12, which empowers a Magistrate to direct return of streedhan to an aggrieved woman in cases of domestic violence. Together, these provisions constitute a comprehensive statutory protection for a woman's absolute right over her streedhan.
- **Section 405 and 406 IPC - Criminal Breach of Trust and the Entrustment Requirement:** Section 405 IPC defines criminal breach of trust as the dishonest misappropriation or conversion of property entrusted to a person, or the dishonest use or disposal of such property in violation of any legal direction. Section 406 IPC provides for the punishment of criminal breach of trust with imprisonment up to three years, fine, or both. The twin essential ingredients are entrustment of property and subsequent dishonest misappropriation. Where a woman takes away her own streedhan, neither ingredient is satisfied: there is no entrustment by another and no misappropriation of another's property.
- **Husband as Trustee of Streedhan - Moral vs. Legal Obligation:** Where a husband uses his wife's

streedhan during times of financial distress, the law recognises a moral obligation on his part to restore the property or its equivalent value to the wife. However, this moral obligation does not transform into a right of ownership or control over the streedhan, and its breach does not give rise to a criminal proceeding for breach of trust against the wife. The distinction between a moral obligation and a legal one is significant: only a legal obligation, if violated, attracts criminal liability, and the wife's streedhan remains outside the ambit of such liability at all times.

- **Distinction Between Streedhan and Dowry:** Dowry, regulated under the Dowry Prohibition Act, 1961, refers to property given as a condition of marriage, often under coercion or demand. Streedhan, by contrast, is a voluntary gift to the woman herself, given without any coercive element. While dowry is given to the groom's family and its demand is a criminal offence, streedhan is given to the bride and remains her exclusive property. Courts have consistently maintained this distinction, and the provisions of the Dowry Prohibition Act and IPC Section 498-A operate in a different domain from the law governing streedhan.
- **Section 498-A IPC - Cruelty by Husband or Relatives for Dowry:** Section 498-A IPC penalises any husband or relative of a husband who subjects a woman to cruelty, including harassment for unlawful demands of dowry. It is a cognizable and non-bailable offence. In the present case, the wife had already lodged an FIR under Section 498-A for demands of additional dowry, and the husband's subsequent counter-complaint was filed only after a maintenance order was passed against him. Courts have cautioned against the counter-complaint mechanism being used to harass complainants in matrimonial disputes.
- **Summoning Order - Judicial Application of Mind Requirement:** A Magistrate issuing a summoning order under Section 204 CrPC or its BNSS equivalent is required to apply judicial mind to the complaint and the material placed before it and satisfy itself that there is sufficient ground to proceed. A casual or mechanical passing of a summoning order, without examining whether the essential ingredients of the alleged offence are prima facie made out, is legally unsustainable. The requirement of judicial application of mind at the summoning stage is a safeguard against the abuse of the criminal process to harass private individuals.
- **Counter-Complaint in Matrimonial Disputes - Judicial Scrutiny Required:** The filing of counter-complaints in matrimonial disputes, where a husband registers a complaint against the wife or her family after the wife has initiated criminal or maintenance proceedings, is a recognised pattern that courts have increasingly scrutinised. While such complaints are not inherently malafide, the temporal connection between the wife's successful proceedings and the filing of the counter-complaint is a relevant circumstance that courts factor into their assessment of the genuineness of the allegations. Where the counter-complaint lacks specific averments and is filed shortly after an adverse order in maintenance proceedings, it is susceptible to being quashed as an abuse of process.
- **Section 504 and Section 323 IPC - Intentional Insult and Voluntarily Causing Hurt:** Section 504 IPC penalises intentional insult with intent to provoke breach of the peace, while Section 323 IPC penalises voluntarily causing hurt. Both are frequently invoked in matrimonial and neighbourhood disputes. Courts have held that vague and omnibus allegations against multiple accused persons, without specific overt acts attributed to each, do not satisfy the prima facie standard required to sustain a summoning order. General and non-specific allegations of instigation or presence at the scene, without particulars of the role played by each accused, are insufficient to proceed to trial.
- **Constructive Entrustment and Its Limits in Matrimonial Property Disputes:** The concept of

constructive entrustment, by which property placed in another's custody for convenience is deemed entrusted to them for legal purposes, has been applied in various contexts under Section 405 IPC. However, courts have firmly held that this concept cannot be extended to streedhan in the matrimonial home. A wife's ornaments and valuables in the matrimonial home are not entrusted to the husband or in-laws; they remain the wife's exclusive property in her physical possession. Any other view would effectively deprive a woman of the right to recover her own property from a hostile matrimonial home and would weaponise the criminal law against the very person it seeks to protect.



Practice Questions

1. Which of the following allegations would most likely satisfy the prima facie standard for summoning an accused under Sections 504 and 323 IPC?
 - (a) "All members of my husband's family insulted and beat me many times," without stating who said what, who caused hurt, when it happened, or what role each person played.
 - (b) "My husband's relatives were present in the house during disputes," without alleging any specific insult, provocation, assault, or individual act against them.
 - (c) "On 12 March at 8 p.m., Rajat slapped me, pushed me against a table causing injury to my arm, and shouted specific abusive words intending to provoke me."
 - (d) "My in-laws generally disliked me and supported my husband," without describing any act of intentional insult or voluntary causing hurt.

2. Aarti files an FIR under Section 498-A IPC alleging that her husband, Nikhil, and his parents repeatedly demanded an additional car and ₹10 lakh from her parents after marriage. She also alleges that she was harassed when her parents refused. Two months later, a Magistrate passes a maintenance order in Aarti's favour. Immediately after the maintenance order, Nikhil files a counter-complaint alleging that Aarti stole "family jewellery," though the items described are gifts given to Aarti by her parents and relatives at marriage. Which conclusion is most consistent with the principle?
 - (a) Nikhil's counter-complaint must be viewed carefully because such complaints may be used to harass a wife after she invokes matrimonial remedies.
 - (b) Aarti's Section 498-A FIR must automatically fail because every dowry harassment complaint is presumed false after a counter-complaint.
 - (c) Nikhil's complaint must automatically succeed because all jewellery in the matrimonial home belongs to the husband's family.
 - (d) Aarti cannot rely on Section 498-A IPC because demands for money or a car after marriage are never treated as dowry-related harassment.

3. Meera leaves her matrimonial home after a serious dispute with her husband, Rohit. Before leaving, she takes with her the gold bangles gifted by her parents at marriage, a necklace given by her grandmother, and cash gifted to her during childbirth. Rohit files a criminal complaint under Sections 405 and 406 IPC, alleging that Meera committed criminal breach of trust by taking away these articles. Meera argues that the articles are her own streedhan and that she cannot be accused of misappropriating her own property. Will Meera succeed?
 - (a) Yes, because taking one's own streedhan does not involve entrustment by another or misappropriation of another's property.
 - (b) Yes, because a wife can never be prosecuted for any property-related offence after marriage.
 - (c) No, because all jewellery received at marriage belongs jointly to the husband and wife.
 - (d) No, because leaving the matrimonial home automatically converts streedhan into the husband's property.

4. Priya receives gold ornaments, a diamond ring, silver utensils, and cash gifts from her parents and

relatives at the time of marriage. Because Priya and her husband live in a joint family home, her mother-in-law keeps the jewellery in the family locker, saying it will be safer there. After marital disputes arise, Priya leaves the matrimonial home and asks for the return of her jewellery. Her husband and in-laws refuse, claiming that the jewellery was kept in the family locker and therefore became family property. Priya files proceedings seeking return of her streedhan. Which argument would most strongly support Priya's claim?

- (a) Priya's streedhan remains her absolute property, and her husband or in-laws are bound to return it when demanded.
- (b) Priya loses ownership of all jewellery once it is placed in a matrimonial home or family locker.
- (c) Priya can recover streedhan only if her husband voluntarily agrees to return it during mediation.
- (d) Priya's jewellery becomes joint marital property because it was received around the time of marriage.

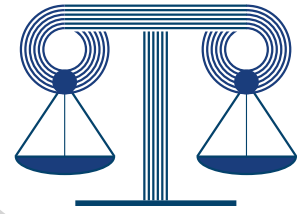
5. Analyze the situations below and determine which situation most clearly shows the correct legal position regarding streedhan.

- (a) Neha receives gold jewellery from her parents at marriage, but after marriage it automatically becomes joint property of Neha and her husband.
- (b) Kavya receives a silver set from her grandmother after marriage, and she remains its absolute owner with full right to use or dispose of it.
- (c) Ritu receives voluntary gifts at childbirth, but such gifts become dowry because they were received after marriage.
- (d) Ananya's in-laws keep her jewellery in their locker, so ownership of the jewellery transfers to them permanently.



HIGH COURT

Landmark Judgements



17 Parents Can't Invoke Habeas Corpus Against Adult Daughters' Choice

Background

- The three petitioners were fathers whose adult daughters had joined the Monastery of Holy Ruah (MHR), a religious congregation under the Archdiocese of Thrissur; the daughters had joined the MHR when it was duly recognised by the Archdiocese, but in 2023 the Archdiocese passed a decree dissolving the MHR and withdrawing its rights, privileges, and duties as a recognised congregation.
- The petitioners contended that following this dissolution, their daughters' continued association with the congregation was not voluntary but the result of coercion and undue influence exercised by the respondent nuns, and that the daughters were being subjected to grueling rituals against their own and their family's best interests.
- The petitioners relied upon decisions of Division and Full Benches to contend that parents retain authority to aid and advise even their major children, and that the constitutional liberties of adult children are not without limit.
- When police authorities made enquiries, the daughters signed statements affirming that they were continuing with the MHR voluntarily; there was no material on record to suggest that they were not acting on their own free will or that the respondent nuns were in actual physical control over their persons.
- The petitioners filed habeas corpus petitions before the Kerala High Court seeking release of their daughters from what they characterised as illegal detention by the respondent nuns.

Case Details

- **Case Title:** Joju George and Ors. v. State of Kerala and Ors.
- **Court:** High Court of Kerala
- **Citation:** 2026 LiveLaw (Ker) 204 | W.P(Crl.) No. 500 of 2026
- **Bench:** Justice A.K. Jayasankaran Nambiar and Justice Jobin Sebastian
Date of Judgment: 18 April 2026

Issue Before the Court

- Whether parental disapproval of an adult daughter's choice to lead a life of celibacy in a religious congregation can constitute valid grounds for the issuance of a writ of habeas corpus.
- Whether the dissolution of a religious congregation by the Archdiocese, and the continued association of adult members with it thereafter, amounts to illegal detention warranting the court's intervention through a writ of habeas corpus.
- Whether the individual autonomy and freedom of self-determination of an adult woman in matters of religious belief and congregation membership can be overridden by parental authority or State intervention.

Judgement of the Court

- The Court held that the writ of habeas corpus is an extraordinary remedy that should not be issued unless ordinary remedies have been exhausted and proven ineffective; it is discretionary in the sense that the court may decline jurisdiction depending on the facts, but once illegal detention is established, the writ becomes available as of right and cannot be withheld.
- The Court reaffirmed that individual autonomy, freedom of self-determination, and free will occupy a central place in the constitutional framework; interference by the State in the private domain of an individual would have a chilling effect on the exercise of constitutional freedoms, and the choice of an adult woman regarding her religious beliefs and congregation membership rests exclusively within her private domain.
- The mere fact that the petitioners did not approve of their daughters joining a congregation no longer spiritually aligned with the Archdiocese of Thrissur could not, by itself, justify the issuance of a writ of habeas corpus; parental disgruntlement with an adult daughter's voluntary choice of celibacy cannot be the basis for invoking the court's extraordinary writ jurisdiction.
- The Court noted that the alleged detainees were educated adults and found no material on record to suggest that they were not acting on their own free will; the daughters' voluntary statements before police authorities directly negated the allegation of coercion or undue influence.
- Finding no material to establish that the daughters were being held against their will or that the respondent nuns exercised actual physical control over their persons, the Court declined to issue the writ and dismissed the petitions.

Key Takeaways for CLAT Aspirants

- **Writ of Habeas Corpus - Nature, Scope, and Constitutional Basis:** Habeas corpus, meaning "you may have the body," is a writ issued by a court to produce a detained person and examine the legality of the detention. It is available under Article 32 before the Supreme Court and under Article 226 before High Courts. It is a procedural writ, not a substantive one, as held in *Kanu Sanyal v. District Magistrate Darjeeling* (1974), focused on the legality of detention rather than merely the physical production of the body. Once illegal detention is established, the writ becomes available as of right and cannot be withheld at the court's discretion.
- **Habeas Corpus as an Extraordinary Remedy - Exhaustion of Ordinary Remedies:** The writ of habeas corpus is an extraordinary remedy of last resort and should not be invoked unless ordinary legal remedies have been exhausted and proven ineffective. Courts exercise discretion in determining whether the facts justify resort to this extraordinary jurisdiction. The threshold requirement is the existence of credible material establishing that the alleged detainee is being held against her will by a person or authority in actual physical control over her person; mere apprehension or parental disapproval does not meet this threshold.
- **Individual Autonomy and Right to Personal Liberty - Article 21:** Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to make choices about one's lifestyle, beliefs, and associations without State interference. The Supreme Court has progressively expanded this right to encompass individual autonomy, freedom of self-determination, and the right to privacy. An adult woman's choice to join a religious congregation, embrace celibacy, or lead a life of spirituality falls squarely within this constitutionally protected private domain, and no third party, including parents, can override that choice through a writ petition.

- **Freedom of Religion and Conscience - Articles 25 and 26:** Article 25 of the Constitution guarantees to every person the freedom of conscience and the right to freely profess, practise, and propagate religion, subject to public order, morality, and health. Article 26 guarantees religious denominations the right to manage their own affairs in matters of religion. An adult individual's choice to join a religious congregation and lead a life of celibacy is an expression of the freedom of conscience and religious belief protected under Article 25. Neither the State nor parents can compel a person to abandon a religious vocation chosen freely.
- **Parental Authority Over Adult Children - Legal Limits:** While parents hold a position of natural authority and affection in relation to their children, this authority does not extend to overriding the choices of adult children in matters of personal lifestyle, religion, or association. Indian law, informed by constitutional guarantees of autonomy and liberty, has consistently held that adulthood marks the point at which an individual becomes the sole decision-maker in matters affecting her own person. Parental disapproval, however sincere, does not constitute a legal ground for judicial intervention in the choices of an adult child.
- **Undue Influence and Coercion - Standard of Proof in Habeas Corpus Proceedings:** In habeas corpus proceedings where a family member alleges that their relative is being held under coercion or undue influence by a third party, the court must look for credible and specific material establishing actual physical control or demonstrable coercion. Vague allegations of psychological pressure, grueling rituals, or ideological influence, without concrete evidence of physical restraint or threats that negate free will, are insufficient to establish illegal detention. The voluntary statements of the alleged detainee before an independent authority such as the police carry significant evidentiary weight in negating such allegations.
- **Dissolution of Religious Body and Its Effect on Members' Choices:** The dissolution of a religious congregation by a higher ecclesiastical authority affects the legal and canonical status of the congregation but does not automatically render the continued membership of adult individuals in that congregation involuntary or illegal. An adult who chooses to continue associating with a dissolved religious body exercises a constitutionally protected right of association and conscience. The ecclesiastical dispute between the congregation and the Archdiocese is a matter of internal church governance and cannot be converted into a ground for alleging illegal detention of adult members.
- **Chilling Effect Doctrine - State Interference in Private Domain:** The chilling effect doctrine, developed in constitutional jurisprudence, holds that State interference in constitutionally protected activities, even if not directly prohibiting them, may discourage individuals from exercising their rights due to fear of adverse consequences. The Court applied this doctrine to hold that judicial intervention in the religious and lifestyle choices of adult individuals, at the instance of disapproving family members, would have a chilling effect on the exercise of constitutional freedoms by discouraging individuals from making bold life choices out of fear of State or family-initiated legal proceedings.
- **Burden of Proof in Habeas Corpus - Detaining Authority's Obligation:** The general rule in habeas corpus proceedings is that the burden lies on the detaining person or authority to satisfy the court that the detention was on legal grounds. However, a foundational prerequisite is that the petitioner must first establish prima facie that the alleged detainee is in fact being detained and is not acting on her own free will. Where the alleged detainee voluntarily affirms her freedom before an independent authority, the burden on the petitioner to establish illegal detention becomes correspondingly higher,

and the court is entitled to give significant weight to the detenu's own affirmation.

- **Right to Privacy and Life Choices - Justice K.S. Puttaswamy v. Union of India (2017):** The nine-judge Constitution Bench in Justice K.S. Puttaswamy v. Union of India (2017) recognised the right to privacy as a fundamental right under Article 21, encompassing individual autonomy, dignity, and the right to make intimate personal choices free from State and third-party interference. This right expressly includes choices relating to religion, lifestyle, and personal relationships. The present case is an application of this principle: an adult woman's choice to embrace religious celibacy is an intimate personal decision protected by the right to privacy, and no writ jurisdiction can be invoked to override it on the ground of parental disapproval.



Practice Questions

1. An adult woman voluntarily leaves her parental home and joins a religious congregation to lead a life of spirituality and celibacy. Her parents file a writ petition, claiming that her decision is against family expectations and requesting the Court to direct her to return home.

Consider the following Assertion [A] and Reasoning [R]:

[A] The parents can override the adult woman's decision through a writ petition because family consent is necessary for such a major personal choice.

[R] Article 21 protects an individual's autonomy, freedom of self-determination, privacy, and choice regarding lifestyle, beliefs, and associations.

Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true

2. Ananya, aged 26, is allegedly confined by a private rehabilitation centre after her family admits her there without her written consent. Her friend files a petition before the High Court seeking production of Ananya and examination of the legality of her confinement. The centre argues that habeas corpus is discretionary even if illegal detention is proved. Which conclusion is most legally accurate?

- (a) Habeas corpus is available only against police custody and never against private confinement.
- (b) Habeas corpus examines legality of detention, and once illegal detention is established, it is available as of right.
- (c) Habeas corpus is only a compensation remedy and does not require inquiry into detention.
- (d) Habeas corpus can be issued only by the Supreme Court under Article 32 and never by a High Court.

3. Saanvi, aged 25, completes her postgraduate studies and voluntarily joins a religious congregation in Kerala. She signs a declaration stating that she wishes to live a life of celibacy and spiritual discipline. Her parents strongly object and file proceedings claiming that no adult child can renounce ordinary family life without parental approval. Saanvi appears before the police and later before the court, stating clearly that she is acting out of her own religious conviction and does not wish to return home. Which argument would most strongly support Saanvi's right to continue her chosen life?

- (a) An adult's voluntary choice to join a religious congregation is protected as freedom of conscience and religious belief.
- (b) Parents retain permanent legal control over the religious choices of every unmarried adult child.
- (c) The State may compel an adult to abandon religious celibacy whenever the family disagrees with it.
- (d) Religious vocation is protected only when it is chosen by the entire family and not by an individual.

4. Ishita, aged 23, joins a spiritual ashram in Varanasi. Her father files a habeas corpus petition alleging that the ashram has "brainwashed" her through strict prayer schedules, simple food, and discipline. The police visit the ashram and record Ishita's statement in a private setting, where she says that she is not confined, can leave if she wishes, and has chosen the ashram voluntarily. No evidence of locked rooms,

threats, physical restraint, seizure of documents, or prevention of communication is produced. Which conclusion is most consistent with the standard of proof in habeas corpus proceedings?

- (a) The petition must succeed because strict religious discipline automatically proves illegal detention.
- (b) The petition must succeed because a parent's suspicion is enough to establish undue influence.
- (c) The petition is weak because vague allegations without concrete evidence of restraint or coercion are insufficient.
- (d) The petition must succeed because an adult's statement before police has no evidentiary value.

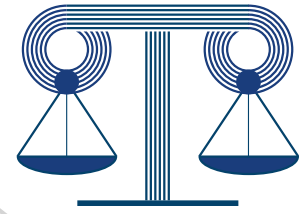
5. Which of the following best explains why courts must be cautious before interfering in the religious or lifestyle choices of adult individuals at the instance of disapproving family members?

- (a) Such intervention may discourage adults from exercising constitutional freedoms due to fear of legal proceedings.
- (b) Such intervention is necessary because family approval is a constitutional requirement for religious choice.
- (c) Such intervention is always harmless because court proceedings never affect personal decision-making.
- (d) Such intervention is required because private religious choices are outside constitutional protection.



HIGH COURT

Landmark Judgements



18 Absence of Vishaka-Style Complaint Committee & Sexual Misconduct Inquiry

Background

- The respondent employee had been employed with GlaxoSmithKline Pharmaceuticals Limited since 14 May 1990 and had a chequered service record; in 2011, a lady employee alleged that the respondent had subjected her to sexual harassment by demanding sexual favours and physically assaulting her when she approached him to discuss a departmental change.
- Following the complaint dated 19 February 2011, the petitioner-employer issued a Show Cause Notice, thereafter a Charge Sheet dated 8 June 2011 under the Model Standing Orders, and appointed an Enquiry Officer to conduct a domestic inquiry; proceedings were conducted between 24 June 2011 and 18 November 2011, during which the respondent was permitted representation and was afforded a full opportunity to lead evidence and examine witnesses in his defence.
- The Enquiry Officer submitted his report on 29 December 2011 holding the respondent guilty; the petitioner thereafter issued an order dated 7 December 2012 terminating the respondent's services; the respondent raised an industrial dispute which was referred to the Industrial Tribunal as Reference (IT) No. 3 of 2013.
- The Industrial Court, Nashik, by its Part I Award dated 9 December 2025, held that the domestic inquiry was not legal, fair, or in compliance with the Vishaka guidelines primarily on the ground that a Complaints Committee as contemplated

Case Details

- Case Title:** GlaxoSmithKline Pharmaceuticals Limited v. Suhas Shankar Pagare & Anr.
- Court:** High Court of Judicature at Bombay
- Citation:** 2026:BHC-AS:16848
- Bench:** High Court of Judicature at Bombay

Issue Before the Court

- Whether the mere absence of a Complaints Committee in the precise form contemplated under the Vishaka guidelines is sufficient by itself to invalidate a domestic inquiry into allegations of sexual misconduct conducted under the Model Standing Orders.
- Whether the validity of a domestic inquiry into sexual misconduct allegations must be assessed by examining the actual fairness of the procedure followed, rather than by the formal constitution of the inquiry authority.
- Whether the Industrial Tribunal's finding that the Enquiry Officer's conclusions were perverse was

under those guidelines had not been constituted, and further held the findings of the Enquiry Officer to be perverse.

sustainable without a detailed independent examination of the evidence on record.

- The petitioner-employer challenged the Part I Award before the Bombay High Court, contending that the inquiry conducted under the Model Standing Orders, which carry statutory force, satisfied the requirements of fairness and natural justice, and that the mere absence of a Complaints Committee in the exact Vishaka format could not by itself invalidate a procedurally fair inquiry.

Judgement of the Court

- The Court held that the Vishaka guidelines were framed as a temporary measure to fill the legislative vacuum in the absence of enacted law on workplace sexual harassment, and were intended to operate only until suitable legislation was enacted; certified Standing Orders, having statutory force as delegated legislation, constituted a legally recognised framework for regulating misconduct within the establishments to which they applied.
- The Industrial Tribunal erred in treating the absence of a Complaints Committee in the exact Vishaka format as sufficient by itself to invalidate the inquiry, without examining how the inquiry was actually conducted; the test for validity of an inquiry is whether the employee was informed of the charges, supplied relevant material, given an opportunity to participate, and allowed to defend himself, not whether the inquiry authority carried a particular formal label.
- The purpose of the Vishaka guidelines was to ensure fairness, sensitivity, and protection against arbitrary action; where that purpose is substantially achieved through a fair disciplinary process under the Standing Orders, the inquiry cannot be invalidated solely on the basis of structural or nomenclature differences.
- A finding that the Enquiry Officer's conclusions were perverse is a serious finding that requires independent examination of whether the conclusions were based on no evidence, were wholly unreasonable, or involved reliance on irrelevant material; the Tribunal failed to conduct this examination and instead proceeded on a broad assumption without applying it to the record of the case.
- The Part I Award was quashed to the extent it declared the inquiry illegal and the findings perverse; the matter was remanded to the Industrial Tribunal for fresh consideration of the validity of the inquiry, with specific directions to examine compliance with natural justice, actual prejudice caused, and whether the Enquiry Officer's findings were supported by evidence.

Key Takeaways for CLAT Aspirants

- **Vishaka v. State of Rajasthan (1997) - Guidelines as Temporary Law:** In *Vishaka v. State of Rajasthan (1997)*, the Supreme Court, in the absence of enacted legislation on workplace sexual harassment, framed comprehensive guidelines under Article 32 of the Constitution for enforcement of fundamental rights. These guidelines were declared binding under Article 141 of the Constitution upon all courts and authorities. Critically, the Court specified that the guidelines would operate only until suitable legislation was enacted, making them a temporary gap-filler rather than a permanent legal regime. The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 rendered the Vishaka guidelines redundant as governing law for the period post-December 2013.

- **POSH Act, 2013 - Comprehensive Statutory Framework:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 replaced the Vishaka guidelines as the governing law on workplace sexual harassment from 9 December 2013. It applies across the entire country to both public and private sector establishments, including the unorganised sector and domestic workers. Every establishment with ten or more employees is mandated to constitute an Internal Complaints Committee headed by a woman, with at least half its members being women. Local Complaints Committees are constituted for smaller establishments and unorganised sector workers. The Act defines sexual harassment, lays down inquiry procedure, imposes employer obligations, and prescribes penalties for non-compliance.
- **Certified Standing Orders as Delegated Legislation - Statutory Force:** Standing Orders, once certified under the Industrial Employment (Standing Orders) Act, 1946, cease to be mere contractual terms between employer and employee and acquire statutory force as delegated legislation. Both parties are bound to follow them strictly, and courts have consistently treated them as part of the statutory framework governing service conditions within the covered establishments. Amendments to Model Standing Orders incorporating provisions on sexual harassment, made under authority delegated by law, carry legal force within the establishments to which they apply and constitute a legally recognised mechanism for disciplinary proceedings.
- **Principles of Natural Justice in Domestic Inquiries - Audi Alteram Partem:** Natural justice in domestic disciplinary inquiries requires that the accused employee be informed of the specific charges against him, supplied with the complaint and all relevant documentary material, given a reasonable opportunity to present his case and cross-examine witnesses, and permitted to be represented by a co-worker or representative where allowed. These requirements flow from the principle of audi alteram partem, meaning no person shall be condemned unheard. Departure from these requirements causes prejudice and vitiates the inquiry, regardless of the formal constitution of the inquiry authority.
- **Substance Over Form in Evaluating Fairness of Inquiries:** The validity of a disciplinary inquiry is determined by the substance of the procedure followed, not by the formal label or precise constitution of the inquiry authority. Where an employer has issued a charge sheet, supplied relevant material to the accused, conducted proceedings transparently, permitted representation and cross-examination, and afforded a full opportunity to defend, the inquiry satisfies the requirements of fairness even if the forum was not formally named a Complaints Committee in the exact language of the Vishaka guidelines. This principle prevents procedural technicalities from defeating substantive justice in disciplinary proceedings.
- **Standard for Finding of Perversity in Disciplinary Findings:** A finding of perversity in the conclusions of an Enquiry Officer is a serious legal conclusion that requires rigorous examination. Perversity does not mean that another view of the evidence is possible; it means that the conclusion is based on no evidence whatsoever, or is so unreasonable that no reasonable person applying their mind to the evidence could have reached it, or involves deliberate reliance on irrelevant material while ignoring relevant material. A Tribunal cannot make such a finding summarily or in a routine manner without independently examining the entire evidence on record and demonstrating the specific infirmity in the Enquiry Officer's reasoning.
- **Aureliano Fernandes v. State of Goa (2024) - Journey from Vishaka to POSH:** The Supreme Court in Aureliano Fernandes v. State of Goa (2024) traced the legal journey from the Vishaka guidelines to the POSH Act, clarifying that Vishaka was always intended as a gap-filler and that flexibility in the mode

of conducting inquiries is permitted under the phrase "as far as practicable" in the guidelines, subject to the non-negotiable requirement that principles of natural justice are always observed. The accused must at all times know the allegations, have access to the material, and be given a fair chance to defend; any departure from this minimum standard renders the inquiry legally unsustainable.

- **Sexual Harassment as Violation of Fundamental Rights - Constitutional Basis:** The Supreme Court in Vishaka held that sexual harassment at the workplace violates the fundamental rights of gender equality under Articles 14 and 15, the right to life and personal liberty under Article 21, and the right to practise any profession or occupation under Article 19(1)(g), which depends on the availability of a safe working environment. The constitutional grounding of the prohibition on sexual harassment means that employer obligations in this regard flow directly from the Constitution and cannot be disregarded even in the absence of specific statutory or Standing Order provisions.
- **Medha Kotwal Lele v. Union of India (2013) - Complaints Committee as Inquiry Authority:** In Medha Kotwal Lele v. Union of India (2013), the Supreme Court found that many institutions were not properly following the Vishaka guidelines even years after the judgment, and issued further directions reinforcing that the Complaints Committee as envisaged in Vishaka was to act as the inquiry authority in sexual harassment cases, with its findings carrying the same evidentiary value as findings in a formal disciplinary inquiry. The Court also directed that necessary amendments be carried out in service rules and Standing Orders Rules to incorporate these requirements, reflecting the expectation that all employers bring their disciplinary frameworks in line with the constitutional mandate.
- **Temporal Application of Law - Avoiding Retrospective Application of Stricter Standards:** A fundamental principle of legal adjudication is that the law applicable to a dispute is the law in force at the time the cause of action arose and the relevant events occurred. Courts cannot retrospectively apply a stricter statutory standard, such as the mandatory Internal Complaints Committee requirement under the POSH Act, to events that occurred before the Act came into force. For disciplinary proceedings conducted prior to 9 December 2013, the applicable framework is the combination of the Vishaka guidelines and the Standing Orders or service rules in force at the time, assessed by the standard of substantive fairness rather than formal compliance with post-enactment statutory requirements.



Practice Questions

1. An incident of workplace sexual harassment allegedly occurs in a private company in 2016. The company argues that it will conduct the inquiry only under the Vishaka guidelines because those guidelines were framed by the Supreme Court and are permanently superior to all later statutes. The complainant, Anjali, argues that after the enactment of the POSH Act, 2013, the statutory framework under that Act governs the inquiry. Which argument would most strongly support Anjali's claim?

- (a) The Vishaka guidelines became redundant as governing law after suitable legislation was enacted through the POSH Act, 2013.
- (b) The Vishaka guidelines continue to override the POSH Act because judicial guidelines always prevail over parliamentary legislation.
- (c) The POSH Act applies only to government offices and not to private sector workplaces after 2013.
- (d) No legal framework applies after 2013 because the Vishaka guidelines automatically expired and the POSH Act is optional.

2. Riya works as a senior designer in a private manufacturing company. She repeatedly complains that her supervisor, Mohit, sends sexually coloured messages, comments on her appearance during meetings, and threatens to block her promotion if she objects. The employer says that since its certified Standing Orders do not separately mention sexual harassment, it has no legal duty to create a safe workplace or act on the complaint. Riya argues that workplace sexual harassment violates constitutional rights and employer obligations cannot be ignored merely because internal service rules are silent. Will Riya's argument succeed?

- (a) Yes, because workplace sexual harassment violates equality, dignity, personal liberty, and the right to practise a profession in a safe environment.
- (b) Yes, because every workplace complaint must result in automatic dismissal of the accused without inquiry.
- (c) No, because sexual harassment is legally relevant only when certified Standing Orders expressly mention it.
- (d) No, because constitutional rights can never influence employer obligations regarding workplace safety.

3. Kavita files a workplace sexual harassment complaint against her colleague, Arvind. The employer forms an inquiry committee but does not give Arvind a copy of the complaint, does not disclose the messages relied upon, refuses to let him cross-examine witnesses, and dismisses him after a closed meeting. Arvind challenges the dismissal, arguing that he was condemned unheard. Which conclusion is most consistent with the principles of natural justice?

- (a) The dismissal is valid because natural justice is unnecessary in workplace disciplinary proceedings.
- (b) The dismissal is valid because the seriousness of the allegation permits punishment without hearing.
- (c) The inquiry is vitiated because Arvind was not given specific charges, relevant material, or reasonable opportunity to defend.
- (d) The inquiry is valid because the employer may deny cross-examination whenever it wishes without recording reasons.

4. Which of the following best states the statutory requirement under the POSH Act, 2013 for establishments having ten or more employees?

- (a) Every such establishment must constitute an Internal Complaints Committee headed by a woman, with at least half its members being women.
- (b) Every such establishment may avoid forming any complaints committee if it has certified Standing Orders.
- (c) Every such establishment must send all complaints directly to the police without conducting any workplace inquiry.
- (d) Every such establishment may form an all-male committee if the employer considers it administratively convenient.

5. A university receives a complaint of workplace sexual harassment against a senior employee. The institution forms a Complaints Committee under the Vishaka framework. After hearing both sides and examining evidence, the Committee submits findings against the employee. The employee argues that the Committee's findings cannot be treated like findings of a formal disciplinary inquiry.

Consider the following Assertion [A] and Reasoning [R]:

[A] The findings of the Complaints Committee in a sexual harassment case may carry the same evidentiary value as findings in a formal disciplinary inquiry.

[R] In *Medha Kotwal Lele v. Union of India*, the Supreme Court reinforced that the Vishaka Complaints Committee was to act as the inquiry authority in sexual harassment cases.

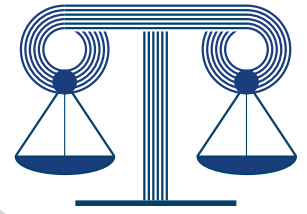
Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true



HIGH COURT

Landmark Judgements



19 Love Relationship Is No Defence to Non-Consensual Sex

Background

- An FIR was lodged by the father of the victim alleging that the accused entered their house, committed rape upon his daughter when she was alone, and threatened her not to disclose the incident; a chargesheet was filed against the petitioner under relevant provisions of the Bharatiya Nyaya Sanhita, 2023 and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
- The petitioner filed a criminal petition before the Gauhati High Court seeking quashing of the criminal proceedings, contending that a compromise had been entered into with the informant, that the victim had since attained majority, that the parties were in a love relationship at the time of the alleged incident, and that both families had consented to their proposed marriage.
- The informant, being the victim's father, filed an affidavit before the Court expressing no objection to the quashing of proceedings; however, the victim herself had not entered into any compromise and her statements remained consistent in disclosing the commission of rape without indicating consent.
- The prosecution opposed the petition on the ground that the victim's statements consistently implicated the accused in the commission of rape and that the offences were serious in nature; the Court noted that the victim was prima facie approximately 17 years of age at the time of the alleged incident, thereby attracting the provisions of POCSO.
- Upon examining the victim's statements recorded before the Judicial Magistrate First Class and during police investigation, the Court found that while she acknowledged the love affair, nothing in her statements suggested that the physical relationship was consensual.

Case Details

Case Title:	Hamedur Islam alias Hamidur Islam v. The State of Assam and Anr.
Court	High Court of Gauhati
Citation:	2026:GAU-AS:4316
Bench	Justice Pranjal Das

Issue Before the Court

- Whether the existence of a premarital love relationship between the accused and the victim dilutes or negates the criminality of rape committed without the victim's consent.
- Whether criminal proceedings for rape and offences under POCSO can be quashed on the basis of a compromise entered into by the victim's father, where the victim herself has not consented to the compromise and her statements consistently disclose commission of rape.

Judgement of the Court

- The Court held that the existence of a love relationship between a man and a woman does not, in any manner, license the commission of rape; even in a premarital relationship, any forceful physical act against the woman's will remains a criminal offence and the relationship itself provides no defence or mitigation to the charge.
- The Court clarified that while marital rape is not yet criminalised in India, this legal position does not extend to premarital relationships; non-consensual physical acts within a premarital relationship attract full criminal liability under applicable law.
- On the question of compromise, the Court noted that the victim's father's affidavit of no-objection could not substitute for the victim's own consent to quashing; the victim had not entered into any compromise and her statements before the Magistrate and during investigation consistently disclosed rape without any indication of consent on her part.
- Given the victim's approximate age of 17 years at the time of the alleged incident, the provisions of the POCSO Act were attracted, making the offences particularly serious in nature and rendering quashing by way of compromise entirely inappropriate.
- The Court held that, given the nature and gravity of the offences and the principles laid down by the Supreme Court regarding quashing of serious offences, it would not be justified to exercise inherent powers to quash the proceedings; the petition was accordingly dismissed.

Key Takeaways for CLAT Aspirants

- **Section 63, Bharatiya Nyaya Sanhita, 2023 - Definition of Rape and the Centrality of Consent:** Section 63 BNS defines rape as penetration or specified sexual acts committed against a woman's will, without her consent, or with vitiated consent obtained through fear, fraud, or intoxication. Explanation 2 to Section 63 defines consent as an unequivocal voluntary agreement communicated through words, gestures, or any form of verbal or non-verbal communication; the absence of physical resistance alone does not constitute consent. Critically, Section 63(vi) provides that sexual intercourse with a woman under eighteen years of age constitutes rape with or without her consent, making age an absolute bar irrespective of the nature of the relationship.
- **Love Relationship as No Defence to Rape:** A premarital or romantic relationship between the accused and the victim does not constitute consent to any or all sexual acts within that relationship. Consent to a relationship is not consent to sexual intercourse, and consent to one sexual act is not consent to subsequent acts. Each instance of sexual intercourse requires fresh and free consent; the existence of a prior relationship cannot be used to infer continuing consent or to negate the victim's account of a non-consensual act. The Court firmly rejected the notion that a love relationship provides any licence or defence to a charge of rape.
- **POCSO Act, 2012 - Section 4 - Penetrative Sexual Assault on a Child:** Section 4 of the Protection of Children from Sexual Offences Act, 2012 penalises penetrative sexual assault on a child, defined as any person below the age of eighteen years. The minimum punishment under Section 4(1) is rigorous imprisonment of ten years, extendable to life imprisonment with fine. Section 4(2) provides enhanced punishment where the victim is below twelve years of age. The POCSO Act operates on the principle that a child cannot give meaningful consent to sexual activity, making age the decisive factor irrespective of the apparent nature of the relationship between the accused and the child.

- **Section 65, BNS - Enhanced Punishment for Rape of Minors:** Section 65 BNS provides for enhanced punishment for rape of minors. Where the victim is under sixteen years of age, the punishment is rigorous imprisonment of not less than twenty years, extendable to imprisonment for the remainder of the accused's natural life, with fine payable to the victim. Where the victim is under twelve years of age, the punishment extends to death. The fine imposed must be just and reasonable to meet the medical expenses and rehabilitation of the victim. These enhanced punishments reflect the legislative recognition that sexual offences against minors carry heightened moral culpability.
- **Marital Rape Exception - Current Legal Position and Its Limits:** Exception 2 to Section 63 BNS provides that sexual intercourse by a man with his own wife, the wife not being under eighteen years of age, does not constitute rape. This exception, inherited from the colonial era, continues to be a subject of constitutional debate and has been challenged before various High Courts and the Supreme Court. Crucially, as clarified in this judgment, this exception applies only to lawfully married spouses and has no application whatsoever to premarital relationships; non-consensual sexual acts within a premarital relationship attract the full rigour of the rape provisions.
- **Quashing of Serious Offences - Limitations on Inherent Jurisdiction:** The Supreme Court has consistently held that criminal proceedings for serious offences, particularly those involving sexual assault and offences against children, cannot be quashed merely on the ground of compromise between the parties. In *Gian Singh v. State of Punjab* (2012), the Court distinguished between offences that are essentially private in nature and those that have a serious impact on society; rape and POCSO offences fall squarely in the latter category. Quashing proceedings for such offences, particularly where the victim's own statements consistently disclose the commission of the offence, would undermine the criminal justice system's protective function.
- **Victim's Consent to Compromise - Distinct from Informant's Consent:** In criminal proceedings involving sexual offences, the victim's own consent to any settlement or compromise is a distinct and indispensable requirement. The informant, who may be the victim's parent or guardian, has no authority to waive the victim's rights or consent to quashing on the victim's behalf. The victim's own statements, recorded before a Magistrate under Section 164 CrPC or Section 183 BNSS, carry significant evidential weight and cannot be overridden by an affidavit filed by a third party, however closely related to the victim. Courts must independently verify the victim's free and informed consent before entertaining any compromise in sexual offence cases.
- **Section 164 CrPC and Section 183 BNSS - Statement Before Magistrate as Reliable Evidence:** A statement recorded by a Judicial Magistrate under Section 164 CrPC, now Section 183 BNSS, carries high evidentiary reliability because it is recorded by an independent judicial officer who is required to satisfy himself of the voluntariness and truthfulness of the statement before recording it. In cases of sexual offences, such statements carry particular weight as they are often recorded shortly after the incident and before any possibility of external pressure or compromise. Consistency between the Section 164 statement and the police investigation statement further strengthens the prosecution's case.
- **Age Determination and Applicability of POCSO - Prima Facie Standard at the Quashing Stage:** At the stage of considering a quashing petition, the court is not required to conclusively determine the victim's age; it is sufficient that the material on record prima facie indicates that the victim was below eighteen years of age at the time of the alleged incident. Where the available material suggests the victim was a minor, the court must apply the POCSO framework and assess the petition against the more stringent standard applicable to offences against children. This prima facie standard protects

potential victims from having proceedings quashed at the threshold before a proper inquiry into age is conducted.

- **Doctrine of Irreversible Consequence in Serious Offences - Judicial Caution in Quashing:** Courts have consistently recognised that quashing criminal proceedings for serious offences such as rape and POCSO offences has irreversible consequences for the victim, for societal confidence in the criminal justice system, and for the deterrent effect of penal law. Once proceedings are quashed, the victim's right to justice through the criminal process is permanently extinguished. This irreversibility demands heightened judicial caution before exercising inherent jurisdiction to quash, and courts must satisfy themselves not merely that a compromise has been reached but that doing so would not cause manifest injustice or undermine the public interest in prosecution of serious sexual offences.



Practice Questions

1. Raghav and Kavya have been in a relationship for two years. One evening, Raghav insists on sexual intercourse, but Kavya repeatedly says she is not willing. Raghav tells her that if she refuses, he will publicly disclose their private chats and photographs. Out of fear, Kavya stops resisting and remains silent. Raghav later argues that Kavya did not physically resist and that their relationship shows consent. Which argument would most strongly support Kavya's case under Section 63 BNS?

- (a) Physical resistance is the only legal way by which a woman can show absence of consent.
- (b) Consent must be an unequivocal voluntary agreement, and absence of physical resistance alone is not consent.
- (c) A woman in a long romantic relationship is presumed to have consented to all future sexual acts.
- (d) Fear or threat is irrelevant if the accused and victim were previously in a relationship.

2. Ayaan, aged 21, is in a relationship with Tara, aged 17 years and 6 months. Tara's parents oppose the relationship. Ayaan argues that Tara voluntarily met him, exchanged messages with him, and told her friend that she loved him. A complaint is filed alleging penetrative sexual assault under the POCSO Act. Ayaan claims that Tara's consent and their romantic relationship should protect him from liability because she was close to eighteen. Will this defence succeed?

- (a) Yes, because a child above sixteen can legally consent if the relationship is romantic.
- (b) Yes, because the POCSO Act does not apply where the accused and child knew each other.
- (c) No, because under POCSO, a person below eighteen cannot give meaningful consent to sexual activity.
- (d) No, but only because Tara's parents opposed the relationship before the complaint was filed.

3. Which of the following best states the punishment framework under Section 65 BNS where rape is committed against a minor victim?

- (a) Where the victim is under sixteen, punishment is not less than twenty years, and where she is under twelve, punishment may extend to death.
- (b) Where the victim is under eighteen, punishment is only fine if she appeared to consent to the act.
- (c) Where the victim is under sixteen, punishment is limited to seven years, unless physical injury is separately proved.
- (d) Where the victim is under twelve, punishment is the same as in every ordinary adult rape case.

4. Saurabh and Isha are in a live-in relationship but are not legally married. During a dispute, Isha refuses sexual intercourse. Saurabh nevertheless forces himself on her. In defence, Saurabh argues that Exception 2 to Section 63 BNS protects him because he and Isha lived like spouses and had planned to marry later. Isha argues that the exception applies only to lawfully married spouses and not to premarital or live-in relationships. Which conclusion is most consistent with the current legal position?

- (a) Saurabh is protected because any long-term relationship is treated as marriage for the rape exception.
- (b) Saurabh is protected because a promise to marry is enough to attract the marital rape exception.
- (c) Saurabh is protected because non-consensual acts within premarital relationships are outside rape law.
- (d) Saurabh is not protected because the exception applies only to lawfully married spouses, not

premarital relationships.

5. In Pune, Aditi Sharma, a 19-year-old college student, alleged that Karan Malhotra, her private tutor, sexually assaulted her after inviting her to his apartment for exam preparation. She first gave a statement to the police describing the incident, the time, the messages exchanged before the meeting, and the injuries noticed by her roommate. Two days later, her statement was recorded before a Judicial Magistrate under Section 183 BNSS. Before recording it, the Magistrate asked Aditi whether she was under pressure, ensured that no police officer or family member was present, and recorded that her statement was voluntary. Her Magistrate statement substantially matched her police statement. Later, Karan argued that the Magistrate's statement should carry no special value because it was recorded after the police statement and could not strengthen the prosecution case.

Consider the following statements:

- i. Aditi's statement before the Judicial Magistrate carries high evidentiary reliability if recorded after satisfying voluntariness and truthfulness.
- ii. The statement carries particular weight because it concerns a sexual offence and was recorded shortly after the incident.
- iii. The statement loses all evidentiary value merely because Aditi had earlier given a statement to the police.
- iv. Consistency between Aditi's police statement and Magistrate statement strengthens the prosecution's case.

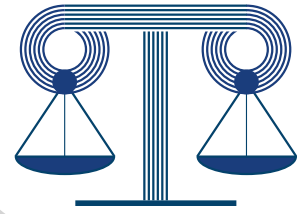
How many statements are true?

- (a) One statement
- (b) Two statements
- (c) Three statements
- (d) All four statements



HIGH COURT

Landmark Judgements



20

Wife's Right to Permanent Alimony Not Affected by Adult Sons' Earning Capacity

Background

- The parties were married in April 1994 and lived together for several years before disputes arose; they separated in 2009 and the wife filed for divorce in 2015 on grounds of cruelty and breakdown of marriage; the Family Court at Jodhpur dissolved the marriage by judgment dated 29 August 2025 and directed the husband, a Specialist Medical Officer, to pay Rs. 25 lakh as permanent alimony.
- Neither party challenged the divorce decree itself; two cross-appeals were filed before the Rajasthan High Court, with the wife seeking enhancement of alimony to Rs. 2 crore and the husband challenging the award as excessive.
- The husband contended that their adult, able-bodied, earning sons were legally obliged to support their mother and that the wife's reliance on them for support reduced or negated his obligation to pay permanent alimony; he also argued that the wife had some income of her own.
- The wife argued that permanent alimony is an independent legal right of a divorced spouse, that the husband's income was approximately Rs. 2 lakhs per month with additional immovable assets both self-acquired and ancestral, and that she lacked both independent income and residential security.
- The husband failed to produce cogent evidence establishing that the wife had sufficient independent income to maintain herself at the standard of the matrimonial home, and the Court found the wife's demand of Rs. 2 crore to be disproportionate.

Case Details

Case Title:	Shobha Kanwar v. Narpat Singh
Court	High Court of Rajasthan
Citation:	2026:RJ-JD:14919-DB
Bench	Justice Arun Monga and Justice Yogendra Kumar Purohit

Issue Before the Court

- Whether the earning capacity and majority of adult sons can reduce or negate a divorced wife's entitlement to permanent alimony under Section 25 of the Hindu Marriage Act, 1955.
- Whether permanent alimony under Section 25 is limited to bare subsistence or extends to securing dignified sustenance and long-term financial stability for the economically disadvantaged spouse.
- Whether the husband had discharged the burden of proving that the wife possessed sufficient independent income to maintain herself at the standard of the matrimonial home.

Judgement of the Court

- The Court held that permanent alimony under Section 25 is not merely a subsistence allowance but extends to ensuring dignity, stability, and financial security for the economically weaker spouse after dissolution of marriage; it is a distinct and independent right arising from the dissolution of marriage itself and not contingent upon the dependency of children.
- The majority and earning capacity of adult sons may at best bear upon the quantum of alimony but cannot negate the wife's basic entitlement; the husband cannot avoid his legal obligation under Section 25 by asserting that the wife can rely on her sons for financial support.
- The burden of proving that the wife has sufficient independent income to maintain herself lies upon the husband; in the present case, the husband failed to produce convincing evidence establishing that the wife was financially secure enough to maintain herself at the standard of the matrimonial home.
- Residential security is a well-recognised facet of maintenance jurisprudence and the wife's lack of independent residential accommodation was a significant factor; at the same time, alimony must not become a tool for unjust enrichment and the wife's claim of Rs. 2 crore was rejected as disproportionate.
- Considering the long duration of marriage of fifteen years and separation of sixteen years, the wife's lack of independent income and residential security, the husband's stable earning capacity and property holdings, and rising inflationary trends, the Court enhanced permanent alimony from Rs. 25 lakh to Rs. 40 lakh, directing payment within six months and continued monthly maintenance of Rs. 45,000 in the interim.

Key Takeaways for CLAT Aspirants

- **Section 25, Hindu Marriage Act, 1955 - Permanent Alimony and Maintenance:** Section 25 empowers a court to award permanent alimony and maintenance to either spouse at the time of passing a decree or at any subsequent time upon application. The court has broad discretionary powers to award a lump sum or periodical payments for a term not exceeding the life of the applicant. Factors considered include the respondent's income and property, the applicant's income and property, the conduct of both parties, and other circumstances of the case. The court may secure the maintenance by charging it on the respondent's immovable property where necessary.
- **Permanent Alimony as an Independent Right - Not Contingent on Children's Dependency:** Permanent alimony under Section 25 is a distinct legal right of the divorced spouse arising from the dissolution of marriage itself. It is entirely independent of whether the parties' children are financially dependent on the recipient spouse or whether those children are in a position to support the recipient. The husband's obligation to pay alimony is a direct consequence of the marital relationship and its dissolution; it cannot be substituted by or offset against the children's moral obligation to support their parent.
- **Scope of Maintenance - Dignity and Financial Security, Not Bare Subsistence:** Courts have consistently held that maintenance under matrimonial law is not limited to providing bare subsistence or the bare necessities of life. It encompasses the right to live with dignity, at a standard reasonably commensurate with the lifestyle enjoyed during the marriage, and with reasonable residential security. This broader understanding of maintenance reflects constitutional values of

dignity under Article 21 and social justice under the Preamble, and is consistently applied across Section 25 HMA, Section 125 CrPC, and the Domestic Violence Act.

- **Burden of Proof in Alimony Proceedings - Husband's Obligation to Establish Wife's Sufficiency:** Where the husband seeks to reduce or deny alimony on the ground that the wife has sufficient independent income, the burden of proving this lies squarely upon the husband. A mere assertion that the wife has some income or that the sons are earning is insufficient; the husband must produce cogent, credible evidence establishing that the wife's independent resources are adequate to maintain her at the standard of the matrimonial home. Failure to discharge this burden results in the presumption operating in favour of the wife's entitlement.
- **Quantum of Permanent Alimony - Principles of Determination:** Courts determining the quantum of permanent alimony must conduct a balanced and realistic assessment that neither overburdens the paying spouse nor leaves the recipient financially vulnerable. Relevant factors include the duration of the marriage, the period of separation, the earning capacity and assets of both parties, the age and health of the recipient, the standard of living during the marriage, residential security, inflation, and future needs. The purpose of alimony is financial rehabilitation of the economically weaker spouse, not unjust enrichment; claims that are disproportionate to the husband's capacity are liable to be moderated.
- **Residential Security as a Component of Maintenance:** The absence of independent residential accommodation is a well-recognised and significant factor in the determination of maintenance and alimony under Indian matrimonial law. A divorced woman who lacks a home of her own is in a position of acute vulnerability and courts have consistently treated housing as a fundamental component of the right to dignity in post-divorce financial arrangements. The courts may factor in the cost of securing modest residential accommodation while determining a lump sum permanent alimony, ensuring that the recipient is not rendered homeless upon dissolution of the marriage.
- **Section 25(2) and 25(3) HMA - Modification and Rescission of Alimony Orders:** Section 25(2) permits either party to apply for modification or rescission of an alimony order upon a significant change in circumstances, reflecting the principle that maintenance orders must be responsive to changed realities. Section 25(3) provides for rescission or modification where the recipient spouse remarries or, in the case of a wife, has not remained chaste, or in the case of a husband, has had sexual intercourse outside wedlock. These provisions ensure that alimony orders remain just and equitable over time and are not converted into permanent and unvarying financial penalties.
- **Section 125, Code of Criminal Procedure and Section 144, BNSS - Interim Maintenance:** Section 125 CrPC, corresponding to Section 144 of the BNSS, 2023, provides for interim maintenance for wives, children, and parents who are unable to maintain themselves. Unlike permanent alimony under Section 25 HMA which is available only upon or after a matrimonial decree, Section 125 CrPC maintenance is available irrespective of whether any matrimonial proceedings are pending and can be sought even without a divorce. Courts frequently order interim maintenance under Section 125 to operate concurrently with proceedings under Section 25 HMA, ensuring that the economically weaker spouse is not left destitute during prolonged litigation.
- **Domestic Violence Act, 2005 - Maintenance as a Civil Relief:** Section 20 of the Protection of Women from Domestic Violence Act, 2005 empowers the Magistrate to grant monetary relief, including maintenance, to an aggrieved woman. Unlike Section 25 HMA which requires a matrimonial decree, maintenance under the DV Act is available to any woman in a domestic relationship, including live-in relationships. The DV Act thus extends the protection of maintenance law beyond formally married

women and creates an additional and parallel avenue for financial relief, reinforcing the legislative commitment to ensuring economic security for women in intimate relationships.

- **Doctrine of Economic Justice in Matrimonial Law - Constitutional Underpinning:** The law of permanent alimony is grounded in broader constitutional values of equality under Article 14, the right to live with dignity under Article 21, and the directive principles under Articles 39 and 42, which require the State to ensure that the economic system does not result in concentration of resources to the detriment of the common good and that just and humane conditions are secured for all. Courts have increasingly interpreted matrimonial maintenance provisions in light of these constitutional values, treating the economically weaker spouse's right to financial security after dissolution of marriage as a matter not merely of private obligation but of constitutional imperative.



Practice Questions

1. In a matrimonial dispute, the wife seeks maintenance after separation. During the marriage, she lived in a reasonably comfortable household with stable residential arrangements. The husband argues that maintenance should be limited only to food, basic clothing, and minimal shelter because maintenance law is meant only to prevent starvation.

Consider the following Assertion [A] and Reasoning [R]:

[A] The court must restrict maintenance only to bare subsistence because matrimonial maintenance is meant merely to provide the bare necessities of life.

[R] Maintenance under matrimonial law includes the right to live with dignity, at a standard reasonably commensurate with the lifestyle enjoyed during the marriage, and with reasonable residential security.

Choose the most suitable answer from the below given options.

- (a) Both [A] and [R] are true and [R] is a correct explanation of [A]
- (b) Both [A] and [R] are true but [R] is not a correct explanation of [A]
- (c) [A] is true and [R] is false
- (d) [A] is false and [R] is true

2. Meera and Rajiv obtain a decree of divorce after twenty-two years of marriage. Meera had left her employment after marriage to manage the household and raise their children. Rajiv owns two commercial properties and earns a high monthly income from his business. Meera has no independent source of income and files an application seeking permanent alimony under Section 25 of the Hindu Marriage Act, 1955. Rajiv argues that the court can only grant monthly payments and cannot consider his property or secure maintenance against immovable property. Which argument would most strongly support Meera's claim?

- (a) Section 25 allows the court to award only temporary maintenance during pending proceedings.
- (b) Section 25 empowers the court to grant lump sum or periodical payments after considering income, property, conduct, and circumstances.
- (c) Section 25 applies only when the wife proves that the husband committed a criminal offence during marriage.
- (d) Section 25 prevents the court from considering the respondent's immovable property while deciding alimony.

3. After divorce, Kavita is awarded monthly permanent alimony from her former husband, Sandeep, under Section 25 of the Hindu Marriage Act, 1955. Five years later, Sandeep loses his business in a major financial collapse and his income falls sharply. Around the same time, Kavita remarries. Sandeep files an application seeking modification or rescission of the alimony order. Kavita argues that once permanent alimony is granted, it can never be changed. Will Sandeep's application be maintainable?

- (a) Yes, because Section 25 permits modification or rescission when circumstances significantly change or where statutory grounds such as remarriage arise.
- (b) Yes, because every alimony order automatically ends after five years, irrespective of the parties' circumstances.
- (c) No, because permanent alimony orders are fixed forever and cannot be varied by any court.

(d) No, because remarriage of the recipient spouse has no legal relevance under Section 25.

4. Which provision of the Bharatiya Nagarik Suraksha Sanhita, 2023 corresponds to Section 125 of the Code of Criminal Procedure, 1973, which provides maintenance for wives, children, and parents unable to maintain themselves?

- (a) Section 144 BNSS
- (b) Section 175 BNSS
- (c) Section 183 BNSS
- (d) Section 223 BNSS

5. Ananya lived with Karan in a domestic relationship for six years, though they were never legally married. During the relationship, Ananya gave up her job and managed the household. After separation, she alleges economic abuse and seeks monetary relief for maintenance under the Protection of Women from Domestic Violence Act, 2005. Karan argues that maintenance can be claimed only by a legally married wife under Section 25 of the Hindu Marriage Act, 1955, and that Ananya has no remedy because there was no marriage decree. Which argument would most strongly support Ananya's claim?

- (a) Section 20 of the DV Act permits monetary relief, including maintenance, to an aggrieved woman in a domestic relationship.
- (b) Section 25 HMA applies to every live-in relationship even when there is no marriage or matrimonial decree.
- (c) A woman in a domestic relationship can claim maintenance only if the man voluntarily agrees in writing.
- (d) Maintenance under the DV Act is available only after a decree of divorce is passed by a matrimonial court.

VOICES VICTORIES



AIR 4, AILET 2026

SIDDHANT ROHIT

“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.”



(AIR 4, CLAT 2026

ARSHNOOR SINGH

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.



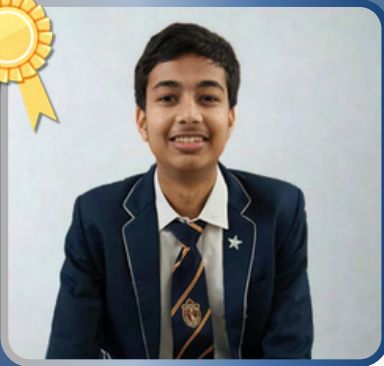
AIR 2, CLAT 2025

DAIWIK AGARWALA

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



VIDISHA SINGH

AIR 10, AILET 2025

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).



SAMYUKTHA KOVILAKATH

AIR 24 AILET 2025
& OXFORD

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. Show Cause Notice Challengeable in Writ Jurisdiction in Exceptional Cases

1. Correct Answer: (c) The Competent Authority confirms seizure against Ramesh only because his name appears in an anonymous complaint, though no foreign security, foreign exchange, bank trail, or ownership document is found against him.

Reference Line: “Section 37A provides for seizure of assets where foreign exchange or foreign security is suspected to be held abroad in contravention of FEMA. However, confirmation by the Competent Authority requires proper satisfaction of statutory conditions.”

Explanation: {Option (a) Incorrect: This situation involves foreign bank records and evidence of acquisition of shares in a foreign entity without RBI approval. The Competent Authority has also recorded these documents before confirming seizure. Therefore, this situation is likely to satisfy the statutory conditions for confirmation. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: This situation contains multiple forms of supporting material, including emails, foreign share certificates, and remittance records. Since the Competent Authority confirms seizure after examining relevant material, the confirmation is not based on mere suspicion. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This situation is least likely to justify confirmation because the authority relies only on an anonymous complaint without any supporting material showing foreign exchange or foreign security held abroad. Mere suspicion may justify investigation, but confirmation requires proper satisfaction of statutory conditions. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Overseas company filings showing beneficial ownership in a Malaysian company provide relevant material for the Competent Authority to consider. If the authority confirms seizure after noting statutory conditions, the confirmation is more likely to be valid. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (b) The Adjudicating Authority may issue a notice, but cannot use it to override pending appellate proceedings.

Reference Line: “Section 16(3) empowers the Adjudicating Authority to issue a Show Cause Notice for alleged FEMA contraventions. This power must be exercised fairly and cannot be used to override pending appellate proceedings.”

Explanation: {Option (a) Incorrect: This option is too absolute because Section 16(3) does empower the Adjudicating Authority to issue a Show Cause Notice for alleged FEMA contraventions. The problem is not the mere issuance of notice, but its unfair use to bypass a pending appeal. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: This option directly applies the principle. The authority may have power to issue a Show Cause Notice, but it must exercise that power fairly and cannot treat the pending appeal as irrelevant or indirectly override it. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The Competent Authority’s refusal to confirm seizure does not automatically end every possible FEMA proceeding. However, while that refusal is under appeal, another authority cannot unfairly proceed in a manner that prejudices or overrides the pending appellate process. Hence, Option

{(c) is not the correct answer.}

{Option (d) Incorrect: Filing an appeal does not mean the Directorate loses all statutory powers. The issue is whether the Adjudicating Authority's notice is being used unfairly to defeat the pending appellate proceeding. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because the notice is issued by an authority having no legal power to initiate FEMA proceedings.

Reference Line: "If the authority issuing the notice has no legal power to initiate proceedings, the affected party need not wait for the final order. In such cases, writ interference may prevent unlawful proceedings at the threshold."

Explanation: {Option (a) Correct: The District Food Supply Officer has no legal power to initiate FEMA adjudication proceedings. Since the defect goes to the root of jurisdiction, Devika need not wait for a final order and may seek writ interference at the threshold. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: This option is overbroad. A writ petition is not maintainable merely because a person wants to avoid inquiry. It is maintainable here because the notice suffers from patent lack of jurisdiction. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Ordinarily, a person may be expected to respond to a notice and challenge the final order later. However, where the authority issuing the notice has no legal power at all, the affected party need not wait for completion of unlawful proceedings. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Jurisdiction cannot arise merely because the subject matter involves foreign payments. FEMA proceedings must be initiated by an authority legally empowered under the statute, not by any government officer. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) Article 226

Reference Line: "Article 226 gives High Courts wide power to issue writs for enforcement of fundamental rights and other legal rights. This case shows that High Courts retain jurisdiction even at the Show Cause Notice stage, though such power is used sparingly."

Explanation: {Option (a) Incorrect: Article 32 empowers the Supreme Court to issue writs for enforcement of fundamental rights. It does not give High Courts their writ jurisdiction. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Article 226 gives High Courts wide power to issue writs not only for fundamental rights but also for other legal rights. Therefore, it is the correct constitutional provision in this question. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Article 136 deals with the Supreme Court's special leave jurisdiction. It does not confer writ jurisdiction on High Courts. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Article 227 gives High Courts the power of superintendence over courts and tribunals within their territorial jurisdiction. It is different from the writ jurisdiction under Article 226. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Yes, because the notice was issued by an authority having no legal power to initiate such proceedings.

Reference Line: “If the authority issuing the notice has no legal power to initiate proceedings, the affected party need not wait for the final order. In such cases, writ interference may prevent unlawful proceedings at the threshold.”

Explanation: {Option (a) Correct: The Regional Transport Officer has no legal authority to initiate foreign exchange violation proceedings merely because the dispute involves an international payment. Since the defect goes to the root of jurisdiction, Ritika need not wait for a final order. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: This option is too broad because every notice involving foreign payments cannot automatically be challenged at the threshold. The writ petition is justified here only because the notice has been issued by an authority lacking jurisdiction. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Ordinarily, a person may be required to respond to a notice and challenge the final order later. However, where the authority issuing the notice has no legal power at all, the affected person need not undergo unlawful proceedings. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Jurisdiction cannot arise merely because the words “foreign exchange” are used in the notice. Only an authority legally empowered under the relevant law can initiate such proceedings. Hence, Option (d) is not the correct answer.}

2. Pay Commission Benefits Cannot Be Denied by Imposing Extra Conditions

1. Correct Answer: (b) The Government cannot add a restrictive condition to an accepted benefit without amending the applicable rule or order.

Reference Line: “Adding conditions that restrict the class of beneficiaries amounts to amending the recommendation by executive fiat, which is impermissible.”

Explanation: {Option (a) Incorrect: Financial convenience cannot justify adding a condition that is absent from the accepted Pay Commission recommendation. The employer must act within the applicable policy or amended rules. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Raghav has completed the prescribed period at Level 8. Since the Pay Commission did not distinguish between direct recruits and MACP beneficiaries, the Department cannot introduce that restriction by executive decision. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Raghav’s claim does not depend on MACP employees being superior to direct recruits. His claim rests on equal eligibility under the recommendation once the required service at Level 8 is completed. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: NFU is not available to every government employee without conditions. It applies only where the prescribed level, period of service, and eligibility requirements under the recommendation are satisfied. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (c) Yes, because employees at the same level with the same completed service cannot be denied NFU on an irrelevant mode-of-entry distinction.

Reference Line: “Where two sets of employees are at the same level and have completed the same period of service, denying the benefit of NFU to one set on the ground of the mode of entry into that level, when the Pay Commission makes no such distinction, is an arbitrary classification that violates Article 14.”

Explanation: {Option (a) Incorrect: Article 14 applies to service matters and can be used to strike down arbitrary distinctions among similarly situated employees. Pay benefits cannot be distributed on irrational grounds. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Government classifications in service matters must have a rational nexus with the object of the policy. A distinction is not valid merely because the Government has made it. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Both sets of employees are at Level 8 and have completed four years there. Since the Pay Commission recommendation does not distinguish by mode of entry, denial to MACP employees alone is arbitrary and violative of Article 14. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Article 14 does not require preferential or higher pay for MACP employees in every case. It requires equal treatment of similarly situated employees unless a rational and lawful distinction exists. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (d) Article 226

Reference Line: “Article 226 confers upon High Courts the power to issue writs, including writs of mandamus, for enforcement of legal rights including service-related entitlements of government employees.”

Explanation: {Option (a) Incorrect: Article 32 gives the right to move the Supreme Court for enforcement of fundamental rights. It is not the ordinary High Court remedy for enforcing service entitlements through mandamus. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Article 136 deals with the Supreme Court’s special leave jurisdiction. It does not confer writ jurisdiction on High Courts to enforce service-related legal rights. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Article 311 provides safeguards to civil servants against dismissal, removal, or reduction in rank. It is not the source of High Court writ jurisdiction. Hence, Option (c) is not the correct answer.}

{Option (d) Correct: Article 226 empowers High Courts to issue writs for enforcement of fundamental rights and other legal rights. It can be used to compel the Government to grant a legally due service benefit. Hence, Option (d) is the correct answer.}

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

Reference Line: “Indian service law draws a clear distinction between promotion, which involves movement to a higher post with a change in designation and responsibilities, and financial upgradation, which involves only an increase in pay grade without a change in post or designation. MACP and NFU are both forms of financial upgradation and not promotions; courts have consistently held that conditions applicable to promotions, such as existence of a vacancy or direct recruitment quota, cannot be imported into the determination of eligibility for financial upgradation schemes. The mode of entry into a pay level is relevant for promotional purposes but not for financial upgradation benefits.”

Explanation: Option (a) is not the correct answer: Statement i is incorrect because financial upgradation cannot be denied merely on the ground that no promotional vacancy exists. Statement iv is also incorrect because MACP/NFU does not change the employee’s post, designation, or responsibilities. It only grants pay-related advancement. Hence, Option (a) is not the correct answer.

Option (b) is the correct answer: Statement ii correctly states that MACP/NFU benefits are forms of

financial upgradation and not promotion. Statement iii is also correct because the mode through which Kavita entered Pay Level 6 may matter for actual promotion, but it cannot be used to deny financial upgradation benefits. Hence, Option (b) is the correct answer.

Option (c) is not the correct answer: Statement iii is correct, but statement i is incorrect. The department cannot import promotion-based conditions, such as vacancy in the higher post, into a financial upgradation scheme. Since one of the selected statements is legally wrong, this option cannot be accepted. Hence, Option (c) is not the correct answer.

Option (d) is not the correct answer: Statement ii is correct because MACP/NFU is financial upgradation, not promotion. However, statement iv is incorrect because granting such benefit would not automatically make Kavita a Senior Accounts Officer. Her designation and duties would remain unchanged. Hence, Option (d) is not the correct answer.

5. Correct Answer: (b) Devendra has a claim because the accepted recommendation and departmental conduct created a reasonable expectation of NFU.

Reference Line: "Government employees who have completed the prescribed period of service at Level 8, relying on the Pay Commission's recommendations, have a legitimate expectation of receiving NFU; denial of this expectation without a valid legal basis amounts to a breach of the doctrine and is subject to judicial review."

Explanation: {Option (a) Incorrect: Legitimate expectation does apply in service law where a public authority's conduct or representation creates a reasonable expectation of a benefit or procedure. It is especially relevant when employees rely on accepted policy terms. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Devendra completed the prescribed service at Level 8 and relied on the accepted recommendation and departmental conduct. Denying NFU by adding a new direct-recruit condition without legal basis breaches legitimate expectation. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Legitimate expectation does not automatically override statutes or valid legal limits. It protects fairness where the expectation is reasonable and denial lacks lawful justification. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Government employees are not limited to political representation. They may seek judicial review where a legal service entitlement or legitimate expectation is arbitrarily denied. Hence, Option (d) is not the correct answer.}

3. Single Tainted Public Work Award Violates Article 14

1. Correct Answer: (b) A constitutional court may direct CBI investigation without State consent where such direction is necessary to lend credibility to the investigation.

Reference Line: "As held in State of W.B. v. Committee for Protection of Democratic Rights (2010), a constitutional court may direct the CBI to investigate a cognizable offence within a State without requiring State consent, and this does not violate the federal structure; however, such power must be exercised sparingly and only where necessary to lend credibility to the investigation."

Explanation: {Option (a) Incorrect: Article 32 does not mean the Supreme Court will direct CBI investigation in every contract dispute. The power is exceptional and must be used sparingly, not routinely. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: The allegations involve high constitutional and political authority, missing records, and possible institutional influence over State agencies. In such circumstances, a CBI enquiry may be justified to ensure credibility and independence. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: This option is too absolute. The principle does not say State consent is always irrelevant in every situation. It says constitutional courts may direct CBI investigation in appropriate cases for enforcement of rights and credibility of investigation. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Allegations against relatives do not automatically prove corruption. They may justify independent scrutiny, but a preliminary enquiry is still necessary to determine whether wrongdoing occurred. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (c) The petition has merit because awards to close relatives of the Chief Minister raise constitutional accountability concerns requiring independent scrutiny.

Reference Line: “Allegations of contracts being awarded to the spouse, mother, and nephew of the Chief Minister raise not merely administrative concerns but constitutional accountability issues, requiring independent scrutiny free from the influence of the very authority alleged to have acted with bias.”

Explanation: {Option (a) Incorrect: Conflict of interest in public contracting is not limited to cases of proven financial loss. The appearance of bias and misuse of public power itself raises serious constitutional concerns. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: The principle does not create an absolute personal disqualification for all relatives in every situation. The concern arises when contracts are awarded through public power in circumstances suggesting bias, favouritism, or lack of independent scrutiny. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Contracts awarded to the Chief Minister’s spouse, mother, and nephew without open bidding create a serious conflict of interest. Such allegations require independent scrutiny because public justice must appear to be done. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: A formal admission is not necessary before scrutiny can be ordered. Courts may examine surrounding circumstances, relationships, procurement process, and public records to assess constitutional accountability. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) It must adopt a transparent and fair method that gives eligible persons a fair opportunity to compete.

Reference Line: “As held in Centre for Public Interest Litigation v. Union of India (2012), whenever a public authority grants a contract or licence, it must adopt a transparent and fair method giving eligible persons a fair opportunity to compete.”

Explanation: {Option (a) Correct: The constitutional requirement is transparency, fairness, and equal opportunity in the distribution of public resources. Eligible persons must be given a fair chance to compete. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Administrative belief in efficiency cannot replace a transparent and fair process. Private selection without fair opportunity risks arbitrariness and violates Article 14. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The principle does not require all contracts to be awarded only to government-owned companies. It requires a fair and transparent method among eligible participants. Hence, Option

(c) is not the correct answer.}

{Option (d) Incorrect: A small contract value does not justify avoiding constitutional requirements. Transparency and fair opportunity remain essential whenever public resources are distributed. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Yes, because where material public records are not produced by the State, the Court may draw an adverse presumption.

Reference Line: “Where material records that ought to exist in the custody of the State are not produced before the Court, the law permits drawing an adverse presumption against the State.”

Explanation: {Option (a) Correct: Tender evaluation sheets, vouchers, approval notes, and comparative statements are material records that should exist in State custody. Their unexplained non-production permits the Court to draw an adverse presumption against the State. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Adverse presumption is not the same as conclusive proof. Missing records create a serious adverse circumstance, but the Court must still assess the overall material and legal consequences. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Completion of a contract does not erase the State’s duty to maintain and produce public records. Public procurement involves public funds and remains subject to constitutional and judicial scrutiny. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Courts do not blindly presume validity when the State withholds material records. The principle applies with greater force because the State is the custodian of public records. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (c) A Public Works Department awards a road contract to a company owned by the Minister’s brother without competitive tendering, claiming that the contract value is only 0.5% of the department’s annual works.

Reference Line: “The conferment of private benefit through the exercise of public power constitutes a direct violation of Article 14, regardless of the quantum or percentage of tainted awards.”

Explanation: {Option (a) Incorrect: This situation reflects fair and transparent public procurement because the State uses published criteria and open competition. Since the benefit is not conferred arbitrarily or through personal preference, Article 14 is not violated. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Emergency procurement may be permissible if supported by recorded reasons and later scrutiny. The presence of objective urgency and accountability reduces arbitrariness. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: The award is made to a Minister’s relative without competition, and the State attempts to justify it by saying the percentage is small. Under Article 14, even a single tainted award involving private benefit through public power violates equality. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Rejection of an incomplete bid is not arbitrary if the defect is recorded and the process remains competitive. Equal treatment does not require acceptance of non-compliant bids. Hence, Option (d) is not the correct answer.}

4. PwD Quota in UR Open to All Disabled Categories

1. Correct Answer: (c) Article 16(1)

Reference Line: “Article 16(1) guarantees equality of opportunity to all citizens in matters relating to employment or appointment to any office under the State.”

Explanation: {Option (a) Incorrect: Article 14 guarantees equality before law and equal protection of laws. Although it is relevant to equality generally, the specific provision dealing with equality of opportunity in public employment is Article 16(1). Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Article 15(4) enables special provisions for socially and educationally backward classes, Scheduled Castes, and Scheduled Tribes. It does not specifically guarantee equality of opportunity in public employment. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Article 16(1) directly guarantees equality of opportunity to all citizens in matters relating to public employment and appointment under the State. It is also the constitutional foundation for equal treatment in horizontal reservation contexts. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Article 16(4) enables reservation for backward classes not adequately represented in State services. It is narrower than Article 16(1), which provides the broader guarantee of equality of opportunity. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) Yes, because a more meritorious candidate cannot be denied an Unreserved post on the basis of social category alone.

Reference Line: “A less meritorious candidate cannot be preferred over a more meritorious candidate on the basis of social category alone when the post in question falls under the open/unreserved pool.”

Explanation: {Option (a) Correct: The post is in the Unreserved pool, and both candidates possess the relevant horizontal disability attribute. Since Meenakshi has higher marks and has not used eligibility relaxation, rejecting her only because she belongs to SC is arbitrary. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Meenakshi does not succeed because SC candidates automatically override general candidates. She succeeds because she is more meritorious for an Unreserved post and cannot be excluded solely due to social category. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Unreserved posts are not exclusively reserved for general category candidates. They are open to candidates from all social categories, subject to merit and applicable eligibility conditions. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Horizontal reservation does not make merit irrelevant. Where the post belongs to the Unreserved pool, merit remains the governing criterion among candidates possessing the relevant horizontal attribute. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) The Unreserved category is open to all social categories, and all PWD-LV candidates may compete on merit.

Reference Line: “The Unreserved or Open category is not a distinct social compartment reserved exclusively for general category candidates. It is open to candidates from all social categories, including SC, ST, and OBC.”

Explanation: {Option (a) Correct: The UR category is not reserved only for general category candidates. Since both Arvind and Farhan possess the PWD-LV horizontal attribute, both are similarly situated, and Farhan’s superior merit entitles him to selection. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Farhan does not succeed because OBC candidates have automatic preference in

every recruitment. He succeeds because the UR post is open to all and he is more meritorious among similarly situated PWD-LV candidates. Hence, Option (a) is not the correct answer.}

{Option (c) Incorrect: Farhan's appointment to a UR (PWD-LV) post does not convert the post into an OBC post. It remains an Unreserved post horizontally reserved for PWD-LV candidates, filled on merit. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Horizontal reservation does not eliminate merit. When multiple candidates possess the same horizontal attribute and compete for an Unreserved post, comparative merit remains decisive. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) A PWD candidate selected horizontally must be adjusted within her respective vertical social category.

Reference Line: "Candidates selected under horizontal reservation are adjusted within their respective vertical social category, ensuring that the percentage of vertical reservation remains unaltered after the application of horizontal reservation."

Explanation: {Option (a) Incorrect: Horizontal reservation does not create a separate independent pool of posts. It cuts across vertical categories and must operate within the existing vertical structure. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Anjali may receive the benefit of horizontal reservation as a PWD candidate, but she must be adjusted within her SC vertical category. This preserves the vertical reservation percentage while giving effect to the horizontal entitlement. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Horizontal reservation is not limited to Unreserved candidates. Persons with Disabilities may belong to SC, ST, OBC, or Unreserved categories, and their adjustment depends on their respective vertical category. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Properly applied horizontal reservation should not reduce or alter the vertical reservation percentage. It operates across vertical categories and is adjusted within them, rather than replacing them. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (c) A recruitment authority fixes 65% of total posts for SC, ST, and OBC candidates together, stating that social justice permits reservation beyond ordinary constitutional limits.

Reference Line: "As held in *Indra Sawhney v. Union of India* (1992), vertical reservation must not exceed 50% of total vacancies in a recruitment year, and a reserved category candidate qualifying on open merit must be counted in the open category quota, not against her reserved category quota."

Explanation: {Option (a) Incorrect: This situation provides vertical reservation for SC, ST, and OBC candidates within 50% of the total vacancies. It reflects the ordinary operation of vertical reservation and does not violate the principle. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: This situation correctly applies the rule that a reserved category candidate who qualifies on open merit must be counted in the open category. Such selection does not reduce the reserved quota available to OBC candidates. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This situation violates the principle because the total vertical reservation is fixed at 65%, exceeding the 50% ceiling laid down in *Indra Sawhney*. A general claim of social justice cannot override the constitutional limit on vertical reservation. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: This situation correctly recognises inter se competition within reserved categories and open-merit migration for meritorious reserved category candidates. It is consistent with the

constitutional operation of vertical reservation. Hence, Option (d) is not the correct answer.}

5. Spouse Cannot Revoke Consent for Mutual Divorce After Settlement Agreement

1. Correct Answer: (c) Meera and Arjun enter into a court-confirmed mediation settlement resolving alimony, business accounts, jewellery, and pending cases, partly perform it, and then Meera withdraws consent without proving fraud or non-performance.

Reference Line: “This case carves out a critical exception: where consent is embedded in a comprehensive mediation settlement, the statutory right of withdrawal is overridden by the binding obligations of that settlement.”

Explanation: {Option (a) Incorrect: In this situation, the parties have only filed a joint petition without any comprehensive settlement binding them on financial and legal issues. The general rule under Section 13B would still permit withdrawal of consent before the decree. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: A private oral understanding does not have the same binding character as a comprehensive court-confirmed mediation settlement. Since the consent is not embedded in a formal mediated settlement, the exception is unlikely to apply. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This situation squarely attracts the exception because the consent to divorce forms part of a comprehensive mediation settlement, confirmed through a legal process and partly performed by both parties. In the absence of fraud, force, undue influence, or non-performance, withdrawal would defeat the settlement. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Mere family-level discussions do not create binding obligations under a comprehensive mediation settlement. Since no joint petition or formal settlement exists, there is no basis to override the ordinary right of withdrawal. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) The six-month cooling off period is directory and may be waived where the parties have genuinely settled all disputes and further waiting would only increase agony.

Reference Line: “It may be waived where the parties have genuinely settled all disputes, the statutory separation period has already elapsed, and prolonging the wait would only increase the parties' agony.”

Explanation: {Option (a) Correct: Aarav and Priyanka have lived separately for more than the statutory period, genuinely settled all ancillary disputes, and jointly seek waiver. Since the waiting period is directory and not mandatory, the court may waive it to avoid needless suffering. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: This option directly contradicts the principle. The cooling off period under Section 13B(2) is not mandatory in all cases; it is directory and may be waived in appropriate circumstances. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Waiver is not automatic merely because one spouse says reconciliation is impossible. The court must assess whether the statutory separation period has elapsed, disputes are genuinely settled, and further waiting serves no useful purpose. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The principle requires that the statutory separation period should already have elapsed. Waiver is not meant to defeat the minimum separation requirement; it concerns the waiting period between the first and second motions. Hence, Option (d) is not the correct answer.}

step palliative care plan that preserves the patient's dignity... palliative care can be provided not only in hospitals but also at home or any place chosen by the patient..."

(a) is incorrect: The right to die with dignity is explicitly described as being inseparable from the right to receive quality palliative and End of Life care. It is not merely the abrupt withdrawal of machines.

(b) is correct: The passage categorically states that withdrawal must not be an abrupt act and must be accompanied by a medically supervised, step-by-step palliative care plan to preserve dignity. The hospital's abrupt discharge violates this principle.

(c) is incorrect: Although there is a call for comprehensive legislation, the Supreme Court's guidelines in *Common Cause* are currently binding law, and they strictly mandate this palliative care.

(d) is incorrect: The passage notes that palliative care can be provided not only in hospitals but also at home or any place chosen by the patient/family, provided adequate care is ensured.

3. Correct Answer: (a) Yes, because proceedings filed as an afterthought with an ulterior motive may be quashed as abuse of process.

Reference Line: "This illustrates the doctrine of abuse of process, under which courts may quash proceedings that are vexatious or filed with an ulterior motive rather than a genuine grievance."

Explanation: {Option (a) Correct: The complaint was filed for the first time after twenty-four years, after partial performance of settlement and after Rajat initiated contempt proceedings. The vague allegations and timing support the inference that the DV Act proceedings are being used to sustain litigation rather than pursue a genuine grievance. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The pendency of divorce proceedings alone is not a ground to quash a DV Act complaint. A genuine complaint under Section 12 may continue despite matrimonial litigation. Here, the decisive factor is the apparent mala fide and vexatious nature of the proceedings. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Courts are not powerless merely because an application is filed under the DV Act. If the proceedings are vexatious, mala fide, or filed for an ulterior motive, courts may quash them to prevent abuse of process. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Delay alone may not always defeat a complaint, but the court can consider delay along with surrounding circumstances, including timing, lack of particulars, and connection with other proceedings. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) The Supreme Court may dissolve the marriage under Article 142 if the marriage has completely and permanently broken down.

Reference Line: "Irretrievable breakdown of marriage is not a statutory ground for divorce under the Hindu Marriage Act, 1955, but the Supreme Court has recognised it as a basis for exercising power under Article 142."

Explanation: {Option (a) Correct: The facts show long separation, failed mediation, complete loss of trust, and no real possibility of reunion. Although irretrievable breakdown is not a statutory ground under the Hindu Marriage Act, the Supreme Court may invoke Article 142 to dissolve the marriage. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The doctrine operates through the Supreme Court's extraordinary power under Article 142. A Family Court cannot independently grant divorce solely on irretrievable breakdown unless a statutory ground is made out. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The absence of a statutory ground under the Hindu Marriage Act does not prevent the Supreme Court from exercising Article 142 in appropriate cases. The Court will not compel parties to remain in a marriage that has completely collapsed. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: A fresh joint petition under Section 13B is not the only route before the Supreme Court. Where the marriage has irretrievably broken down, the Supreme Court may dissolve it under Article 142 to do complete justice. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (c) Article 142

Reference Line: “Article 142 confers on the Supreme Court an extraordinary power to pass any decree or order necessary for complete justice in a pending matter.”

Explanation: {Option (a) Incorrect: Article 136 deals with the Supreme Court’s special leave jurisdiction. It allows the Court to grant special leave to appeal in appropriate cases, but it is not the source of the power to pass orders for complete justice. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Article 141 provides that the law declared by the Supreme Court is binding on all courts within India. It does not confer the extraordinary complete justice power. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Article 142 is the constitutional provision that empowers the Supreme Court to pass any decree or order necessary for complete justice in a pending matter. In matrimonial disputes, this power has been used to dissolve marriages that have irretrievably broken down. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Article 226 gives High Courts the power to issue writs for enforcement of fundamental rights and other legal rights. It does not confer the Supreme Court’s exclusive power to do complete justice under Article 142. Hence, Option (d) is not the correct answer.}

6. Seat vs. Venue of Arbitration

1. Correct Answer: (b) The venue used for convenience does not alter the juridical seat fixed by agreement.

Reference Line: “The venue is simply the physical location chosen for the convenience of conducting hearings or meetings. It carries no jurisdictional consequence and does not alter the juridical seat.”

Explanation: {Option (a) Incorrect: Signing the award in Bengaluru does not convert Bengaluru into the seat. The seat remains Ahmedabad because it was expressly agreed by the parties. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Bengaluru was used only as a convenient physical place for hearings and award-signing. Since venue carries no jurisdictional consequence, Ahmedabad courts retain supervisory jurisdiction. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Examination of witnesses at a place does not give that place supervisory jurisdiction. Witness examination is merely a procedural step and cannot override the seat. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The arbitrator cannot choose the court for Section 34 proceedings after the award. Jurisdiction flows from the designated seat and statutory framework, not from the arbitrator’s later preference. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) Yes, because Section 20 separates the agreed juridical place from convenient hearing locations.

Reference Line: “Sub-section (1) permits parties to agree on the place of arbitration, while sub-section (3) permits the tribunal to hold hearings and meetings at any place it considers appropriate for consultation, examination of witnesses, or inspection of documents.”

Explanation: {Option (a) Correct: Chennai remains the agreed juridical place of arbitration. Section 20(3) permits the tribunal to hold hearings, consultations, witness examination, and document inspection elsewhere without changing the seat. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: A city does not become an additional seat merely because some proceedings occur there. Multiple venues may be used for convenience, but the seat remains legally controlling. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The tribunal is not required to conduct every hearing only at the agreed seat. Section 20(3) expressly allows proceedings at other appropriate locations. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Party autonomy is not destroyed when the tribunal inspects documents elsewhere. The tribunal’s procedural choice operates within the framework created by the parties’ agreed seat. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (b) Shimla court has jurisdiction, and Section 34 must comply with the strict limitation period.

Reference Line: “Only the court at the designated seat of arbitration has exclusive supervisory jurisdiction to entertain and decide such a challenge. An application must be filed within three months of receiving the award, with a further condonable period of thirty days on sufficient cause shown and no extension beyond that.”

Explanation: {Option (a) Incorrect: Gurugram was only the hearing venue. The place where hearings occurred does not decide Section 34 jurisdiction when Shimla is the designated seat. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Since Shimla is the seat, Shimla courts alone have jurisdiction over the Section 34 challenge. The petition must also satisfy the three-month limitation period, with only a further thirty days available on sufficient cause and no extension beyond that. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Seat-based jurisdiction is exclusive. A connection with Gurugram through hearings does not create equal supervisory jurisdiction. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The value of the award does not allow any court in India to hear the challenge. Jurisdiction under Section 34 is tied to the designated seat and statutory limitation rules. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Section 2(1)(e)

Reference Line: “Section 2(1)(e) defines the term “court” for purposes of the Act with reference to the subject-matter of arbitration, understood as the process of dispute resolution.”

Explanation: {Option (a) Correct: Section 2(1)(e) defines “court” under the Arbitration and Conciliation Act, 1996. It is central to identifying the court exercising supervisory jurisdiction at the seat of arbitration. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Section 8 concerns reference of parties to arbitration when an action is brought

before a judicial authority despite an arbitration agreement. It does not define “court” for supervisory jurisdiction. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Section 29A deals with the time limit for making arbitral awards and extension of time. It does not define the court for purposes of the Act. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Section 36 concerns enforcement of arbitral awards. It does not provide the statutory definition of “court” or determine seat-based supervisory jurisdiction. Hence, Option (d) is not the correct answer.}

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

Reference Line: “The seat of arbitration refers to the juridical home or legal place of the arbitration. It determines the curial law governing the arbitral process and the court having exclusive supervisory control over the arbitration, including jurisdiction over Section 34 (challenge to award), Section 9 (interim relief), and Section 11 (appointment of arbitrator) proceedings. Once designated by agreement, the seat remains immutable unless expressly altered by a fresh agreement between the parties.”

Explanation: Option (a) is not the correct answer: Statement i is correct because Mumbai was expressly chosen as the seat in the arbitration clause. Statement iii is also correct because the court of the seat has supervisory jurisdiction over Section 34 and Section 9 proceedings. However, statement ii is incorrect because merely conducting hearings in Delhi does not convert Delhi into the juridical seat. Hence, Option (a) is not the correct answer.

Option (b) is the correct answer: Statement i correctly recognises Mumbai as the juridical seat because it was designated in the agreement. Statement iii is also correct because Mumbai, being the seat, gives supervisory jurisdiction to the Bombay High Court for Section 34 and Section 9 matters. Statement iv is correct because the seat can change only through an express fresh agreement, not by mere convenience-based hearings. Hence, Option (b) is the correct answer.

Option (c) is not the correct answer: This option wrongly includes statement ii. Delhi was only the physical location where hearings were conducted for convenience. Such conduct does not make Delhi the juridical home of arbitration. Since statement ii is incorrect, any option including it cannot be the correct answer. Hence, Option (c) is not the correct answer.

Option (d) is not the correct answer: Though statements i and iv are correct, this option also includes statement ii, which is legally incorrect. The fact that all hearings took place in Delhi does not override the express designation of Mumbai as the seat. The seat remains unchanged unless expressly altered by a fresh agreement. Hence, Option (d) is not the correct answer.

7. Sale of Accused's Property Cannot Be Ordered as Bail Condition

1. Correct Answer: (c) Three statements

Reference Line: “Section 483 of the BNSS, 2023, which replaces Section 439 of the CrPC, 1973, confers special powers on the High Court and the Court of Session to grant bail, modify bail conditions, and cancel bail in appropriate cases.”

Reference Line: “These powers, however wide, are not unbounded; they are confined to securing the purposes of bail and do not extend to directing disposal of property, adjudicating civil claims, or granting reliefs that can only be obtained through separate civil or execution proceedings.”

Explanation: Statement i is true: Section 483 expressly gives special powers to the High Court and the

Court of Session in bail matters. Therefore, the Sessions Court could grant bail and impose conditions, provided those conditions remained connected with the legitimate purpose of bail. Hence, Statement i is true.

Statement ii is true: Conditions requiring Aman to appear before the investigating officer, avoid contacting witnesses, and deposit his passport are directly related to ensuring his availability, preventing witness influence, and securing the investigation. These are proper bail-related conditions. Hence, Statement ii is true.

Statement iii is false: The Sessions Court cannot use Section 483 to decide possession of the farmhouse or order transfer of company shares. Such directions amount to disposal of property or adjudication of civil claims, which must be pursued through separate legal proceedings. Hence, Statement iii is false.

Statement iv is true: A direction to deposit ₹60 lakh as partial repayment may operate as civil recovery or execution-type relief. Section 483 does not permit bail jurisdiction to be converted into a mechanism for enforcing monetary claims unrelated to securing bail purposes. Hence, Statement iv is true.

Therefore, three statements are true.

2. Correct Answer: (c) Article 21

Reference Line: “This principle is rooted in Article 21 of the Constitution, which guarantees the right to life and personal liberty.”

Explanation: {Option (a) Incorrect: Article 14 deals with equality before law and equal protection of laws. Although equality may be relevant to arbitrary detention, the direct constitutional foundation for personal liberty in bail jurisprudence is Article 21. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Article 19 protects certain freedoms such as speech, movement, association, and profession. It is not the specific source of the right to life and personal liberty underlying the bail principle. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Article 21 guarantees life and personal liberty. Since pre-trial detention deprives liberty, it must follow fair, just, and reasonable procedure; this supports the rule that bail is generally preferred over jail unless custody is justified. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Article 32 gives the right to move the Supreme Court for enforcement of fundamental rights. It is not the substantive guarantee of personal liberty on which the bail principle primarily rests. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (c) The State or complainants should use lawful mechanisms such as attachment, PMLA proceedings, or civil suits.

Reference Line: “These are the proper and lawful channels for recovery; bail proceedings cannot substitute for or short-circuit these mechanisms.”

Explanation: {Option (a) Incorrect: A bail court cannot order sale of immovable property to satisfy alleged claims. Such a direction would convert bail into recovery proceedings and bypass proper legal mechanisms. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Private pressure is not a lawful recovery mechanism. Financial claims and proceeds of crime must be addressed through recognised legal channels, not informal coercion. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: The principle recognises proper channels such as attachment under criminal

procedure, provisional attachment under the PMLA, and civil suits for recovery or damages. Bail proceedings cannot replace these remedies. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: A Magistrate cannot orally sell property merely on the complainants' list of alleged victims. Disposal of property requires statutory authority and procedure established by law. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Yes, because alleged civil liability must be adjudicated through civil proceedings and cannot be enforced as a bail condition.

Reference Line: "The commission of these offences may also give rise to civil liability, but such liability must be adjudicated through civil proceedings and cannot be enforced at the bail stage of criminal proceedings."

Explanation: {Option (a) Correct: The alleged acts may constitute criminal breach of trust or cheating and may also create civil liability. However, disputed monetary recovery must be adjudicated in proper civil proceedings and cannot be imposed as a condition for bail. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Sections 406 and 420 are not treated as bailable offences under the stated principle. They are cognizable and non-bailable, but that does not permit recovery-based bail conditions. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The allegation of cheating does not automatically require repayment before bail. Bail concerns presence, investigation, trial, and fairness, not final satisfaction of the complainant's financial claim. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: A criminal court considering bail cannot finally decide civil money claims. Such claims must be pursued through civil recovery proceedings or other lawful mechanisms. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (b) Bail discretion must be exercised through proportionate regulatory conditions.

Reference Line: "Unlike bailable offences where bail is a right, bail in non-bailable offences is a matter of judicial discretion, exercised after considering factors such as the nature and gravity of the accusation, the antecedents of the accused, the possibility of flight risk, and the likelihood of tampering with evidence or influencing witnesses."

Explanation: {Option (a) Incorrect: Bail in non-bailable offences is not an absolute right. It is a matter of judicial discretion exercised on relevant considerations such as gravity, antecedents, flight risk, and possible interference with evidence. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Prakash's argument is strongest because bail conditions must be proportionate and regulatory. Since he has joined investigation, surrendered his passport, and relevant records are seized, forced repayment cannot be imposed as a bail substitute for civil recovery. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Repayment of alleged dues is not always a condition for bail. Bail cannot be converted into a coercive recovery mechanism, especially before guilt or liability is adjudicated. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Non-bailable does not mean bail is impossible. Courts may grant bail after considering relevant factors, especially where custody is not necessary for investigation or trial. Hence, Option (d) is not the correct answer.}

8. Legal Representatives can Challenge Arbitral Awards u/s 34 & not Article 227

1. Correct Answer: (c) Devendra files a civil suit seeking declaration that the arbitral award is void, though Section 34 remedy was available to him.

Reference Line: "Section 34 provides the only statutory recourse against an arbitral award. The word "only" in sub-section (1) is deliberate and significant, making it clear that no other mode of challenge is permissible."

Explanation: {Option (a) Incorrect: Lack of proper notice is a recognised ground for challenging an arbitral award under Section 34. Since Ramesh has used the correct statutory remedy within the limitation period, his challenge is maintainable. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Section 34 permits filing within three months of receiving the award, with a further condonable period of thirty days on sufficient cause. If Kavita falls within this outer limit, her challenge is not barred merely because it is delayed. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Devendra cannot bypass Section 34 by filing a civil suit to declare the award void. Since Section 34 is the only statutory recourse against an arbitral award, any separate civil suit challenging the award is not maintainable. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: For domestic awards, patent illegality apparent on the face of the award is an additional ground under Section 34. Nisha is using the proper statutory route, so her challenge is maintainable if filed within limitation. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) A legal representative falls within the term "party" for Section 34 and may challenge an award affecting the estate.

Reference Line: "The Court held that legal representatives fall within the term "party" under Section 34 and are therefore entitled to challenge an arbitral award under that provision."

Explanation: {Option (a) Correct: Ananya represents Harish's estate and the award directly affects that estate. Treating legal representatives as parties under Section 34 prevents the unfair result of binding them by an award while denying them the remedy to challenge it. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: A fresh civil suit cannot replace the statutory remedy under Section 34. Since the Arbitration Act provides the route to challenge an award, Ananya must proceed under Section 34 rather than through an independent civil suit. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: This would create the very anomaly rejected by the Court. A legal representative cannot be treated as bound by the award under the Act while being denied the statutory mechanism to challenge it. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The right to challenge an award under Section 34 flows from statute, not from the arbitrator's permission. Once the award affects the estate represented by Ananya, she may invoke the statutory remedy. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (c) Section 115 CPC cannot override or supplement the specific statutory remedy provided under the Arbitration Act.

Reference Line: "Like Article 227, this jurisdiction is supervisory and cannot override or supplement a specific statutory remedy."

Explanation: {Option (a) Incorrect: A party cannot use Section 115 CPC to escape the strict limitation

period under Section 34. Allowing revision after missing Section 34 limitation would defeat the special statutory scheme of the Arbitration Act. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Section 115 CPC is a general supervisory provision, while the Arbitration Act is a special and later legislation. The special law prevails over the general law in arbitration matters. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Section 115 CPC cannot be invoked to bypass or add to the remedy under Section 34. Arbitration matters must follow the special mechanism provided in the Arbitration and Conciliation Act, 1996. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Revisional jurisdiction is not an appellate power to reappraise the merits of every award. In any event, arbitration award challenges must be pursued through Section 34, not Section 115 CPC. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) The award binds legal representatives because they claim under the deceased party and represent her estate.

Reference Line: "Section 35 makes an arbitral award final and binding not only on the original parties but also on "parties claiming under them."

Explanation: {Option (a) Incorrect: Section 35 prevents an award from becoming meaningless merely because an original party dies. The binding effect extends to persons claiming under the original party, including legal representatives. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Neha and Tarun derive their rights through Sushila and represent her estate. Therefore, they fall within the phrase "parties claiming under them" and are bound by the award to the extent the estate is concerned. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: A fresh arbitration agreement is not necessary for the award to bind legal representatives. Their connection flows from succession to the estate and the statutory language of Section 35. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Legal representatives are bound because they represent the estate, not because they incur unlimited personal liability. If they inherited nothing, the extent of enforcement would be governed by principles relating to estate liability. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Yes, because death of a party does not discharge the arbitration agreement or terminate the arbitrator's mandate.

Reference Line: "Section 40 expressly provides that an arbitration agreement is not discharged by the death of any party thereto and remains enforceable by or against the legal representative of the deceased."

Explanation: {Option (a) Correct: Section 40 preserves the arbitration agreement despite Mohan's death. Raghav, as legal representative, steps into Mohan's position for purposes of the arbitral proceedings, and the arbitrator's mandate does not end merely because Mohan died. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The principle concerns continuity of arbitration agreements and civil obligations, not conversion of contractual obligations into criminal liability. Raghav's role arises from representation of the estate, not criminal responsibility. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: This directly contradicts Section 40. Arbitration proceedings do not automatically terminate on the death of a party where the dispute and obligations survive against the estate. Hence,

Option (c) is not the correct answer.}

{Option (d) Incorrect: Legal representatives may inherit both benefits and burdens connected with the estate. Where the deceased was bound by an arbitration agreement, the legal representative may be required to participate for purposes of that estate. Hence, Option (d) is not the correct answer.}

9. Appellate Court Can Reverse or Modify Conviction

1. Correct Answer: (c) During a State appeal against acquittal, the appellate court corrects an erroneous finding in the same criminal proceedings after examining the trial record.

Reference Line: “The protection operates against fresh prosecution, not against appellate correction of findings within a continuing judicial process.”

Explanation: {Option (a) Incorrect: A fresh prosecution after acquittal for the same offence on the same facts would attract the protection against double jeopardy. Section 300 BNSS bars a second trial where the accused has already been acquitted or convicted for the same offence. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: A second prosecution after conviction and punishment for the same offence is precisely what Article 20(2) prevents. The State cannot prosecute and punish the accused again for the same offence. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This does not amount to double jeopardy because the appellate court is acting within the same continuing judicial process. The protection is against a fresh prosecution, not against correction of findings in appeal or revision. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Filing another criminal case for the same offence after acquittal would amount to a second prosecution on the same matter. Such a proceeding is barred by the statutory protection under Section 300 BNSS. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) The appellate court may correct an apparent miscarriage of justice when the record shows that an unchallenged conviction is unsustainable.

Reference Line: “The expression “as the interests of justice may require” in Section 386 CrPC and Section 427 BNSS is a broad and flexible standard that empowers appellate courts to go beyond the specific reliefs sought by the parties and correct any miscarriage of justice that is apparent from the record.”

Explanation: {Option (a) Correct: The appellate court is not merely an umpire between the State and the accused. If the record shows that an unchallenged conviction rests on the same flawed evidence, the court may correct the miscarriage of justice in the interests of justice. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: This option wrongly restricts the appellate court to the State’s prayer alone. Section 386 CrPC and Section 427 BNSS permit broader examination where justice so requires. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Ordinarily, an accused may file an appeal against conviction, but the principle permits appellate correction even where the accused has not separately challenged the conviction, provided the court is already seized of the matter. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: A conviction cannot be preserved merely because it was not formally challenged. If it is plainly unsustainable and causes injustice, the appellate court may interfere. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (b) On Manish's statement that he hid the victim's watch under a specific stone near a temple, police recover the watch, seal it at the spot, and conduct Magistrate-supervised identification.

Reference Line: "Only the portion of the statement that directly leads to the discovery is admissible, not the entire statement."

Explanation: {Option (a) Incorrect: Section 27 does not make the entire confession admissible. Only that part of the statement which distinctly relates to the discovery of a fact can be admitted. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: This situation satisfies the safeguards: the statement directly leads to discovery, the article is recovered from a specific place, it is sealed at the point of recovery, and identification is conducted before a Magistrate. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The recovery is weak because the article is common, recovered after delay, not sealed, and identified informally at the police station. Such non-compliance seriously reduces evidentiary value. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Section 27 applies where information leads to discovery of a fact. If no article is recovered and no discovery follows, the alleged statement has no reliable evidentiary value under Section 27. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) The Section 201 conviction must be examined carefully because it cannot rest solely on the same flawed evidence that failed to prove the primary offence.

Reference Line: "Where the primary offence is not established against the accused, a conviction under Section 201 must be examined with particular care to ensure it is not being sustained solely on the basis of the same flawed evidence that failed to establish the primary charge."

Explanation: {Option (a) Correct: Section 201 is derivative and presupposes the commission of a primary offence. If the primary offence fails and the Section 201 conviction rests only on the same unreliable recovery evidence, the conviction must be scrutinised carefully and may be unsustainable. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Section 201 is not entirely detached from the primary offence. It requires knowledge or reason to believe that an offence was committed and intentional disappearance of evidence to screen the offender. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Mere allegation of murder does not create a presumption that the accused caused disappearance of evidence. Criminal liability must be proved through reliable evidence. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Acquittal of the primary offence does not automatically defeat Section 201 in every case. There may be independent evidence of disappearance of evidence. The defect here is that the Section 201 conviction rests only on the same flawed evidence. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Yes, because a serious charge based entirely on circumstantial evidence requires a complete and reliable chain connecting the accused to the offence.

Reference Line: "Like all serious penal provisions, conviction under this section in a case based entirely on circumstantial evidence must satisfy the complete chain test; the absence of a reliable incriminating link directly connecting the accused to the offence renders the charge unsustainable."

Explanation: {Option (a) Correct: The prosecution relies only on a weak recovery that was not properly

sealed or identified through prescribed procedure. In a circumstantial evidence case, the chain must be complete and must exclude every reasonable hypothesis of innocence. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Section 376A specifically applies where rape results in death or persistent vegetative state. It is not excluded merely because the case is based on circumstantial evidence. The problem is the incomplete and unreliable evidentiary chain. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Recovery of an article does not automatically prove guilt. The recovery must be reliable, properly connected to the victim, and supported by a complete chain of circumstances. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The gravity of the allegation increases the need for careful proof; it does not dilute the standard of proof. A conviction cannot rest on suspicion or an incomplete chain. Hence, Option (d) is not the correct answer.}

10. High Courts Cannot Reassess Materials Considered by Trial Courts

1. Correct Answer: (b) The court must assess only whether the amendment is necessary for the real controversy, not finally decide its merits at that stage.

Reference Line: “At the stage of considering an amendment application, the court is not required to examine the merits or demerits of the proposed averments; its inquiry is confined to whether the amendment is necessary to resolve the actual dispute.”

Explanation: {Option (a) Incorrect: Amendments are not allowed automatically merely because a legal heir requests them. The court must still examine whether the proposed amendment is relevant, necessary, and not prejudicial or destructive of the original cause. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Vinay’s amendment clarifies the family requirement already pleaded in the original plaint. At the amendment stage, the court should not decide whether the requirement is ultimately proved; that issue can be tested through evidence. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Order VI Rule XVII CPC permits amendment at any stage if necessary for determining the real controversy. Appeal-stage amendment is not barred merely because trial has ended. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The genuineness of the heirs’ need is a matter for evidence and final adjudication. Requiring conclusive proof before allowing amendment would wrongly convert the amendment stage into a trial on merits. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (c) No, because the appellate court may frame additional issues and refer them back for findings while retaining the appeal.

Reference Line: “Order XLI Rule 25 empowers the appellate court, where issues have not been tried by the subordinate court, to frame those issues and refer them back for determination, retaining the appeal for final disposal.”

Explanation: {Option (a) Incorrect: The suit does not automatically fail merely because the original landlord dies, especially where the original plaintiff pleaded family need. The heirs may continue the claim if the cause of action survives. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Subsequent facts need not always be pursued through a fresh suit. Order XLI Rule

25 allows the appellate court to avoid multiplicity of proceedings by framing additional issues and obtaining findings. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: The Appellate Court has acted within Order XLI Rule 25 by framing additional issues, referring them to the Trial Court for evidence and findings, and retaining the appeal for final disposal. This preserves fairness and avoids fresh litigation. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: The appellate court is not bound to record all additional evidence by itself. Order XLI Rule 25 expressly permits reference of untried issues to the subordinate court for determination. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (b) The court may consider later events if they materially affect the relief and have a foundation in the original pleadings.

Reference Line: “Courts are empowered to take note of events that occur after the institution of a suit but before its final disposal, where those events have a material bearing on the reliefs to be granted.”

Explanation: {Option (a) Incorrect: Courts are not required to freeze the case permanently at the date of filing. If later developments materially affect the relief, ignoring them may result in injustice. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Shankar’s original plaintiff pleaded family need, and the later requirements of his daughter and son are connected to that foundation. These subsequent events materially affect the eviction relief and may be considered. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Death of the original landlord does not automatically defeat an eviction suit where the cause of action survives through family need or heirs’ requirements. The court must examine whether the foundational plea continues. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The court’s power to consider subsequent events does not depend on the tenant’s consent. It flows from the court’s duty to decide the real controversy in light of material developments. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (c) It allows interference only where the subordinate court commits a jurisdictional error or material irregularity.

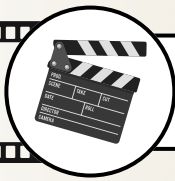
Reference Line: “The revisional court can interfere only where the subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted with material irregularity in the exercise of its jurisdiction.”

Explanation: {Option (a) Incorrect: Section 115 CPC does not create an appellate remedy. A revisional court cannot rehear the entire case or reassess all facts as if deciding a regular appeal. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Every factual error is not revisable. Revisional jurisdiction is confined to jurisdictional errors, failure to exercise jurisdiction, or material irregularity in the exercise of jurisdiction. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This option accurately states the scope of Section 115 CPC. The High Court may interfere only where the subordinate court has acted outside jurisdiction, refused jurisdiction, or acted with material irregularity. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: The High Court cannot substitute its own view merely because another conclusion is possible. An incorrect decision within jurisdiction is not enough for revision under Section 115 CPC. Hence, Option (d) is not the correct answer.}



MEDIA COVERAGE

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



EXCLUSIVE INTERVIEW



India's Top Law Coach Speaks On Cracking Law Entrances

LAW TODAY

Renowned Educationist Nishant Prakash in Committee for Implementation of New Education Policy in Assam

Indian sprinter Hima Das, General Secretary of Assam Cricket Association Devajit Lon Saikia, and scientist Uddhab Bharali are also in the committee.



Super 30 of law entrance bags 5 out of top 10 in AILET and CLAT

ARUN SINGHAH ■ NEW DELHI

When your students bag three out of top 10 slots in elite law entrance test - All India Legal Entrance Test or AILET - it speaks volumes about your passion, diligence and grit. Nishant Prakash, the unsung corporate lawyer turned teacher, will simply grin on being congratulated, showing extraordinary humility. The AILET results on Thursday saw a burst of messages and phone calls. Just days ago, Prakash had another round of celebrations with a strike rate of over 90% by his students in the

Common Law Admission Test (CLAT), for admissions to over 20 law universities across India. Out of 60 students that he provided training to, 54 ended up with a seat either in CLAT or AILET. Two of his students featured in top 10 in CLAT as well. Manoj Prakash, the unsung corporate lawyer turned teacher, will simply grin on being congratulated, showing extraordinary humility. The AILET results on Thursday saw a burst of messages and phone calls. Just days ago, Prakash had another round of celebrations with a strike rate of over 90% by his students in the

Delhi with specialising in Intellectual Property Rights, Insurance and Trade Law, says Prakash. However, despite a thriving law of teaching took him to rather an unconventional path - of teaching. "Hailing from Bihar, such dramatic shift to my career was frowned upon for it meant checks and wading into uncertain territories. With a mild change of passion should take place. In 2014, he set up Nishant

Prakash Law Classes and in just 10 years, he has established a reputation covered by law aspirants nationwide, transcending the industry to become a leader in education reform, with significant impact on legal education, success of his students, and his own passion for education. Chaitanya Ghosh ranked all India no. 2, Divya Kamath at CLAT Aditya Gautam Arshad ranked no. 4, Dwik Agarwal no. 76. His noteworthy achievements extend beyond coaching as Nishant

Appointed him to advise on the pivotal initiative of 'Transforming Legal Education in India,' positioning him as a key contributor to national legal education reform. Further solidifying his role in education reform, he is part of a high-level National Education Policy 2020 committee implementing the state of Assam reflecting his broader impact on the national education framework. Also, recognized as the 'Super Nishant's commitment to education underscores his effectiveness in guiding students to secure admissions in top law schools.



NEW DELHI | SATURDAY | DECEMBER 10, 2020

An Interview With India's leading Educationist; How Important Is To Join Coaching Institute To Crack An Aptitude Based Exam Like CLAT

THE HINDU CLAT candidates aggrieved over 'errors'; consortium denies laxity

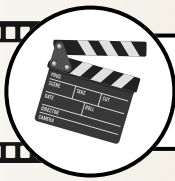
Krishnamas Rameshbabu NEW DELHI

A petition challenging the correctness of the provisional answer key of the postgraduate Common Law Admission Test (CLAT) held in December 1 for admission to 21 national law universities has been filed in the Supreme Court on December 9. The petition, filed by Anam Khan and Ayush Agarwal, alleged that the provisional answer key released on December 2 contained significant errors, including incorrect answers to 12 questions. Persons associated with the Consortium of National Law Universities (CNLU), which conducted the test, said the final answer key case came up on December 9. The consortium announced the release of the final answer key and results to December 7 from December 10. "The provision



of the logical reasoning section were absolutely wrong which were later rectified by the consortium in the final answer key. Three more answers in the provisional answer keys were changed later upon the students' grievances raised by the petitioners. I strongly believe that the consortium withdrawing these questions and not completing the paper," he said. S. Shanmukumar, Director of the Gujarat National Law University and vice-president, CNLU Government, said "extreme care is always taken to avoid mistakes". "In law, the questions and the answer options in the paper are interpreted differently by different people," he said.





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 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 distributed set of national 4 ranks across both examinations, reinforcing the institute's consistent presence at the top. Of the 78 candidates from NPLC, 70 qualified in CLAT or AILET.

Hindustan Times 100
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 AIR 202 in AILET, and Siddhant Rohit, who secured All India Rank 4 in AILET 2026 and AIR 4 in CLAT 2026.

Both students began preparing for these exams at Nishant Prakash Law Classes (NPLC) in Delhi. At ultimate, the institute's rigorous preparation strategy imposed a strong, widely distributed set of national 4 ranks across both examinations, reinforcing the institute's consistent presence at the top.

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




दिल्ली को काजून सिखाओ वस्त्र बिहारी



Nishant Prakash Law Classes

CLAT Consortium has recently changed the pattern for CLAT. How do you see this?

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.

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Arshnoor
Siddhant Rohit AILET (AIR 4)

5. Correct Answer: (a) Both [A] and [R] are true and [R] is a correct explanation of [A]

Reference Line: “Supervisory jurisdiction under Article 227, by contrast, is limited to correcting jurisdictional errors and does not extend to factual reassessment or substitution of discretion.”

Explanation: Option (a) is correct: Assertion [A] correctly states that the High Court cannot use Article 227 as if it were exercising appellate powers. Reasoning [R] correctly explains why this is so: supervisory jurisdiction is confined to jurisdictional errors, procedural legality, and natural justice, while appellate jurisdiction permits broader reconsideration of facts and evidence. Hence, Option (a) is the correct answer.

Option (b) is incorrect: Although both [A] and [R] are true, [R] is not merely an independent statement. It directly explains why the High Court should not reassess the evidence under Article 227. The limitation on supervisory jurisdiction is the precise legal basis for the assertion. Hence, Option (b) is not the correct answer.

Option (c) is incorrect: Assertion [A] is true because Article 227 does not permit factual reassessment merely because another view is possible. However, Reasoning [R] is also true because it accurately states the distinction between supervisory and appellate jurisdiction. Since [R] is not false, this option is incorrect. Hence, Option (c) is not the correct answer.

Option (d) is incorrect: Assertion [A] is not false because the High Court cannot substitute its own factual findings in supervisory jurisdiction. Reasoning [R] is true, but the combination suggested in this option is legally inaccurate because both statements are true. Hence, Option (d) is not the correct answer.

11. Magistrate Can Order FIR Under Section 156(3) CrPC Without Prior Sanction

1. Correct Answer: (c) Three statements

Reference Line: “Section 156(3) CrPC, now corresponding to Section 175(3) of the BNSS, 2023, empowers a Judicial Magistrate to order a police officer to investigate a cognizable offence.”

Reference Line: “This power is exercised at the pre-cognizance stage and does not amount to the Magistrate taking cognizance of the offence under Section 190 CrPC.”

Reference Line: “It is a supervisory power enabling the Magistrate to set the investigative machinery in motion where the police have failed to register an FIR or investigate a cognizable offence.”

Explanation: Statement i is true: Nisha’s complaint alleged forgery and misappropriation supported by bank records and e-mail trails, which may disclose cognizable offences. Since the police refused to register an FIR, the Magistrate could direct investigation under Section 175(3) BNSS. Hence, Statement i is true.

Statement ii is true: The Magistrate did not examine witnesses, issue summons, or proceed as if the complaint had already been judicially taken cognizance of. The direction was merely for police investigation, which falls at the pre-cognizance stage. Hence, Statement ii is true.

Statement iii is false: A direction for investigation under Section 175(3) BNSS does not automatically mean that the Magistrate has taken cognizance under Section 190 CrPC. Rohit’s challenge is therefore incorrect on this point. Hence, Statement iii is false.

Statement iv is true: The Magistrate’s order only activated police investigation after police inaction. It did not decide guilt, liability, or the final merits of Nisha’s allegations. This is supervisory power used to set the investigative machinery in motion. Hence, Statement iv is true.

Option (a) is incorrect: Only one statement is not true because Statements i, ii, and iv are all legally

correct. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: Two statements are not the correct count because three statements correctly reflect the principle. Hence, Option (b) is not the correct answer.

Option (c) is correct: Statements i, ii, and iv are true, while Statement iii is false. Therefore, exactly three statements are true. Hence, Option (c) is the correct answer.

Option (d) is incorrect: All four statements cannot be true because Statement iii wrongly treats a Section 175(3) BNSS direction as cognizance under Section 190 CrPC. Hence, Option (d) is not the correct answer.

2. Correct Answer: (b) Sections 196 and 197 CrPC operate as bars at the cognizance stage and cannot be read back into the pre-cognizance stage.

Reference Line: “Both provisions operate as bars at the cognizance stage and cannot be read back into the pre-cognizance stage.”

Explanation: {Option (a) Incorrect: This option is too absolute. Sanction may be required when the court takes cognizance of offences covered by Sections 196 or 197 CrPC. The point is only that sanction is not required before FIR registration or investigation. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Imran’s strongest argument is that the SHO has confused the investigative stage with the cognizance stage. Prior sanction may restrict the Magistrate’s power to take cognizance, but it cannot prevent registration or investigation of a cognizable offence. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The need for sanction does not depend merely on whether the complaint is private or official. It depends on the nature of the offence, the statutory provision involved, and whether the stage is one of cognizance. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The question proceeds on the disclosure of a cognizable offence. The police cannot avoid registration by wrongly treating such offences as non-cognizable merely because sanction may later be required for cognizance. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) She may approach the Superintendent of Police, move the Magistrate for investigation, or file a complaint before the Magistrate.

Reference Line: “Where a police officer refuses to register an FIR, an aggrieved person has three statutory remedies: approaching the Superintendent of Police under Section 154(3) CrPC or Section 173(4) BNSS; invoking the Magistrate’s jurisdiction under Section 156(3) CrPC or Section 175 BNSS; or filing a complaint under Section 200 CrPC or Section 223 BNSS.”

Explanation: {Option (a) Correct: Once the information discloses a cognizable offence, FIR registration is mandatory. If the police refuse, Meera may use the statutory remedies of approaching the Superintendent of Police, seeking Magistrate-directed investigation, or filing a complaint before the Magistrate. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Police do not have unlimited discretion to refuse FIR registration where a cognizable offence is disclosed. Lalita Kumari makes registration mandatory in such cases. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Private settlement cannot replace criminal procedure or authorise private punishment. The proper remedy is to activate statutory mechanisms for FIR registration, investigation, or complaint proceedings. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Prior sanction may be relevant at the stage of cognizance for certain offences, but

it is not a precondition for demanding FIR registration where a cognizable offence is disclosed. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (d) Cognizance is a later judicial act where the Magistrate applies his mind to the alleged offence.

Reference Line: "Taking cognizance is a judicial act by which the Magistrate applies his mind to the commission of the alleged offence with a view to initiating proceedings in respect of it."

Explanation: {Option (a) Incorrect: Taking cognizance is not the same as completing trial. It is an initial judicial step where the Magistrate decides whether to proceed in relation to the alleged offence. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Police investigation is not cognizance. Cognizance is taken by the Magistrate under Section 190 CrPC upon a complaint, police report, or other information. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: FIR registration belongs to the pre-cognizance investigative stage. Cognizance arises later when the Magistrate applies judicial mind after receiving the relevant material. Hence, Option (c) is not the correct answer.}

{Option (d) Correct: This option accurately captures the meaning of cognizance under Section 190 CrPC. It is at this later judicial stage that sanction requirements under Sections 196 and 197 may become relevant. Hence, Option (d) is the correct answer.}

5. Correct Answer: (c) Section 295A IPC

Reference Line: "Section 295A penalises deliberate and malicious acts intended to outrage religious feelings."

Explanation: {Option (a) Incorrect: Section 153A IPC deals with promoting enmity between different groups on grounds such as religion, race, language, caste, community, place of birth, or residence. It is not the specific provision for deliberate and malicious outrage of religious feelings. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Section 153B IPC concerns assertions prejudicial to national integration. Though it may overlap with divisive speech in some situations, it is not the provision specifically mentioned for outraging religious feelings. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Section 295A IPC specifically penalises deliberate and malicious acts intended to outrage religious feelings. Therefore, it is the correct statutory provision in this question. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Section 300 BNSS concerns the statutory protection against a second trial for the same offence after conviction or acquittal. It is not a hate speech provision under the IPC. Hence, Option (d) is not the correct answer.}

12. Joint Statements by Different Accused

1. Correct Answer: (d) [A] is false and [R] is true

Reference Line: "It permits proof of only that portion of an accused's statement which distinctly relates to a fact discovered as a consequence of the information given."

Explanation: Option (a) is incorrect: Both [A] and [R] are not true. Assertion [A] is incorrect because

Section 27 does not make the entire police statement admissible. Only the part of the statement leading to discovery, such as the information about the hidden knife, may be proved. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: This option wrongly assumes that both statements are true. Reasoning [R] is legally correct, but Assertion [A] is false because the confession “I killed the victim” does not become admissible merely because a knife was later recovered. Hence, Option (b) is not the correct answer.

Option (c) is incorrect: Assertion [A] is not true because Section 27 is a limited exception and does not allow proof of the whole confession made to police. Reasoning [R] is also not false; it correctly states the restricted admissibility rule under Section 27. Hence, Option (c) is not the correct answer.

Option (d) is correct: Assertion [A] is false because the entire statement, especially the confessional part, cannot be admitted under Section 27. Reasoning [R] is true because only the portion distinctly connected with the discovery of the knife is admissible. Hence, Option (d) is the correct answer.

2. Correct Answer: (c) The statements may be admissible because each accused led to a distinct fact from a different place.

Reference Line: “They become admissible only where each accused's statement leads to the discovery of a distinct and different fact from a different place.”

Explanation: {Option (a) Incorrect: Joint or simultaneous disclosure statements are not automatically inadmissible. The key question is whether the discovery can be individually attributed to each accused and whether each statement leads to a distinct fact. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: If all accused point to the same article from the same place, the problem of rediscovery or lack of distinct attribution may arise. Admissibility is stronger where each accused leads to a separate discovery. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Kabir's statement led to recovery of the pistol from one place, while Sameer's statement led to recovery of the wallet from another. Since the discoveries are distinct and individually attributable, Section 27 may apply. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Section 27 does not make the entire police statement admissible, nor does recovery by itself prove guilt. Only the portion directly connected with discovery may be admitted, subject to reliability and other safeguards. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because without a new and attributable discovery, the guarantee of truth and voluntariness under Section 27 is absent.

Reference Line: “Where no new fact is discovered, or where the discovery cannot be attributed to any particular accused's statement, this corroborative guarantee is absent and the basis for admissibility under Section 27 collapses entirely.”

Explanation: {Option (a) Correct: The watch had already been recovered before the alleged disclosure, so the combined statement led to no new discovery. It also fails to attribute a distinct discovery to any particular accused, destroying the evidentiary basis of Section 27. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: A statement does not become admissible merely because several accused make it together. Joint disclosure requires distinct and attributable discoveries; otherwise, the protection against police confessions remains applicable. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Section 27 is a narrow exception and does not make an entire custodial confession

admissible. Only the portion distinctly relating to a fresh discovery of fact can be admitted. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Prior police knowledge weakens, rather than strengthens, a Section 27 claim because the statement does not lead to discovery. The truth-guarantee arises from discovery of a previously unknown fact. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) Section 23, Bharatiya Sakshya Adhiniyam, 2023

Reference Line: “Section 23 of the BSA, 2023 replaces Section 25 and Section 26 of the Indian Evidence Act, providing that a confession made to a police officer or while in police custody is generally inadmissible.”

Explanation: {Option (a) Incorrect: Section 21 is not the provision identified in the principle as replacing Sections 25 and 26 of the Indian Evidence Act. The relevant provision for police confessions under the BSA is Section 23. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Section 23 of the Bharatiya Sakshya Adhiniyam, 2023 carries forward the rule that confessions made to police officers or while in police custody are generally inadmissible, subject to the discovery-rule proviso. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The discovery-rule principle was earlier associated with Section 27 of the Indian Evidence Act, but under the BSA framework stated here, the relevant replacement provision is Section 23 and its proviso. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Section 45 is not the provision dealing with police confessions in the supplied principle. It does not replace the earlier Sections 25 and 26 of the Indian Evidence Act for this purpose. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Raghav must be acquitted if the evidence creates reasonable doubt about his guilt.

Reference Line: “Where the prosecution's evidence raises a reasonable doubt as to the guilt of the accused, that doubt must be resolved in favour of the accused.”

Explanation: {Option (a) Correct: The prosecution has failed to create a complete chain of circumstances, and the alleged discovery is doubtful because the fact was already known. Since criminal guilt must be proved beyond reasonable doubt, Raghav receives the benefit of doubt. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Suspicion, however strong, cannot replace proof beyond reasonable doubt. Seriousness of the offence does not lower the standard of proof required from the prosecution. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The accused does not carry the burden of proving innocence beyond reasonable doubt. The presumption of innocence requires the prosecution to establish guilt beyond reasonable doubt. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Circumstantial evidence can sustain conviction only when the chain is complete and excludes every reasonable hypothesis of innocence. It is not automatically conclusive. Hence, Option (d) is not the correct answer.}

13. Quashing of Criminal Proceedings on Disproof by Reliable Material

1. Correct Answer: (b) The complainant files a criminal case immediately after losing a property dispute,

alleges no specific overt act, and the allegation is contradicted by prosecution-collected CCTV footage.

Reference Line: “Indicators of malafide prosecution include prior personal or civil disputes between the parties, absence of specific overt acts attributed to the accused, allegations contradicted by contemporaneous evidence, and a selective approach to the registration of offences.”

Explanation: {Option (a) Incorrect: Prompt reporting supported by medical evidence and eyewitnesses suggests a genuine prosecution, not malafide action. The absence of prior dispute further weakens any allegation of ulterior motive. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: This situation combines several indicators of malafide prosecution: a prior property dispute, suspicious timing, absence of specific overt acts, and contradiction by contemporaneous CCTV footage collected by the prosecution itself. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: A mere claim of innocence does not establish malafide prosecution. If independent witnesses and documents support the complaint, the matter ordinarily requires trial. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Neighbourhood relationship alone does not show malafide prosecution. If neutral witnesses support the incident, the complaint cannot be treated as mala fide merely because the parties know each other. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (c) Section 183 BNSS

Reference Line: “Section 164 CrPC, corresponding to Section 183 of the BNSS, empowers a Magistrate to record statements of witnesses or confessions of accused during investigation.”

Explanation: {Option (a) Incorrect: Section 173 BNSS corresponds broadly to provisions relating to information in cognizable cases and FIR-related procedure. It is not the provision corresponding to Section 164 CrPC. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Section 175 BNSS relates to Magistrate-directed investigation in the BNSS framework. It does not correspond to Section 164 CrPC for recording statements or confessions before a Magistrate. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Section 183 BNSS corresponds to Section 164 CrPC and empowers a Magistrate to record witness statements or confessions during investigation, subject to procedural safeguards. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Section 223 BNSS corresponds to complaint proceedings before a Magistrate. It is not the provision dealing with recording Section 164-type statements or confessions. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because continuing proceedings after the factual foundation is demolished may amount to abuse of process.

Reference Line: “In criminal law, abuse of process includes using the machinery of criminal law to settle personal scores, applying pressure in civil disputes, or continuing proceedings where the foundation of the allegations has been demonstrably demolished.”

Explanation: {Option (a) Correct: The civil dispute, the timing of the complaint, and the prosecution’s own CCTV footage together show that the assault allegation is factually demolished. Continuing the case in such circumstances may amount to misuse of criminal process for collateral pressure. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The mere existence of a civil dispute does not automatically justify quashing. A civil

dispute and criminal offence can coexist if the criminal allegations are independently supported by evidence. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Filing of a chargesheet does not eliminate the court's inherent power to prevent abuse of process. If unimpeachable material destroys the prosecution case, quashing may still be justified. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Courts can consider reliable electronic evidence, especially where it forms part of the prosecution's own record. Ignoring such evidence would defeat the purpose of preventing abuse of process. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) CCTV footage in the prosecution's own chargesheet carries strong evidentiary value and may disprove the allegation.

Reference Line: "CCTV footage forming part of the prosecution's own chargesheet carries particularly high evidentiary weight because it is the prosecution's own admitted record and cannot be dismissed as self-serving material fabricated by the accused."

Explanation: {Option (a) Incorrect: Electronic records, including CCTV footage, are admissible as documentary evidence if statutory requirements are satisfied. The fact that evidence is electronic does not make it inadmissible. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: The CCTV footage is not private material produced only by the accused; it forms part of the prosecution's own chargesheet. If it clearly disproves Pranay's presence and remains undisputed, it can strongly support quashing. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: A Section 164 statement has evidentiary value, but it is not conclusive proof. If clear and admitted CCTV footage directly contradicts it, the probative value of the statement may be diminished. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Courts may consider incontrovertible material at the quashing stage in exceptional cases. Electronic evidence is not confined only to post-conviction consideration. Hence, Option (d) is not the correct answer.}

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

Reference Line: "Section 528 of the BNSS, 2023, corresponding to Section 482 of the CrPC, saves the inherent powers of the High Court to make orders necessary to give effect to any order under the Code, to prevent abuse of the process of any court, or to secure the ends of justice. This section does not confer inherent powers but recognises their pre-existing existence in the High Court. These powers are extraordinary and must be exercised sparingly, but are available wherever the ends of justice demand intervention and the statutory framework does not provide an adequate remedy."

Explanation: Option (a) is the correct answer: Statement i is false because Section 528 does not create a new power; it only recognises the High Court's pre-existing inherent power. Statement iii is also false because Section 528 cannot be used routinely as a substitute for every appeal or revision. It is meant for extraordinary situations where intervention is necessary to prevent abuse of court process or secure justice. Hence, Option (a) is the correct answer.

Option (b) is not the correct answer: Statements ii and iv are both legally correct, not false. Statement ii correctly states that the High Court may intervene where a second complaint appears to be a misuse of criminal process. Statement iv is also correct because inherent powers are extraordinary and must be used sparingly. Hence, Option (b) is not the correct answer.

Option (c) is not the correct answer: Statement i is false, but statement ii is correct. The High Court can use Section 528 where the facts show abuse of process, especially when the second complaint repeats earlier allegations after closure proceedings. Since statement ii is not false, this option cannot be accepted. Hence, Option (c) is not the correct answer.

Option (d) is not the correct answer: Statement iii is false because Section 528 cannot be invoked as a routine alternative to statutory remedies. However, statement iv is correct because the High Court's inherent power must be exercised carefully and sparingly. Since this option includes one correct statement as false, it is not the correct answer. Hence, Option (d) is not the correct answer.

14. Constructive Res Judicata

1. Correct Answer: (c) [A] is true and [R] is false

Reference Line: "No court shall try any suit or issue that has been directly and substantially in issue in a former suit between the same parties or parties claiming under them litigating under the same title, and has been heard and finally decided by a competent court."

Explanation: Option (a) is incorrect: Assertion [A] is true because the same issue of ownership between A and B has already been heard and finally decided by a competent court. However, Reasoning [R] is false because competence of the former court and final decision are essential conditions for res judicata. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: This option wrongly treats Reasoning [R] as true. Although res judicata aims to prevent repeated litigation, it does not apply merely because a dispute was earlier raised. The former suit must have been finally decided by a competent court. Hence, Option (b) is not the correct answer.

Option (c) is correct: Assertion [A] correctly applies Section 11 CPC because A is trying to reopen the same ownership issue against the same party under the same title. Reasoning [R] is false because it removes an essential requirement, namely that the earlier decision must have been given by a competent court. Hence, Option (c) is the correct answer.

Option (d) is incorrect: Assertion [A] is not false because the later suit is barred once the same directly and substantially decided issue is raised again between the same parties. Reasoning [R] is also not true because res judicata cannot operate without a final decision by a competent court. Hence, Option (d) is not the correct answer.

2. Correct Answer: (c) Constructive res judicata applies to writ petitions and bars grounds available but omitted earlier.

Reference Line: "The Supreme Court in *M. Nagabhushana v. State of Karnataka* (2011) held that the doctrine of constructive res judicata embodied in Explanation IV to Section 11 CPC is not confined to civil suits but applies equally to writ petitions."

Explanation: {Option (a) Incorrect: This directly contradicts the principle. Constructive res judicata is not confined to ordinary civil suits; it also applies to writ petitions to prevent repeated litigation on omitted grounds. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: A litigant cannot split available grounds into multiple writ petitions arising from the same order. Such piecemeal litigation defeats finality and burdens the judicial process. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Nikhil had the lack-of-authority ground available when he filed the first writ petition

but deliberately omitted it. Under the doctrine recognised in *M. Nagabhushana*, he cannot reargue it in a second writ petition. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Constitutional courts may apply procedural doctrines like constructive res judicata to preserve finality and prevent abuse of process. Writ jurisdiction does not allow endless repeated challenges. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because a party must make a comprehensive choice of reliefs and cannot reserve further remedies arising from the same facts.

Reference Line: “Courts will not permit the judicial process to be used in instalments where a consolidated proceeding was both possible and appropriate.”

Explanation: {Option (a) Correct: Priya had both remedies available from the same facts and chose to pursue one to conclusion. She cannot later reopen the dispute by filing another proceeding for an omitted or alternative relief that should have been considered earlier. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The principle does not require all civil and criminal proceedings to be filed together. It concerns inconsistent or related remedies arising from the same cause where a consolidated approach was possible and appropriate. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The doctrine of election prevents a party from pursuing inconsistent remedies successively after choosing one. It also supports the policy behind constructive res judicata against fragmented litigation. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Constructive res judicata and election of remedies can apply in contractual disputes where parties attempt to split claims or reliefs arising from the same factual foundation. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (b) Order II Rule 2 CPC

Reference Line: “Order II Rule 2 CPC mandates that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action.”

Explanation: {Option (a) Incorrect: Order I Rule 10 CPC deals with addition, deletion, or substitution of parties. It does not require inclusion of the whole claim arising from one cause of action. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Order II Rule 2 CPC prevents splitting of claims by requiring the plaintiff to include the entire claim arising from a cause of action in one suit. Omitted claims may later be barred if leave was not obtained. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Order VI Rule XVII CPC deals with amendment of pleadings. It does not itself impose the rule against splitting a single cause of action into multiple suits. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Order XLI Rule 25 CPC concerns framing and referring additional issues by an appellate court. It has no direct connection with including the entire claim in one suit. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (c) Rohan is barred because available grounds that might and ought to have been raised are deemed decided.

Reference Line: “Explanation IV to Section 11 CPC embodies the doctrine of constructive res judicata,

providing that any matter which might and ought to have been made a ground of attack or defence in a former suit shall be deemed to have been directly and substantially in issue in that suit.”

Explanation: {Option (a) Incorrect: Explanation IV specifically treats omitted grounds as deemed to have been in issue if they might and ought to have been raised earlier. Therefore, Rohan cannot escape the bar merely by saying the grounds were not actually argued. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Every legal ground does not create a fresh cause of action. Where all grounds arise from the same cancellation order, the plaintiff must raise them together instead of splitting litigation. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Rohan knew of the lack of authority and denial of hearing grounds during the first suit. Since they were available and ought to have been raised, constructive res judicata bars the second suit. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: The bar does not depend on identical wording. It depends on whether the omitted matter was available and ought to have been raised in the earlier proceeding arising from the same dispute. Hence, Option (d) is not the correct answer.}

15. Magistrate’s Investigation Order Cannot Be Quashed Based on Accused’s Defence

1. Correct Answer: (b) The Magistrate directs investigation after finding that the allegations, if accepted at face value, disclose ingredients of forgery and cheating.

Reference Line: “At this stage, the Magistrate is required only to determine whether the allegations prima facie disclose the necessary ingredients of a cognizable offence; an exhaustive evaluation of evidence or adjudication of the merits is neither required nor permissible.”

Explanation: {Option (a) Incorrect: The complainant is not required to conclusively prove guilt at the stage of seeking investigation. The purpose of investigation is to collect evidence, and demanding proof at this stage would defeat that purpose. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: This option correctly applies the prima facie threshold. If the allegations, taken at face value, disclose cognizable offences such as forgery or cheating, the Magistrate may direct investigation without deciding the final merits. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The Magistrate cannot conduct a mini-trial while considering an application for investigation. Detailed appreciation of rival evidence and defence material is premature at this stage. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The mere presence of a civil property element does not bar criminal investigation. If the allegations disclose forgery, cheating, or dishonest fabrication, police investigation may still be directed. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) The High Court cannot conduct a merit-based evaluation of disputed defence material at the pre-trial stage.

Reference Line: “It cannot enter into a merit-based evaluation of the evidence, consider defence material, or adjudicate disputed questions of fact, as doing so would amount to conducting a mini-trial that is wholly impermissible at that stage.”

Explanation: {Option (a) Correct: The High Court exceeded the limited scope of pre-trial quashing by accepting disputed WhatsApp messages and deciding factual issues in favour of the accused. At this

stage, the court must see whether the complaint discloses a cognizable offence on its face. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Defence documents do not automatically justify quashing. Unless the case falls within exceptional circumstances and the allegations fail even on their face, disputed defence material is ordinarily tested during investigation or trial. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The High Court does possess inherent power to quash criminal proceedings in exceptional cases. The defect here is not the existence of power, but its improper use through a mini-trial at the pre-trial stage. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Criminal investigation into forgery and cheating need not wait for the High Court to decide property ownership. The question at this stage is whether the allegations disclose criminal ingredients. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (c) No, because criminal courts can examine allegations of forgery and fraud without waiting for civil cancellation.

Reference Line: “Criminal courts are competent to examine allegations of forgery, fraud, and fabrication of documents independently, without waiting for a civil court's declaration of invalidity.”

Explanation: {Option (a) Incorrect: Registration of a sale deed does not protect it from criminal law scrutiny. If the document is alleged to be forged or fraudulently executed, investigation may proceed independently of civil cancellation proceedings. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Section 31 provides a civil remedy for cancellation of void or voidable instruments. It does not create a statutory bar preventing criminal investigation into forgery, cheating, or fabrication. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Meera's allegations disclose criminal acts such as forged thumb impression, fraudulent execution, and dishonest transfer. Criminal law can examine these allegations without waiting for a civil court to first cancel the sale deeds. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: A registered sale deed is not automatically forged merely because the owner disputes it. The allegation must be investigated and proved through legal procedure. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (c) A nephew allegedly forges his aunt's signature, creates a false power of attorney, and transfers her land without informed consent.

Reference Line: “Where a sale deed or other property document is alleged to have been fabricated, executed under misrepresentation, or used to dishonestly transfer property without the owner's informed consent, these provisions are prima facie attracted and the police are duty-bound to investigate.”

Explanation: {Option (a) Incorrect: A delay in payment under an admittedly genuine sale agreement may give rise to civil remedies, but it does not by itself show forgery, dishonest inducement, or fabrication of documents. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: A dispute about market rent after expiry of a valid lease is ordinarily civil in nature. Without allegations of fabrication, cheating, or dishonest transfer, cognizable criminal offences are not clearly attracted. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Forging a signature, creating a false power of attorney, and transferring land without the owner's informed consent directly attract allegations of forgery, cheating, and conspiracy. Such

allegations require police investigation. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: A disagreement about partition, without deception or fabricated documents, is generally a civil family property dispute. Criminal investigation is justified only when cognizable ingredients are prima facie disclosed. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (b) The Magistrate must find that the allegations, if accepted as true, disclose ingredients of a cognizable offence.

Reference Line: “It requires only that the allegations, if accepted as true, disclose the necessary ingredients of a cognizable offence; it does not require proof or even a high probability of guilt.”

Explanation: {Option (a) Incorrect: Certainty of conviction is not required at the complaint stage. The investigation stage exists precisely because the truth of the allegations is yet to be tested through collection of evidence. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Prima facie satisfaction requires only a low threshold: the allegations must disclose the necessary ingredients of a cognizable offence if taken as true. The Magistrate need not demand proof or high probability of guilt. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: The Magistrate cannot decide disputed factual questions before investigation. Such an approach would pre-empt the investigative process and turn the complaint stage into a trial. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: A possible civil explanation does not automatically defeat criminal allegations. If the complaint alleges forgery, cheating, or dishonest fabrication, investigation may be ordered despite a parallel civil dimension. Hence, Option (d) is not the correct answer.}

16. Wife Absolute Owner of Streedhan

1. Correct Answer: (c) “On 12 March at 8 p.m., Rajat slapped me, pushed me against a table causing injury to my arm, and shouted specific abusive words intending to provoke me.”

Reference Line: “Courts have held that vague and omnibus allegations against multiple accused persons, without specific overt acts attributed to each, do not satisfy the prima facie standard required to sustain a summoning order.”

Explanation: {Option (a) Incorrect: The allegation is vague and omnibus because it does not specify the role of each accused, the date, the words used, or the act causing hurt. Such general allegations are insufficient for summoning under Sections 504 and 323 IPC. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Mere presence in the house does not amount to intentional insult or voluntarily causing hurt. Specific overt acts must be attributed to the accused persons. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: This allegation identifies the accused, date, physical act causing hurt, injury, and specific insulting words intended to provoke breach of peace. It therefore satisfies the prima facie threshold for Sections 323 and 504 IPC. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: General dislike or support for one spouse does not establish the ingredients of Section 504 or Section 323 IPC. The complaint must disclose specific insulting or hurt-causing conduct. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) Nikhil’s counter-complaint must be viewed carefully because such complaints may

be used to harass a wife after she invokes matrimonial remedies.

Reference Line: “Courts have cautioned against the counter-complaint mechanism being used to harass complainants in matrimonial disputes.”

Explanation: {Option (a) Correct: The timing of Nikhil’s complaint, immediately after a maintenance order, and the fact that the alleged property appears to be Aarti’s streedhan, justify careful judicial scrutiny. Counter-complaints should not be used as tools of pressure or harassment in matrimonial disputes. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: A counter-complaint does not automatically make the wife’s Section 498-A complaint false. The allegations of dowry-related cruelty must be examined on their own facts and evidence. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Jewellery kept in the matrimonial home does not automatically belong to the husband’s family. If the articles were gifted to Aarti, they may constitute her streedhan. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Demands for money, a car, or other valuable property after marriage may form part of dowry-related harassment depending on the facts. Section 498-A IPC specifically covers cruelty linked to unlawful demands. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because taking one’s own streedhan does not involve entrustment by another or misappropriation of another’s property.

Reference Line: “Where a woman takes away her own streedhan, neither ingredient is satisfied: there is no entrustment by another and no misappropriation of another’s property.”

Explanation: {Option (a) Correct: Criminal breach of trust requires entrustment and dishonest misappropriation of another person’s property. Since Meera took her own streedhan, the essential ingredients of Sections 405 and 406 IPC are not satisfied. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: This option is too broad. A wife may be prosecuted if the legal ingredients of an offence are made out. Meera succeeds here only because the property taken was her own streedhan. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Jewellery voluntarily gifted to the woman at marriage forms part of her streedhan and does not automatically become joint property of the spouses. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Leaving the matrimonial home does not affect ownership of streedhan. The woman continues to own her streedhan absolutely, irrespective of residence or marital dispute. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Priya’s streedhan remains her absolute property, and her husband or in-laws are bound to return it when demanded.

Reference Line: “Section 14 of the Hindu Succession Act, 1956, read with Section 27 of the Hindu Marriage Act, 1955, provides that a woman is the absolute owner of her streedhan even if it is placed in the custody of her husband or in-laws, who are deemed to be trustees bound to return it whenever demanded.”

Explanation: {Option (a) Correct: Priya’s jewellery and valuables are her streedhan. Even if they were kept in the family locker for safety, her husband and in-laws merely had custody and are deemed trustees bound to return them on demand. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Ownership is not lost merely because streedhan is kept in the matrimonial home or

in a locker controlled by in-laws. Custody does not create title in favour of the husband's family. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Priya's right to recover streedhan is legally protected and does not depend only on voluntary return or mediation. Statutory remedies, including under matrimonial and domestic violence law, may be invoked. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Gifts received by a woman at or around marriage may form part of her streedhan. They do not become joint marital property merely because they were received during marriage ceremonies. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (b) Kavya receives a silver set from her grandmother after marriage, and she remains its absolute owner with full right to use or dispose of it.

Reference Line: "A woman is the absolute owner of her streedhan and retains an unqualified right to dispose of it at her pleasure."

Explanation: {Option (a) Incorrect: Streedhan does not become joint marital property merely because the woman is married. Gifts and valuables received by the woman before, during, or after marriage remain her absolute property. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: The silver set voluntarily given to Kavya after marriage forms part of her streedhan. She remains the absolute owner and can use, retain, gift, sell, or otherwise dispose of it as she wishes. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Streedhan is distinct from dowry because it consists of voluntary gifts to the woman without coercion or unlawful demand. A gift received during childbirth may form part of streedhan and does not automatically become dowry. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Mere custody of jewellery by in-laws does not transfer ownership. If Ananya's streedhan is kept in their locker, they hold it only in a fiduciary capacity and must return it when demanded. Hence, Option (d) is not the correct answer.}

17. Parents Can't Invoke Habeas Corpus Against Adult Daughters' Choice

1. Correct Answer: (d) [A] is false and [R] is true

Reference Line: "An adult woman's choice to join a religious congregation, embrace celibacy, or lead a life of spirituality falls squarely within this constitutionally protected private domain, and no third party, including parents, can override that choice through a writ petition."

Explanation: Option (a) is incorrect: Both [A] and [R] are not true. Assertion [A] is false because an adult woman's personal decision to join a religious congregation is protected under Article 21 and cannot be overridden by parental disagreement. Reasoning [R] is true, but it contradicts rather than supports the assertion. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: This option incorrectly assumes that Assertion [A] is true. The principle clearly states that no third party, including parents, can override an adult woman's constitutionally protected personal choice through a writ petition. Therefore, even though [R] is true, [A] is false. Hence, Option (b) is not the correct answer.

Option (c) is incorrect: Assertion [A] is false because family expectations or parental consent cannot control the personal liberty of an adult woman in matters of lifestyle, belief, spirituality, or association. Reasoning [R] is also not false because it correctly reflects the expanded meaning of Article 21. Hence, Option (c) is not the correct answer.

Option (d) is correct: Assertion [A] is false because parents cannot use a writ petition to compel an adult woman to abandon her voluntary spiritual choice. Reasoning [R] is true because Article 21 protects individual autonomy, privacy, and self-determination in such personal matters. Hence, Option (d) is the correct answer.

2. Correct Answer: (b) Habeas corpus examines legality of detention, and once illegal detention is established, it is available as of right.

Reference Line: "Once illegal detention is established, the writ becomes available as of right and cannot be withheld at the court's discretion."

Explanation: {Option (a) Incorrect: Habeas corpus is not limited only to police custody. It may be invoked where a person is illegally detained, including by a private person or institution exercising actual control over the person. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: The writ is concerned with examining the legality of detention. If Ananya is found to be held without lawful authority or against her will, the court cannot withhold relief merely as a matter of discretion. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Habeas corpus is primarily a procedural writ for securing liberty by examining unlawful detention. It is not merely a compensation remedy and is not confined to monetary relief. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Habeas corpus is available both under Article 32 before the Supreme Court and Article 226 before High Courts. Therefore, the High Court can entertain such a petition. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) An adult's voluntary choice to join a religious congregation is protected as freedom of conscience and religious belief.

Reference Line: "An adult individual's choice to join a religious congregation and lead a life of celibacy is an expression of the freedom of conscience and religious belief protected under Article 25."

Explanation: {Option (a) Correct: Saanvi is an adult and has voluntarily chosen a religious vocation. Her decision to join a congregation and live a celibate religious life falls within freedom of conscience and religious belief under Article 25. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Parents do not retain legal control over an adult child's religious choices merely because they disagree with them. Adult autonomy and constitutional freedom protect such personal decisions. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The State cannot compel an adult to abandon a freely chosen religious vocation only because her family disapproves. Such compulsion would violate religious freedom and personal autonomy. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Freedom of conscience is individual in nature. It does not depend on whether the entire family adopts the same religious path or approves the individual's decision. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (c) The petition is weak because vague allegations without concrete evidence of restraint or coercion are insufficient.

Reference Line: “Vague allegations of psychological pressure, grueling rituals, or ideological influence, without concrete evidence of physical restraint or threats that negate free will, are insufficient to establish illegal detention.”

Explanation: {Option (a) Incorrect: Strict discipline or religious routine does not automatically establish illegal detention. The court must look for credible material showing physical control, coercion, threats, or restraint against free will. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Parental suspicion alone cannot satisfy the habeas corpus threshold. The petitioner must provide specific and credible material showing that the adult detainee is being held against her will. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Ishita’s voluntary statement before the police, combined with the absence of evidence of physical restraint or threats, weakens the allegation of illegal detention. Vague claims of influence or discipline are insufficient. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: A voluntary statement made by the alleged detainee before an independent authority such as the police carries significant evidentiary weight. It cannot be dismissed merely because the family disagrees with it. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Such intervention may discourage adults from exercising constitutional freedoms due to fear of legal proceedings.

Reference Line: “The Court applied this doctrine to hold that judicial intervention in the religious and lifestyle choices of adult individuals, at the instance of disapproving family members, would have a chilling effect on the exercise of constitutional freedoms.”

Explanation: {Option (a) Correct: The chilling effect doctrine recognises that even indirect State or judicial interference may discourage individuals from freely exercising constitutional rights. Adults may avoid bold personal or religious choices if they fear coercive legal proceedings initiated by family members. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Family approval is not a constitutional precondition for an adult’s religious or lifestyle choice. Individual autonomy and freedom of conscience protect such decisions. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Court proceedings can create pressure, fear, stigma, and restraint, especially in personal matters. Therefore, judicial intervention may indeed affect the free exercise of rights. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Private religious and lifestyle choices of adults can fall within constitutional protection, particularly under freedom of conscience, personal liberty, and autonomy. Hence, Option (d) is not the correct answer.}

18. Absence of Vishaka-Style Complaint Committee & Sexual Misconduct Inquiry

1. Correct Answer: (a) The Vishaka guidelines became redundant as governing law after suitable legislation was enacted through the POSH Act, 2013.

Reference Line: “Critically, the Court specified that the guidelines would operate only until suitable

legislation was enacted, making them a temporary gap-filler rather than a permanent legal regime.”

Explanation: {Option (a) Correct: The Vishaka guidelines were binding temporary law only until Parliament enacted suitable legislation. Since the POSH Act, 2013 came into force, workplace sexual harassment inquiries after that period must be governed by the statutory framework. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: The Vishaka guidelines were framed to fill a legislative vacuum, not to permanently override future legislation. Once Parliament enacted the POSH Act, the statutory framework became the governing law. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The POSH Act is not confined to government offices. It applies to public and private establishments and creates a comprehensive legal framework for workplace sexual harassment. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The expiry of Vishaka as governing law after statutory enactment did not create a legal vacuum. The POSH Act replaced it as the operative framework. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (a) Yes, because workplace sexual harassment violates equality, dignity, personal liberty, and the right to practise a profession in a safe environment.

Reference Line: “The Supreme Court in Vishaka held that sexual harassment at the workplace violates the fundamental rights of gender equality under Articles 14 and 15, the right to life and personal liberty under Article 21, and the right to practise any profession or occupation under Article 19(1)(g), which depends on the availability of a safe working environment.”

Explanation: {Option (a) Correct: Riya’s claim is supported because workplace sexual harassment is constitutionally linked to equality, dignity, personal liberty, and professional freedom. Employer obligations cannot be avoided merely because internal Standing Orders are silent. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Recognition of sexual harassment as a constitutional violation does not mean the accused can be dismissed automatically. A fair inquiry consistent with natural justice is still required before disciplinary punishment. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The absence of an express Standing Order provision does not erase constitutional and statutory obligations. Employer duties regarding a safe workplace flow from the Constitution and applicable law. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Constitutional rights form the foundation of workplace sexual harassment law. They directly inform employer duties and cannot be disregarded in matters of workplace safety and dignity. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (c) The inquiry is vitiated because Arvind was not given specific charges, relevant material, or reasonable opportunity to defend.

Reference Line: “Natural justice in domestic disciplinary inquiries requires that the accused employee be informed of the specific charges against him, supplied with the complaint and all relevant documentary material, given a reasonable opportunity to present his case and cross-examine witnesses, and permitted to be represented by a co-worker or representative where allowed.”

Explanation: {Option (a) Incorrect: Domestic disciplinary inquiries must comply with natural justice. An employee facing serious consequences cannot be denied basic procedural fairness merely because the

proceeding is internal. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: Serious allegations require fair inquiry, not abandonment of fairness. The principle of audi alteram partem ensures that even serious charges are tested through a fair procedure. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Arvind was denied the complaint, supporting material, cross-examination, and a meaningful chance to defend himself. Such denial causes prejudice and vitiates the domestic inquiry. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Cross-examination and defence opportunity cannot be denied arbitrarily. Any restriction must be legally justified and must not destroy the accused employee's reasonable opportunity to meet the case. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Every such establishment must constitute an Internal Complaints Committee headed by a woman, with at least half its members being women.

Reference Line: "Every establishment with ten or more employees is mandated to constitute an Internal Complaints Committee headed by a woman, with at least half its members being women."

Explanation: {Option (a) Correct: The POSH Act creates a mandatory institutional mechanism for workplace sexual harassment complaints. Establishments with ten or more employees must constitute an Internal Complaints Committee with the prescribed composition. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Certified Standing Orders do not exempt an establishment from complying with the POSH Act. The statutory obligation to constitute an Internal Complaints Committee remains binding. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The POSH Act provides an internal inquiry mechanism and employer obligations. While some cases may also involve criminal law, all complaints are not to be bypassed directly to police without following the statutory workplace framework. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The Act requires the committee to be headed by a woman and to have at least half women members. Administrative convenience cannot override the statutory composition requirement. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Both [A] and [R] are true and [R] is a correct explanation of [A]

Reference Line: "The Supreme Court found that many institutions were not properly following the Vishaka guidelines even years after the judgment, and issued further directions reinforcing that the Complaints Committee as envisaged in Vishaka was to act as the inquiry authority in sexual harassment cases, with its findings carrying the same evidentiary value as findings in a formal disciplinary inquiry."

Explanation: Option (a) is correct: Assertion [A] is true because the principle clearly states that the Complaints Committee's findings carry the same evidentiary value as findings in a formal disciplinary inquiry. Reasoning [R] is also true because Medha Kotwal Lele reinforced the role of the

Vishaka Complaints Committee as the inquiry authority. Since this role directly explains why its findings receive formal evidentiary value, [R] correctly explains [A]. Hence, Option (a) is the correct answer.

Option (b) is incorrect: Although both [A] and [R] are true, this option wrongly states that [R] is not the correct explanation of [A]. The reason the Committee's findings carry evidentiary value is precisely because the Supreme Court treated the Complaints Committee as the inquiry authority in sexual harassment matters. Therefore, the reasoning directly supports the assertion. Hence, Option (b) is not the correct answer.

Option (c) is incorrect: Assertion [A] is true because the findings of the Complaints Committee are not treated as informal or merely recommendatory in the principle provided. However, Reasoning [R] is not false; it accurately reflects the Supreme Court's direction in *Medha Kotwal Lele* that the Committee should act as the inquiry authority. Hence, Option (c) is not the correct answer.

Option (d) is incorrect: Assertion [A] is not false because the principle expressly recognises the evidentiary value of the Committee's findings. Reasoning [R] is true, but the option incorrectly denies the truth of the assertion. Since both statements are true and [R] explains [A], this option cannot be accepted. Hence, Option (d) is not the correct answer.

19. Non-Consensual Sex in Love Relationships Criminalised

1. Correct Answer: (b) Consent must be an unequivocal voluntary agreement, and absence of physical resistance alone is not consent.

Reference Line: "Explanation 2 to Section 63 defines consent as an unequivocal voluntary agreement communicated through words, gestures, or any form of verbal or non-verbal communication; the absence of physical resistance alone does not constitute consent."

Explanation: {Option (a) Incorrect: The law does not require physical resistance as the only proof of absence of consent. A woman may be unable to resist because of fear, shock, coercion, or threat, and lack of resistance cannot be converted into consent. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Kavya did not give an unequivocal voluntary agreement. Her silence arose from fear of blackmail, and Section 63 makes it clear that absence of physical resistance alone does not amount to consent. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: A romantic relationship does not create a presumption of consent to all sexual acts. Consent must be specific, free, and voluntary for each instance. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Fear or threat directly affects the voluntariness of consent. A prior relationship does not neutralise coercion or make forced sexual conduct lawful. Hence, Option (d) is not the correct answer.}

2. Correct Answer: (c) No, because under POCSO, a person below eighteen cannot give meaningful consent to sexual activity.

Reference Line: "The POCSO Act operates on the principle that a child cannot give meaningful consent to sexual activity, making age the decisive factor irrespective of the apparent nature of the relationship between the accused and the child."

Explanation: {Option (a) Incorrect: The POCSO Act defines a child as a person below eighteen years. Consent of a child below eighteen is legally immaterial, even if the child is above sixteen or close to majority. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: The Act is not limited to strangers or unknown offenders. It applies even where the accused and child are in a relationship or know each other personally. Hence, Option (b) is not the correct answer.}

{Option (c) Correct: Tara is below eighteen, so her consent or romantic relationship with Ayaan cannot operate as a defence. Under POCSO, age is decisive and a child cannot legally consent to sexual activity. Hence, Option (c) is the correct answer.}

{Option (d) Incorrect: Parental opposition is not the legal reason for liability under POCSO. The decisive reason is Tara's age below eighteen, which makes consent legally irrelevant. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Where the victim is under sixteen, punishment is not less than twenty years, and where she is under twelve, punishment may extend to death.

Reference Line: "Where the victim is under sixteen years of age, the punishment is rigorous imprisonment of not less than twenty years, extendable to imprisonment for the remainder of the accused's natural life, with fine payable to the victim. Where the victim is under twelve years of age, the punishment extends to death."

Explanation: {Option (a) Correct: This option accurately reflects the enhanced punishment structure under Section 65 BNS for rape of minors. The law imposes a severe minimum sentence for victims under sixteen and allows even death penalty where the victim is under twelve. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Consent is legally irrelevant in the case of minors below the statutory age. Section 65 prescribes enhanced punishment and does not reduce liability to a fine because the victim appeared to consent. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: The punishment for rape of a victim under sixteen is not limited to seven years. The principle clearly states a minimum of twenty years' rigorous imprisonment, extendable further. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Rape of a victim under twelve attracts a special enhanced punishment framework and may extend to death. It is not treated the same as an ordinary adult rape case. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (d) Saurabh is not protected because the exception applies only to lawfully married spouses, not premarital relationships.

Reference Line: "Crucially, as clarified in this judgment, this exception applies only to lawfully married spouses and has no application whatsoever to premarital relationships; non-consensual sexual acts within a premarital relationship attract the full rigour of the rape provisions."

Explanation: {Option (a) Incorrect: A long-term relationship or live-in arrangement does not automatically become a lawful marriage for the purpose of Exception 2 to Section 63 BNS. The exception is limited to legally recognised spouses. Hence, Option (a) is not the correct answer.}

{Option (b) Incorrect: A promise or plan to marry cannot trigger the marital rape exception. The exception, as presently framed, is tied to lawful marriage and does not extend to future or proposed

marriage. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Non-consensual sexual acts within premarital relationships are fully governed by rape law. A premarital relationship does not create immunity from prosecution. Hence, Option (c) is not the correct answer.}

{Option (d) Correct: Isha and Saurabh are not lawfully married, so Saurabh cannot rely on the marital rape exception. If the act was non-consensual, the ordinary rape provisions apply with full force. Hence, Option (d) is the correct answer.}

5. Correct Answer: (c) Three statements

Reference Line: “A statement recorded by a Judicial Magistrate under Section 164 CrPC, now Section 183 BNSS, carries high evidentiary reliability because it is recorded by an independent judicial officer who is required to satisfy himself of the voluntariness and truthfulness of the statement before recording it.”

Reference Line: “In cases of sexual offences, such statements carry particular weight as they are often recorded shortly after the incident and before any possibility of external pressure or compromise.”

Reference Line: “Consistency between the Section 164 statement and the police investigation statement further strengthens the prosecution's case.”

Explanation: Statement i is true: The Magistrate ensured that Aditi was not under pressure, excluded police and family members, and recorded the voluntary nature of her statement. This directly satisfies the requirement that the Magistrate must check voluntariness and truthfulness before recording such a statement. Hence, Statement i is true.

Statement ii is true: The case concerns a sexual offence, and Aditi's statement was recorded before the Magistrate only two days after the alleged incident. The principle gives particular weight to such statements because they are often recorded before external pressure or compromise can affect the victim's version. Hence, Statement ii is true.

Statement iii is false: The statement does not lose evidentiary value merely because a police statement was recorded earlier. On the contrary, the principle says that consistency between the police investigation statement and the Magistrate's statement strengthens the prosecution's case. Hence, Statement iii is false.

Statement iv is true: Aditi's Magistrate statement substantially matched her police statement regarding the incident, messages, timing, and supporting circumstances. Such consistency supports the prosecution case because it reduces the possibility of material contradiction in the victim's version. Hence, Statement iv is true.

Option (a) is incorrect: Only one statement is not the correct count because Statements i, ii, and iv are all legally true. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: Two statements are not the correct count because three statements properly apply the given principle. Hence, Option (b) is not the correct answer.

Option (c) is correct: Statements i, ii, and iv are true, while Statement iii is false. Therefore, exactly three statements are true. Hence, Option (c) is the correct answer.

Option (d) is incorrect: All four statements cannot be true because Statement iii wrongly says that the Magistrate statement loses all value merely due to an earlier police statement. Hence, Option (d) is not the correct answer.

20. Wife's Right to Permanent Alimony Not Affected by Adult Sons' Earning Capacity

1. Correct Answer: (d) [A] is false and [R] is true

Reference Line: "Courts have consistently held that maintenance under matrimonial law is not limited to providing bare subsistence or the bare necessities of life."

Explanation: Option (a) is incorrect: Both [A] and [R] are not true. Assertion [A] is incorrect because it wrongly limits maintenance to mere survival or bare necessities. Reasoning [R] correctly states the broader legal position that maintenance includes dignity, lifestyle continuity, and residential security. Hence, Option (a) is not the correct answer.

Option (b) is incorrect: This option is incorrect because Assertion [A] is false. Maintenance cannot be reduced to only food, basic clothing, or minimal shelter when the principle clearly recognises dignity and financial security as part of maintenance. Although [R] is true, both statements are not true. Hence, Option (b) is not the correct answer.

Option (c) is incorrect: Assertion [A] is not true because matrimonial maintenance is not confined to bare subsistence. Reasoning [R] is also not false because it accurately reflects the principle that maintenance must be reasonably commensurate with the lifestyle enjoyed during marriage. Hence, Option (c) is not the correct answer.

Option (d) is correct: Assertion [A] is false because the court should not restrict maintenance to bare necessities alone. Reasoning [R] is true because maintenance law protects dignified living, reasonable financial security, and residential stability, reflecting constitutional values under Article 21 and social justice. Hence, Option (d) is the correct answer.

2. Correct Answer: (b) Section 25 empowers the court to grant lump sum or periodical payments after considering income, property, conduct, and circumstances.

Reference Line: "The court has broad discretionary powers to award a lump sum or periodical payments for a term not exceeding the life of the applicant."

Explanation: {Option (a) Incorrect: Section 25 concerns permanent alimony and maintenance at the time of passing a decree or at any subsequent time. It is not confined to temporary or interim maintenance during pending proceedings. Hence, Option (a) is not the correct answer.}

{Option (b) Correct: Meera's claim is supported because Section 25 gives the court broad discretion to award lump sum or periodical maintenance after considering the respondent's income and property, the applicant's income and property, conduct, and other circumstances. Hence, Option (b) is the correct answer.}

{Option (c) Incorrect: Section 25 does not require proof of a criminal offence by the husband. It is a matrimonial relief based on the economic consequences of marriage dissolution and the relevant statutory factors. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The principle expressly recognises that the respondent's property may be considered. The court may even secure maintenance by creating a charge on immovable property

where necessary. Hence, Option (d) is not the correct answer.}

3. Correct Answer: (a) Yes, because Section 25 permits modification or rescission when circumstances significantly change or where statutory grounds such as remarriage arise.

Reference Line: “Section 25(2) permits either party to apply for modification or rescission of an alimony order upon a significant change in circumstances, reflecting the principle that maintenance orders must be responsive to changed realities.”

Explanation: {Option (a) Correct: Sandeep’s financial collapse may amount to a significant change in circumstances under Section 25(2). Kavita’s remarriage is also a specific statutory ground relevant to rescission or modification under Section 25(3). Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: There is no rule that alimony automatically ends after five years. Modification or rescission depends on statutory grounds, changed circumstances, or other legally relevant facts. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Permanent alimony is not an unchangeable financial penalty. Section 25 itself permits alteration or rescission where justice and changed circumstances require it. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: The recipient spouse’s remarriage is expressly relevant under Section 25(3). Therefore, Kavita’s remarriage may legally support Sandeep’s application. Hence, Option (d) is not the correct answer.}

4. Correct Answer: (a) Section 144 BNSS

Reference Line: “Section 125 CrPC, corresponding to Section 144 of the BNSS, 2023, provides for interim maintenance for wives, children, and parents who are unable to maintain themselves.”

Explanation: {Option (a) Correct: Section 144 BNSS corresponds to Section 125 CrPC and provides maintenance relief for wives, children, and parents who are unable to maintain themselves. It can operate independently of divorce proceedings. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Section 175 BNSS relates to Magistrate-directed investigation and not maintenance for wives, children, or parents. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Section 183 BNSS corresponds to recording statements and confessions before a Magistrate. It does not deal with maintenance. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Section 223 BNSS concerns complaint proceedings before a Magistrate. It is not the provision corresponding to Section 125 CrPC for maintenance. Hence, Option (d) is not the correct answer.}

5. Correct Answer: (a) Section 20 of the DV Act permits monetary relief, including maintenance, to an aggrieved woman in a domestic relationship.

Reference Line: “Section 20 of the Protection of Women from Domestic Violence Act, 2005 empowers the Magistrate to grant monetary relief, including maintenance, to an aggrieved woman.”

Explanation: {Option (a) Correct: Ananya’s claim is supported because the DV Act extends monetary relief beyond formally married women. Since she was in a domestic relationship and alleges economic abuse, she may seek maintenance under Section 20. Hence, Option (a) is the correct answer.}

{Option (b) Incorrect: Section 25 HMA requires a matrimonial decree and is tied to matrimonial

proceedings under the Hindu Marriage Act. It does not automatically govern every live-in relationship. Hence, Option (b) is not the correct answer.}

{Option (c) Incorrect: Maintenance under the DV Act is a statutory civil relief and does not depend solely on voluntary written agreement by the man. A Magistrate may grant relief if the statutory conditions are satisfied. Hence, Option (c) is not the correct answer.}

{Option (d) Incorrect: Unlike Section 25 HMA, the DV Act does not require a divorce decree. It applies to women in domestic relationships, including live-in relationships, and provides an additional avenue for financial relief. Hence, Option (d) is not the correct answer.}



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